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RULES OF GOVERNMENTAL AGENCIES

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ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Administration of the Illinois Public Community College Act

2) Code Citation: 23 Ill. Adm. Code 1501

3) Section Number: 1501.307 Proposed Action: Amendment

4) Statutory Authority: 110 ILCS 805/2-12(i)

5) A Complete Description of the Subjects and Issues Involved: Three years following input from a systemwide task force on line learning, the Illinois Community College Board established Illinois Community College Online (ILCCO), a program designed to encourage the development and use of online delivery of courses and programs in community colleges. Much of the activity has been the delivery of shared courses; however, one of the major objectives of the initiative was to expand the delivery of community college degree and certificate programs by allowing students who live in one district that does not have a specific program to access a program from another community college district in the State through computerized delivery. ILCCO's goal is to allow a student to achieve this through a seamless path from his/her own community college. The proposed rule change expands the rules for cooperative agreements to allow one college to award a degree or certificate offered by another community college through cooperative agreement. The degree or certificate could only be offered through the online cooperative agreement.

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

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Cherie VanMeter
Administrative Aide

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

Illinois Community College Board
401 East Capitol Avenue
Springfield, Illinois 62701-1711

Telephone: (217) 785-0053
Fax: (217) 524-6195

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

12) Initial Regulatory Flexibility Analysis:

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

B) Reporting, bookkeeping or other procedures required for compliance: Yes

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
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CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

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AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805/Arts. II and III and 6-5.3].

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984;

emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective April 22, 1997; amended at 22 Ill. Reg. 2087, effective January 12, 1998; amended at 22 Ill. Reg. 17472, effective July 10, 1998; amended at 24 Ill. Reg. 249, effective December 21, 1999; amended at 24 Ill. Reg. 17522, effective November 20, 2000; amended at 25 Ill. Reg. 7161, effective May 18, 2001; emergency amendment at 25 Ill. Reg. 12863, effective September 28, 2001, for a maximum of 150 days; emergency expired February 24, 2002; amended at 26 Ill. Reg. 646, effective January 7, 2002; amended at 27 Ill. Reg. 17204, effective October 31, 2003; amended at 28 Ill. Reg. 14092, effective October 18, 2004; amended at 29 Ill. Reg. 6239, effective April 25, 2005; amended at 29 Ill. Reg. _____, effective _____.

SUBPART C: PROGRAMS

Section 1501.307 Cooperative Agreements and Contracts

Cooperative agreements and contracts with other Illinois educational agencies and those out of state may be established for the purpose of providing more accessible instructional services to students and increasing efficiency in the use of educational resources, subject to the following conditions:

a) A new unit of instruction to be offered by a community college solely through a

cooperative agreement or contract with another educational agency is subject to approval by the ICCB as indicated in Section 1501.302.

b) Agreements with Secondary Schools. If a community college enters into a cooperative agreement or contract with a secondary school to provide advanced or specialized secondary-level courses in either the academic or vocational field, the college shall charge the secondary school the per capita cost of offering such instruction, in which case the college shall not claim ICCB credit hour grants for these secondary school students, or the college shall charge the secondary school for secondary school student participation in accordance with a joint agreement between the college and the secondary school district under Section 10-22.20a of the School Code ~~(Ill. Rev. Stat. 1991, ch. 122, par. 10-22.20a)~~ [105 ILCS 5/10-22.20a]. When charges are made pursuant to a joint agreement, credit hour grants may be claimed in accordance with Section 1501.507.

c) In-District~~district~~ Cooperative Agreements for Instruction. A community college district may enter into in-district contractual arrangements to provide educational programs or services within its district for previously approved units of instruction upon approval by the ICCB. Copies of these contractual arrangements shall be kept on file at the district central administrative office. Criteria for the approval of in-district agreements for instruction shall be:

1) accessibility of instruction to students

2) labor market need

3) cost-effectiveness in providing instructional programs

d) Interdistrict Cooperative Agreements for Instruction. A community college district may enter into interdistrict contractual arrangements with another community college district to enable its students to attend the other district's program(s)/course(s) upon approval by the ICCB.

1) Criteria for the approval of interdistrict agreements for instruction shall be:

A) accessibility of instruction to students

B) labor market need

C) comprehensiveness of available programs for students

D) cost-effectiveness in providing instructional programs

E) impact on regional and statewide programs

F) impact on programs at neighboring community college districts

2) The curricula included in the cooperative agreement for instruction shall be listed in the catalog of the college that does not have the program but is making it available to its students through a contractual arrangement with another college. A copy of the listing shall be kept on file at the district central administrative office.

3) Interdistrict Cooperative Agreements may be entered into for courses and/or curricula offered through Illinois Community Colleges Online. The cooperative agreement may specify that the programs/courses will be approved as programs/courses of the receiving district and will be included in the receiving district's Illinois Community College Board curricula and course master files as such. This agreement would allow the receiving institution to offer the program only through online delivery through the sending college. ICCB approval for such agreements will be based on the following:

1) a request for approval must be filed in a format specified by the ICCB;

2) the request must be accompanied by a draft cooperative agreement and a signed statement of agreement that the program/course will be offered only through online delivery and that both the sending and receiving institutions agree that the sending institution will be the institution of academic control of the course/curriculum;

3) the receiving institution must notify ICCB if and when the cooperative agreement is no longer operational so that the program/course can be removed from the approved ICCB program/course file.

e) Out-of-District Cooperative Agreements for Instruction. A community college district may enter into contractual arrangements with other public or nonpublic institutions of higher education for the delivery of units of instruction upon approval by ICCB. Criteria for approval of out-of-district agreements for

instruction shall be:

1) accessibility of instruction to students

2) labor market need

3) comprehensiveness of available programs for students

4) cost-effectiveness in providing instructional~~instruction~~ programs

5) impact on regional and statewide programs

6) impact on programs at neighboring community college districts

f) Changes, revisions, or additions to cooperative agreements previously approved by the ICCB are reasonable and moderate extensions and must be reported to the ICCB prior to implementation.

g) Extension of Curricula/Credit Courses into Another Community College District.

1) A community college may extend previously approved credit courses into another community college district with approval of the other community college district.

2) A community college may extend previously approved curricula into another community college district upon approval of the ICCB. Criteria for approval shall be:

A) a request from the community college district in which the proposed extension is to be offered

B) labor market need

C) cost-effectiveness in providing instructional programs

D) adequacy of facilities and support services

E) impact on regional and statewide programs

F) impact on programs at neighboring community college districts

3) If a district in which military installations, correctional institutions, or other state or federal institutions are located elects not to provide previously approved units of instruction to these institutions, any other college may apply to the ICCB to do so. If more than one college applies, the ICCB will select a college using the following criteria:

A) The proximity of the college to the institution.

B) The availability at the college of the instructional units needed by the institution.

C) The cost of providing the instructional units for the institution.

D) The college's past experience in offering similar units of instruction.

h) Extension of Curricula/Credit Courses~~Course~~ Out of State. Curricula and credit courses offered at out-of-state locations (except for field trips and travel that are in conjunction with a course offered within the district) must have prior annual approval by the ICCB. A community college shall be granted approval to offer previously approved curricula and credit courses out of state provided that it meets the following criteria:

1) A request for approval including information about the curricula and courses, location of the proposed extension, projected enrollments, and projected funding is submitted on forms provided by the ICCB.

2) The college shall identify how the extension will be used by students to complete degree or certificate programs.

3) If the extension is offered for out-of-state students, the college shall submit a copy of a written request from the group desiring the service and assurance that no state or local tax monies will be used to provide such extensions.

4) The college shall submit annual reports of its out-of-state extensions for the past fiscal year, on forms provided by the ICCB, by July 15 of each year.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

5) The college shall request approval of its out-of-state extensions, on forms provided by the ICCB, prior to May 15 for the fiscal year beginning on the next July 1.

6) Deletion, modification, or addition of courses and curricula offered at out-of-state extensions previously approved by the ICCB are reasonable and moderate extensions and must be reported to the ICCB.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Administration of Funds Created by the Wireless Emergency Telephone Safety Act

2) Code Citation 83 Ill. Adm. Code 729

3)

Section Numbers:	Proposed Action:
729.100	New Section
729.110	New Section
729.120	New Section
729.200	New Section
729.210	New Section
729.300	New Section
729.310	New Section
729.320	New Section
729.330	New Section
729.400	New Section
729.410	New Section
729.420	New Section
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729.510	New Section
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729.530	New Section
729.600	New Section
729.700	New Section
729.710	New Section
729.720	New Section
729.730	New Section
729.740	New Section
APPENDIX A	New Section
APPENDIX B	New Section
APPENDIX C	New Section

4) Statutory Authority: Implementing and authorized by the Wireless Emergency Telephone Safety Act [50 ILCS 751]

5) A Complete Description of the Subjects and Issues Involved: The Wireless Emergency Telephone Safety Act ("Act") [50 ILCS 751] has established a mechanism by which to fund the provision of wireless 9-1-1 and wireless E9-1-1 service. The Illinois Commerce Commission has been given the responsibility to administer the funds collected under authority of this Act by amendments to the Act in PA 93-0839. The Department of

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Central Management Services (CMS) had this administrative responsibility prior to the amendments to the Act. Under Secton 75 of the Act [50 ILCS 751/75], the rules and standards under CMS that were in effect on June 30, 2004 became the rules and standards of the Commission until amended or repealed by the Commission. These rules are contained in 83 Ill. Adm. Code 1000. The Commission staff based its draft rules on the CMS rules. The rules cover, among other matters, the eligibility of carriers and providers, administration of the funds, dispute resolution, and the use of grants and reimbursements.

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

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: These proposed rules neither create nor expand any State mandate on units of local government, school districts, or community college districts.

11) Time, Place and Manner In Which Interested Persons May Comment On This Proposed Rulemaking:

Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 05-0342, with:

Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

(217)782-7434

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These rules will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These rules will affect any small municipalities providing a wireless 9-1-1 answering point. These rules will not affect any not for profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: Reporting and bookkeeping.

C) Types of professional skills necessary for compliance: Managerial and accounting

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this Part at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 729

ADMINISTRATION OF FUNDS CREATED BY THE
WIRELESS EMERGENCY TELEPHONE SAFETY ACT

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729.110 Definitions
729.120 Duties of the Commission

SUBPART B: ELIGIBILITY OF PROVIDERS AND CARRIERS

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729.200 Eligibility of Providers
729.210 Eligibility of Carriers

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729.310 Transmission of Surcharge Moneys
729.320 Allocation of Surcharges
729.330 Administrative Costs

SUBPART D: ADMINISTRATION OF THE WIRELESS SERVICES EMERGENCY FUND

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729.400 Distribution of Moneys
729.410 Grants for Subscribers in Overlapping Jurisdictions
729.420 Overpayments and Underpayments

SUBPART E: ADMINISTRATION OF THE
WIRELESS CARRIER REIMBURSEMENT FUND

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

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729.500 Permitted Reimbursements
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729.700 Use of Grants and Reimbursements
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729.720 Records
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729.APPENDIX A Form of Electronic Carrier Subscriber Information Transmittal
729.APPENDIX B Format of Carrier Remittance Transmittal
729.APPENDIX C Form of Sworn Statement

AUTHORITY: Implementing and authorized by the Wireless Emergency Telephone Safety Act [50 ILCS 751].

SOURCE: Adopted at 29 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 729.100 Scope

This Part shall apply to all wireless carriers, Emergency Telephone System Boards, qualified governmental entities, and Wireless Public Safety Answering Points (W-PSAPs).

Section 729.110 Definitions

For purposes of this Part:

"Act" or " WETSA" means the Wireless Emergency Telephone Safety Act [50 ILCS 751].

"Administrative costs" means the ordinary and extraordinary fees, costs and expenses incurred by the Illinois Commerce Commission in performing its duties and responsibilities under the Act and this Part, including legal and other professional and consulting fees and expenses.

"Commission" means the Illinois Commerce Commission.

"Carrier" means a wireless carrier.

"DSP" means the Illinois Department of State Police.

"FCC" means the Federal Communications Commission.

"Funds" means the Wireless Services Emergency Fund (WSEF) and the Wireless Carrier Reimbursement Fund (WCRF).

"Grant" means a distribution from the WSEF to a provider pursuant to Sections 20 and 25 of the Act [50 ILCS 751/20 and 25].

"Provider" means an Emergency Telephone System Board or qualified governmental entity. DSP shall be considered a provider to the extent that it is acting as a Wireless Public Safety Answering Point.

"Reimbursement" means a distribution from the WCRF to a carrier for the purpose of reimbursing that carrier for costs incurred in complying with the applicable provisions of FCC wireless enhanced 9-1-1 service mandates pursuant to Sections 30 and 35 of the Act [50 ILCS 751/30 and 35].

"Subscriber" means a wireless subscriber.

"W-PSAP" means a Wireless Public Safety Answering Point.

Section 729.120 Duties of the Commission

The Commission has the following responsibilities under the Act:

a) To adopt rules governing grants and reimbursements;

b) To develop and maintain a database of providers eligible to receive grants and carriers eligible to receive reimbursements;

c) To the extent authorized by the State Treasurer, to collect and allocate surcharges remitted by carriers into the Funds;

d) To make monthly grants to eligible providers;

e) To review and process properly presented carrier requests for reimbursement in accordance with the Act;

f) To account for all surcharges collected and moneys disbursed;

g) To maintain auditable records of receipts, grants, and reimbursements and to provide an annual accounting of the Funds to the Auditor General as required by the Act; and

h) To resolve disputes as required by the Act.

SUBPART B: ELIGIBILITY OF PROVIDERS AND CARRIERS

Section 729.200 Eligibility of Providers

DSP shall be considered certified and eligible to receive grants without complying with this Section. To be eligible to receive a grant, any provider other than DSP must file a letter of intent and a wireless plan with the Commission's 9-1-1 Program pursuant to 83 Ill. Adm. Code 728. The Commission's 9-1-1 Program will notify the entity in writing stating that it has the authorization to operate as an authorized wireless 9-1-1 answering point. Once the provider has received its authorization letter, it must provide the following information to the Commission's Illinois WETSA Program.

a) A detailed explanation of the geographic area the Commission has granted it authority to cover, by five digit zip code, including all zip codes in which the provider has sole authority from the Commission to handle wireless 9-1-1 calls;

b) A list of all zip codes, including provider names, in which the petitioning provider has shared authority from the Commission to handle wireless 9-1-1 calls (in this

instance the provider may also define its geographic coverage area by nine digit zip code). If none are known, a statement to that effect should be made;

c) Copies of all agreements with other providers governing the manner in which grants relating to subscribers in overlapping geographic areas (defined by zip code) should be made (or, if no such agreements exist, a written statement to that effect).

Section 729.210 Eligibility of Carriers

To be eligible to receive a reimbursement, a carrier must:

a) Be certified by the FCC as a wireless carrier (or reseller) operating in the State of Illinois;

b) Have provided current subscriber information to the Commission as required by the Act and in Section 729.300; and

c) Comply with all provisions of this Part pertaining to requests for reimbursement.

SUBPART C: GENERAL ADMINISTRATION

Section 729.300 Transmission of Subscriber Information

With the first transmittal of surcharges collected under the Act, and at the end of each billing month after the first transmittal (no later than the last day of the next calendar month; for example a July subscriber file is due no later than August 31), each carrier shall submit to the Commission its updated total number of subscribers per zip code (9 digit zip code if available) for that billing month. Transmittals shall be made in an electronic format, in substantially the form set forth in Appendix A of this Part, as a file attached to an e-mail or a CD-ROM. The file shall be in text format, or EXCEL format, and be accompanied by a transmittal document or a proper label listing the carrier name and the billing month included on the submission. Transmittals shall be mailed to:

Illinois Commerce Commission
IL WETSA
527 East Capitol Avenue
Springfield IL 62701
Email: ILWETSA@icc.state.il.us

Section 729.310 Transmission of Surcharge Moneys

a) Surcharge moneys collected under the Act shall be remitted by check on a monthly basis. Each remittance check shall display the remitting carrier's name and a single Federal Employer Identification Number and a unique carrier check number on the face. The payee shall be designated as "State of Illinois, WETSA Funds".

b) Each remittance of fees under this Section shall be accompanied by a transmittal to the Commission, in substantially the form set forth in Appendix B of this Part.

c) The checks and remittance transmittal shall be mailed to:

Illinois Commerce Commission
IL WETSA
527 East Capitol Avenue
Springfield IL 62701

Section 729.320 Allocation of Surcharges

Of the surcharges remitted under this Subpart, one-third shall be deposited into the WCRF and two-thirds shall be deposited into the WSEF.

Section 729.330 Administrative Costs

a) Administrative costs shall be chargeable to the Funds.

b) Estimated administrative costs shall be held in escrow in the fund. The fees established and charged shall be adjusted periodically based on actual costs, and shall be reconciled at least annually.

SUBPART D: ADMINISTRATION OF THE WIRELESS SERVICES EMERGENCY FUND

Section 729.400 Distribution of Moneys

Subject to appropriation, moneys in the WSEF may be used only for grants to providers and to pay administrative costs.

a) Except as provided in this Section, the Commission, subject to appropriation, shall make monthly proportional grants to each provider eligible to receive a grant

under Section 729.200 based on the number of monthly subscribers in the geographic area (defined by zip code) in which the provider is certified as a wireless 9-1-1 service provider by the Commission.

b) All surcharge moneys allocated to the WSEF in a given month shall be distributed to the appropriate providers, except as reduced in subsections (d) and (e).

c) Funds allocated to the WSEF for geographic areas (defined by zip codes) that have not been properly claimed as the jurisdiction of an eligible provider and located within the Statewide Wireless Emergency 9-1-1 System shall be allocated to DSP. Funds allocated to the WSEF for billing addresses located outside the State of Illinois, or geographic areas (defined by zip code) that have not been claimed as the jurisdiction of an eligible provider and are located outside the Statewide Wireless Emergency 9-1-1 System, shall be allocated proportionately to eligible providers in the manner set forth in subsection (a).

d) Funds allocated to the WSEF for geographic areas that are contested between eligible providers shall be held in escrow until proper determination has been made by the Commission as provided in Section 729.600.

e) Estimated administrative expenses shall be withheld on a monthly basis, with at least an annual adjustment based upon actual costs.

Section 729.410 Grants for Subscribers in Overlapping Jurisdictions

Providers sharing geographic areas (defined by zip code) are encouraged to enter into agreements governing the manner in which grants in the shared areas shall be made. Providers in shared geographic areas that do not enter into agreements shall be prepared, upon 60 days' notice, to submit documentation to the Commission outlining the percentage of the shared geographic area claimed and the reasons justifying the percentage claimed for resolution in accordance with Section 729.600.

Section 729.420 Overpayments and Underpayments

In the event of an underpayment or overpayment of grant funds, the Commission shall, at least annually, take one or more of the following corrective actions:

a) Instruct an overpaid provider to redirect funds to the proper (underpaid) provider in applicable instances (in which case each affected provider shall furnish proof to the Commission that the redirection of funds has been completed as instructed);

b) Offset one or more future grant payments to an overpaid provider;

c) Increase one or more future grant payments to an underpaid provider; or

d) Release a grant payment to an underpaid provider on an interim basis during the month.

SUBPART E: ADMINISTRATION OF THE
WIRELESS CARRIER REIMBURSEMENT FUND

Section 729.500 Permitted Reimbursements

Moneys in the WCRF may be used, subject to appropriation, only to reimburse carriers for costs incurred in complying with the applicable provisions of FCC wireless enhanced 9-1-1 service mandates and to pay administrative costs. In no event shall any sworn invoice submitted to the Commission for reimbursement be approved for:

a) Costs not related to compliance with FCC Wireless Enhanced 9-1-1 mandates;

b) Costs with respect to any Wireless Enhanced 9-1-1 service that is not operable at the time the invoice is submitted;

c) Costs of providing Wireless Enhanced 9-1-1 services in an area when a unit of local government or Emergency Telephone System Board provides wireless 9-1-1 services in that area and was imposing and collecting a wireless carrier surcharge prior to July 1, 1998;

d) An amount in excess of 100% of an individual carrier's cumulative remittances to the WCRF, net administrative costs and prior reimbursements, without prior approval by the Commission;

e) Any cost associated with a third party vendor that the carrier is not contractually obligated to pay;

f) Expenses not submitted within five years after the date the cost was incurred; or

g) Any carrier that has not remitted surcharges to the Commission within the past one-year.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Section 729.510 Reimbursement for Approved Expenditures

a) Subject to the conditions in Section 729.500, invoices properly submitted to the Commission shall be reviewed and either approved in whole or in part or denied in whole or in part.

b) Sworn invoices shall contain a sufficiently detailed description of the goods/services for which reimbursement is sought for the Commission to be able to validate the claim for reimbursement. Sworn invoices submitted with insufficient detail to validate the claim shall either be returned to the carrier for resubmission with additional documentation or the Commission will request additional documentation in order to validate the claim.

c) Carriers seeking reimbursement shall submit a sworn statement along with each submission of invoices verifying that the charges are reimbursable under the Act and this Part. The sworn statement shall be submitted in substantially the form of the affidavit set forth in Appendix C. Carriers shall submit requests for reimbursement on carrier letterhead, along with the documentation set forth in subsection (b) and in Appendix C of this Part, to the following address:

Illinois Commerce Commission
IL WETSA
527 East Capitol Avenue
Springfield IL 62701

Section 729.520 Priority of Distributions

If insufficient funds exist in the WCRF to satisfy all outstanding claims against the WCRF, all moneys in the WCRF shall be distributed as follows:

a) First, for reimbursement of outstanding administrative costs incurred by the Commission chargeable against the WCRF; and

b) Second, to make outstanding reimbursements on a pro-rata basis, including both current reimbursements and reimbursements due from prior months.

Section 729.530 Overpayments and Underpayments

a) In the event that the Commission determines that an overpayment to a carrier has been made, it shall immediately notify the carrier and shall:

1) Direct the carrier to immediately reimburse the overpayment to the State; or

2) Offset a subsequent reimbursement in an amount equal to the overpayment.

b) In the event that the Commission determines that an underpayment to a carrier has been made, it shall process a voucher corresponding to the underpaid amount, subject to fund availability.

SUBPART F: DISPUTES

Section 729.600 Resolution of Disputes

a) In the event that a provider files a petition pursuant to 83 Ill. Adm. Code 200 with the Commission alleging an area of overlapping 9-1-1 service jurisdiction in which the providers in that geographic area have not agreed to the manner in which grants in that area will be apportioned, the grants for that area shall be based on reference to an official Master Street Address Guide to the Emergency Telephone System Board or qualified governmental entity whose Public Safety Answering Point provides wireless 9-1-1 service in that area. The petitioning provider claiming the overlapping jurisdiction shall be responsible for providing at hearing a copy of the applicable Master Street Address Guide (see 83 Ill. Adm. Code 728.105). In the event no Master Street Address Guide is available for the jurisdiction at issue or does not provide the information necessary to resolve the dispute, the Commission shall resolve the dispute based on the evidence in the hearing. Any funds allocated to the WSEF for the geographic region in question shall be held in escrow until a final order is entered.

b) In the event that the Commission matches a subscriber billing address to an incorrect jurisdiction, the recipient, upon notification from the Commission, shall redistribute the funds in question in the manner directed by the Commission, based on the procedures in Section 729.420.

c) In the event of a dispute between providers concerning a subscriber billing address, a provider may file a petition pursuant to 83 Ill. Adm. Code 200 seeking a determination of the billing address.

SUBPART G: MISCELLANEOUS

Section 729.700 Use of Grants and Reimbursements

Grants and reimbursements may be used only for the purposes set forth in the Act.

Section 729.710 Distributions Subject to Appropriation

a) Notwithstanding any other provision of this Part, grants shall be payable solely from funds appropriated by the General Assembly to the WSEF for the purpose of making grants. Obligations of the Commission and the State of Illinois to make grants shall cease immediately and without liability if, at any time, the Illinois General Assembly fails to appropriate or otherwise make available sufficient funds to make grants.

b) Notwithstanding any other provision of this Part, reimbursements shall be payable solely from funds appropriated by the General Assembly to the WCRF for the purpose of making reimbursements. Obligations of the Commission and the State of Illinois to make reimbursements shall cease immediately and without liability if, at any time, the Illinois General Assembly fails to appropriate or otherwise make available sufficient funds to make reimbursements.

c) The Commission shall notify eligible providers and carriers of any applicable lack of appropriations as soon as is practicable.

Section 729.720 Records

a) Providers shall maintain detailed books and records related to grants received and use of the grant funds in accordance with applicable law and generally accepted accounting principles. Providers shall maintain these books and records for a minimum of five years. All books and records shall be available for review or audit by the Commission, its representatives, the Illinois Auditor General, and other governmental entities with monitoring authority upon reasonable notice and during normal business hours. Providers shall cooperate fully with any such review or audit. If any audit indicates overpayment to a provider, the Commission shall adjust future or final payments otherwise due. If no payments are due and owed to a provider, or if the overpayment exceeds the amount otherwise due, the provider shall immediately refund all amounts that may be due to the WSEF.

b) Carriers shall maintain detailed books and records related to surcharges billed and collected by geographic area, and records necessary to support requested

reimbursements in accordance with applicable law and generally accepted accounting principles. Carriers shall maintain these books and records for a minimum of five years. All books and records shall be available for review or audit by the Commission, its representatives, the Illinois Auditor General, and other governmental entities with monitoring authority upon reasonable notice and during normal business hours. Carriers shall cooperate fully with any such review or audit. If any audit indicates overpayment to a carrier, or subcontractor, the Commission shall adjust future or final payments otherwise due. If no payments are due and owed to a carrier, or if the overpayment exceeds the amount otherwise due, the carrier shall immediately refund all amounts that may be due to the WCRF.

Section 729.730 Physical Inspections

With respect to any request for reimbursement, the Commission may perform an on-site physical inspection of the requesting carrier's facilities for the purpose of verifying that the request is reimbursable under the Act and this Part. Carriers shall cooperate and provide reasonable assistance requested by the Commission in the performance of any such physical inspection.

Section 729.740 Indemnification

Except as explicitly set forth in the Act, and except as explicitly prohibited by law, each provider requesting grants and each carrier shall indemnify and hold the State of Illinois, including the Commission, and its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, damages, suits, costs and fees, and related expenses, that may arise by reason of the functions or services provided by the Commission under the Act and this Part. In the event of any demand or claim against the Commission, the Commission will notify the responsible carrier or provider in writing. The Commission may elect to defend any demand or claim and will be entitled to be paid by the provider or carrier for all damages, costs and attorney's fees incurred.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Section 729.APPENDIX A Form of Electronic Carrier Subscriber Information Transmittal

MONTHLY SUBSCRIBER COUNT FILE

Storage Media: file attached to an Email or a CD-ROM

File Format: Text file or Microsoft EXCEL file

Carrier Subscriber Record File Layout

INSTRUCTIONS: This file must be 32 characters in length with a header and trailer record. The header record must have an H indicator in the first position and the carrier name in the remaining 31 positions. The trailer record must have a T in the first position and the total number of records on the file excluding the header and trailer records for 10 positions, followed by the FEIN. If using a Microsoft EXCEL file, the file records shall all be placed in one column of the file.

Each field length must be filled. Example: Subscriber count is a length of 10 and all spaces must be filled with leading zeros (e.g., 0000000999).

Field Name	Starting Position	Length	Data Type
FEIN	1	9	Numeric
Billing Month	10	4	Numeric (YYMM)
US Postal Zip Code	14	5	Numeric
US Postal +4 Code (if available)	19	4	Numeric
Subscriber Count	23	10	Numeric

SAMPLE: Below is an example of the header, trailer and field requirements.

Header:
Hcarriername

Trailer
T99999999990

HCARRIERNAME
99999999904106270412340000000005
99999999904106270400000000000025
T0000000002999999999

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Questions concerning the field requirements may be addressed to:

Illinois Commerce Commission
IL WETSA
527 East Capitol Avenue
Springfield IL 62701
Phone: (217) 782-9715
Email: LWETSA@icc.state.il.us

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Section 729.APPENDIX B Format of Carrier Remittance Transmittal

CARRIER REMITTANCE OF WIRELESS E9-1-1 FUNDS

CARRIER NAME _____
CARRIER FEIN _____

CARRIER ADDRESS _____
CITY/ST/ZIP _____
CONTACT NAME _____
CONTACT PHONE # _____

REMITTANCE AMT $ _____

CHECK NUMBER _____
CHECK DATE _____

REMITTANCE MONTHLY BREAKDOWN:

MO/YR Billed	Amount Remitted
_____ / _____	_____
_____ / _____	_____
_____ / _____	_____
_____ / _____	_____
_____ / _____	_____
_____ / _____	_____
_____ / _____	_____

TOTAL REMITTED $ _____ **

** Must agree with Remittance Amount listed at top of form.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Send Check and remittance to:

Illinois Commerce Commission
IL WETSA
527 East Capitol Avenue
Springfield, IL 62701

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

Section 729.APPENDIX C Form of Sworn Statement

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

AFFIDAVIT

The undersigned, being first duly sworn under oath, deposes and says, under penalties of perjury:

1. I am the [title of official making Affidavit] of [legal name of Carrier] (the "Carrier"), a corporation [insert other business form, if applicable] created and existing under the laws of the State of _____, and am duly authorized to make this Affidavit on behalf of the Carrier.

2. This Affidavit is made for the purpose of requesting Reimbursement from the Wireless Carrier Reimbursement Fund in the amount of $ [amount of reimbursement requested] pursuant to Section 35 of the Illinois Wireless Emergency Telephone Safety Act (Act).

3. The amount requested is reimbursable under the Act.

4. Attached as Exhibit A is a list of the goods or services for which reimbursement under this Affidavit is sought.

5. Attached as Exhibit B are copies of invoices supporting the Reimbursement requested.

6. All of the Reimbursement requested represents costs incurred by the Carrier in complying with Federal Communications Commission Wireless Enhanced 9-1-1 mandates (FCC Mandates).

7. Attached as Exhibit C is an explanation of how the costs represented by the attached invoices relate to compliance with the FCC Mandates.

8. I have read the attached Exhibits and know them to be true and accurate.

9. The Reimbursement requested represents costs with respect to Wireless Enhanced 9-1-1 service that is operable and capable of transmitting Wireless Enhanced 9-1-1 service as a result of the expenditures set forth in Exhibit B.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

10. To the best of my knowledge, the following are the Wireless Public Safety Answering Points (as defined by the Act) receiving Wireless Enhanced 9-1-1 service as a result of the expenditures set forth in Exhibit B.

11. The Carrier is in compliance with the Act.

[Signature]
[Printed Name of Official]

SUBSCRIBED AND SWORN TO this _____ day of _____, 20____ before me, a Notary Public in and for the County and State aforesaid, by [name of official making Affidavit], who is personally known to me to be the [affiant's official title] of [legal name of Carrier] who appeared before me this day and duly acknowledged to me execution of the foregoing Affidavit.

[Seal]

[Signature]
Notary Public

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Staff Development Plans and Programs

2) Code Citation: 23 Ill. Adm. Code 30

3)

Section Numbers:	Proposed Action:
30.10	Repealed
30.20	Repealed
30.30	Repealed
30.40	Repealed
30.50	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.6

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 30 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this repealer replace an emergency repealer currently in effect? No

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 30
STAFF DEVELOPMENT PLANS AND PROGRAMS (REPEALED)

Section
30.10 Purpose of the Program
30.20 Staff Development Plans and Programs
30.30 Plan Elements
30.40 Procedure and Criteria for Approval
30.50 Staff Development Program Assistance

AUTHORITY: Implementing Sections 2-3.59 and 2-3.60, and authorized by Section 2-3.6 of The School Code (Ill. Rev. Stat. 1986 Supp., ch. 122, pars. 2-3.59, 2-3.60 and 2-3.6).

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15973, effective October 3, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 12596, effective July 9, 1986; amended at 11 Ill. Reg. 17102, effective October 13, 1987; repealed at 29 Ill. Reg. _____, effective _____.

Section 30.10 Purpose of the Program

This Part establishes the approval process and criteria needed to implement the requirements of Sections 2-3.59 and 2-3.60 of The School Code (Ill. Rev. Stat. 1986 Supp., ch. 122, pars. 2-3.59 and 2-3.60).

Section 30.20 Staff Development Plans and Programs

a) *School districts; cooperatives or joint agreements with a governing board or board of control; and regional superintendents and administrative agents for educational service centers who are acting on behalf of cooperatives or joint agreements shall conduct staff development programs and may contract with not-for-profit organizations to conduct summer staff development program institutes which specify outcome goals, including the improvement of specific instructional competencies, and which conform to locally developed plans. The State Board of Education shall approve all staff development plans....The State Board of Education shall require school districts; cooperatives or joint agreements with a governing board or board of control; and regional superintendents and*

administrative agents for educational service centers who are acting on behalf of cooperatives or joint agreements to design programs which provide continuing education to update or improve a teacher's skill or knowledge in order to maintain a high level of performance.

b) In this Part the term "agency" means and includes school districts, cooperatives or joint agreements with a governing board or board of control, administrative agents for educational service centers, and regional superintendents acting on behalf of such entities.

Section 30.30 Plan Elements

a) Each agency shall submit a staff development plan, hereinafter called a Plan, using any one of the following procedures.

1) An Agency may submit its existing Plan, or a revision thereof, provided that said Plan addresses the requirements of Sections 2-3.59 and 2-3.60 of The School Code, and that said Plan includes the elements set forth in subsection (b) of this Section.

2) Two or more agencies may submit a joint Plan prepared in accordance with subsection (a)(1) or (a)(3) of this Section, provided that all agencies participating in a joint Plan must be within the service area of an Educational Service Center established pursuant to 23 Ill. Adm. Code 500 (Educational Service Centers).

3) An agency may submit a Plan using the format provided by the State Board of Education and addressing the elements set forth in subsection (b) of this Section.

b) Staff Development Plans shall contain:

1) a description of the process used to prepare the Plan, which demonstrates that the Plan was developed in consultation with the Educational Service Center for the agency, in cooperation with the agency's teachers, and which describes the agency staff development needs identified thereby;

2) specific outcome goals and objectives designed to improve specified instructional competencies and to update and/or improve the professional knowledge or skills of teachers as required in Sections 2-3.59 and 2-3.60 of The School Code, and which are related to the needs identified pursuant

to subsection (b)(1) of this Section;

3) a method of evaluating the results of the program required by The School Code, and designed to ensure that the program will be revised as needed to facilitate achievement of the goals and objectives specified in the Plan; and

4) a statement of the time period covered by the Plan, which shall not exceed three (3) fiscal years.

Section 30.40 Procedure and Criteria for Approval

a) Agencies will be granted at least forty-five (45) calendar days from the date specified in a written notification from the State Superintendent of Education to submit their Plans to the State Board of Education and to the Educational Service Center which serves the agencies. An agency's failure to comply with this requirement will delay its receipt of program assistance pursuant to Section 30.50 of this Part.

b) Information provided in the Plan will be reviewed by State Board of Education staff to determine that the information demonstrates compliance with Sections 2-3.59 and 2-3.60 of The School Code and this Part.

c) The Plan will also be reviewed by Educational Service Center staff, who will provide to the State Board of Education a written analysis of staff development needs within the service area and a description of the actions to be taken by Center staff in response to those needs.

d) State Board staff will send a written notice to affected agencies specifying any requested information pursuant to Section 30.30 that is missing from their Plans. Such agencies shall supply the requested information within sixty (60) calendar days of their receipt of said notice.

e) The State Superintendent of Education will approve Plans that demonstrate compliance with Sections 2-3.59 and 2-3.60 of The School Code and this Part, except that the State Superintendent shall invoke subsection (d) of this Section with respect to any requested information that is missing from any such Plan submitted for final approval.

Section 30.50 Staff Development Program Assistance

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

a) Upon approval of the Plan, assistance will be provided in support of the agency's staff development program, which shall include a description of the activities and resources needed to conform with the approved Plan as required in Sections 2-3.59 and 2-3.60 of The School Code.

b) Agencies with approved Plans will receive funds determined by the State Superintendent of Education on the basis of the following calculation:

1) the total amount appropriated for the purposes of Sections 2-3.59 and 2-3.60 of The School Code;

2) divided by the number of full-time equivalent certificated teachers as reported in the "Teacher Service Report" to the State Board of Education for the preceding fiscal year; and

3) multiplied by the number of certificated teachers served by the applicant agency pursuant to the "Fall Housing Record" cited in subsection (b)(2) of this Section.

c) Agencies with approved Plans will receive funds within thirty (30) calendar days after approval of their Plans.

d) Funds will be disbursed to the agencies by the Educational Service Center serving the agencies.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Insurance for Certificated Employees

2) Code Citation: 23 Ill. Adm. Code 56

3)

Section Numbers:	Proposed Action:
56.10	Repealed
56.20	Repealed
56.30	Repealed
56.40	Repealed
56.50	Repealed
56.60	Repealed
56.70	Repealed
56.80	Repealed
56.90	Repealed
56.100	Repealed
56.110	Repealed
56.120	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.124

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 56 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this repealer replace an emergency repealer currently in effect? No

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included in either of the two most recent Regulatory Agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 56
INSURANCE FOR CERTIFICATED EMPLOYEES (REPEALED)

Section

56.10 Definitions for This Part
56.20 Coverage Subject to Appropriation
56.30 Section 2-3.124 Carrier
56.40 Extent of Coverage Generally
56.50 Civil Liability Insurance Coverage
56.60 Criminal-Related Insurance Coverage
56.70 Limits of Coverage and Recourse
56.80 Information about Insurance Coverage
56.90 Effective Date of Coverage
56.100 Relationship to Insurance Law and Regulation
56.110 Relationship to Policy Language
56.120 Construction and Severability of Rules

AUTHORITY: Implementing and authorized by Section 2-3.124 of the School Code [105 ILCS 5/2-3.124].

SOURCE: Emergency rules adopted at 22 Ill. Reg. 9580, effective May 22, 1998, for a maximum of 150 days; new Part adopted at 22 Ill. Reg. 19753, effective November 2, 1998; repealed at 29 Ill. Reg. _____, effective _____.

Section 56.10 Definitions for This Part

"Assault-related personal property damage" means damage to or destruction of the certificated employee's personal property, or other people's personal property when being used by the certificated employee, or in the certificated employee's care, custody or control, which is caused by an assault upon the certificated employee on or surrounding school property or while away from school property on an authorized school activity to the extent that such damages exceed the coverage provided by any coverage other than the assault-related coverage under Section 2-3.124 of the School Code [105 ILCS 5/2-3.124]. "Assault" as used in the phrase "assault-related property damage" means a physical attack on the certificated employee or an assault and/or battery upon the certificated employee

as defined by relevant criminal law.

"Certificated employee" does not refer to any person who is, or functions as, a bona-fide independent contractor but refers to any person:

who *receives a salary or wages in exchange for performing educational employment activities on behalf of a school board, board of trustees, joint agreement program board that* oversees an educational program, *cooperative program board that* oversees an educational program, or *similar governing body of a public elementary or secondary education unit* (Section 2-3.124 of the School Code);

whose position of employment requires, by law and not merely by the employer, a certificate issued pursuant to Article 21 of the School Code [105 ILCS 5/Art. 21]; and

whose position of employment requiring certification is within Illinois.

"Civil liability insurance coverage" refers to coverage that:

is provided through an insurance carrier under contract with the Illinois State Board of Education;

is made available pursuant to Section 2-3.124 of the School Code;

provides, at the applicable limits stated in this Part, the following insurance protection for certificated employees:

civil liability for specified claims other than claims related to civil rights issues, and

civil liability claims related to civil rights issues; and

is further defined, specified and limited in this Part.

"Criminal-related insurance coverage" refers to coverage that:

is provided through an insurance carrier under contract with the Illinois State Board of Education;

is made available pursuant to Section 2-3.124 of the School Code;

provides, at the applicable limits stated in this Part, the following insurance protection for certificated employees:

reimbursement of attorneys' fees for defense of a criminal proceeding,

bail bond, and

assault-related personal property damage; and

is further defined, specified and limited in this Part.

"Educational board" refers to a *school board, board of trustees, joint agreement program board* that oversees an educational program, *cooperative program board* that oversees an educational program, or *similar governing body of a public elementary or secondary education unit* (Section 2-3.124 of the School Code). To be within the definition of an educational board, the entity must be located within Illinois and employ one or more persons in positions that require a certificate issued pursuant to Article 21 of the School Code. The term "educational board" does not include the Illinois State Board of Education.

"Insurance carrier" or "carrier" refers to a non-governmental entity that may legally provide in Illinois any or all categories of insurance coverage specified in Section 2-3.124 of the School Code.

"Primary insurer" means, as between two potential insurers or indemnifiers, the entity that is first to provide coverage up to the limit of that entity's plan.

"School year" refers to that period beginning in or around late August when schools with grades between kindergarten and 12 are in regular session, with students attending. "End of the school year," unless otherwise indicated in this Part, refers to the last day of the school year, in or around late May, when school lets out.

"Section 2-3.124 carrier" refers to an insurance carrier that is under contract with the Illinois State Board of Education to provide insurance pursuant to Section 2-3.124 of the School Code.

"Section 2-3.124 coverage" refers to the combination of the "civil liability insurance coverage" and the "criminal-related insurance coverage," as these terms

are defined in this Part.

"Supplemental insurer" means, has as between two potential insurers or indemnifiers, the entity that provides additional insurance, payments from which entity will only be considered after all other valid and collectible insurance provided by the primary insurer(s) has been exhausted.

Section 56.20 Coverage Subject to Appropriation

Section 2-3.124 coverage shall be made available by the State Board of Education, as funds for this purpose are appropriated by the General Assembly. Assuming funds are appropriated, the premium for this coverage shall be paid by the State Board.

Section 56.30 Section 2-3.124 Carrier

a) Subject to the availability of funds, the State Board of Education shall, at least once every three years, issue a Request for Proposals ("RFP") to solicit bids from eligible insurance carriers to make available to certificated employees the insurance coverages specified in Section 2-3.124 of the School Code and this Part.

b) The RFP shall identify information that bidders must include in their bids and shall require that bids be submitted to the State Board no later than the date specified in the RFP.

c) If the State Board determines that the best interests of the State of Illinois would be served, the State Board may require that bidders submit proposals, or alternate proposals, calling for certificated employees to submit application to accept Section 2-3.124 coverage. In making this determination, the State Board shall consider the cost in terms of time and money associated with requiring, and not requiring, such application.

Section 56.40 Extent of Coverage Generally

Coverage under Section 2-3.124 of the School Code shall consist solely of "civil liability insurance coverage" and "criminal-related insurance coverage," as these two terms are specified, limited and defined in this Part.

a) With the exception of coverage for assault-related property damage, Section 2-3.124 coverage shall extend only to actions or non-actions, including negligence, committed by the certificated employee while actively engaged in his or her capacity as a certificated employee and while employed by an educational board.

b) Section 2-3.124 coverage for assault-related property damage shall extend only to assaults upon the certificated employee while actively engaged in his or her capacity as a certificated employee and while employed by an educational board.

c) Section 2-3.124 coverage, once established through a Section 2-3.124 carrier, shall extend through periods when school is not scheduled to be in session, including summers and other breaks, but only to the extent that a covered action or non-action was committed within the scope of employment with an educational board.

d) Section 2-3.124 coverage shall not extend to any action or non-action, including negligence, committed during any period of time when the insured person would not have been within the scope of the "certificated employee" definition, as set forth in Section 56.10 of this Part.

1) A person shall not be considered a "certificated employee," as defined in this Part, until that person has actually begun to work for the educational board, regardless of the existence of a commitment to be hired in the future.

2) A certificated employee who has been given notice of lay-off, reduction in force or dismissal shall no longer be covered by Section 2-3.124 coverage after the effective date of such notice or, if no effective date is stated in the notice, after the last day of the school year of the educational board by which that person is employed.

e) No Section 2-3.124 coverage shall apply to any certificated employee who has not accepted such coverage in accordance with terms of the insurance policy issued by the Section 2-3.124 carrier. If affirmative acceptance of coverage is required through application or other means, notice of that requirement shall be included with information published pursuant to Section 56.80 of this Part.

Section 56.50 Civil Liability Insurance Coverage

a) Civil liability insurance coverage shall extend only to the following civil liability claims and suits, including legal defense thereof:

1) civil rights damage claims and suits;

2) constitutional rights damage claims and suits;

3) death and bodily injury claims and suits; and

4) property damage claims and suits, including any civil claim or suit arising from assault-related property damage.

b) Such civil liability insurance coverage shall not cover any categories of claims outside of those listed in subsection (a) of this Section and shall not extend to any injury or damage claims or suits that are not in the nature of tort.

c) School boards are regarded as having a duty under Section 10-20.20 of the School Code [105 ILCS 5/10-20.20] to indemnify their employees, including certificated employees.

1) No Section 2-3.124 carrier, by virtue of any Section 2-3.124 coverage, shall have any obligation to insure the school board's duty to indemnify under Section 10-20.20 of the School Code.

2) The civil liability insurance coverage provided pursuant to Section 2-3.124 shall be regarded only as supplemental to the duty of indemnification under Section 10-20.20 of the School Code, and in no case shall the Section 2-3.124 carrier be regarded as other than a supplemental insurer with respect to those certificated employees employed by educational boards subject to Section 10-20.20 of the School Code.

3) Civil liability insurance coverage provided pursuant to Section 2-3.124 shall be supplemental to any insurance coverage provided pursuant to Section 10-22.3 of the School Code.

d) If there exists any coverage or indemnification other than that provided pursuant to Section 2-3.124 of the School Code, whether or not such other coverage or indemnification is pursuant to Section 10-22.3 or 10-20.20 of the School Code, respectively, the Section 2-3.124 carrier shall be regarded only as a supplemental insurer.

Section 56.60 Criminal-Related Insurance Coverage

a) Criminal-related insurance coverage shall not cover any categories of claims outside of those listed specifically within the definition of "criminal-related insurance coverage" in Section 56.10 of this Part and shall not cover any fines levied by any court.

b) Coverage for assault-related personal property damage does not apply to damage or destruction of a vehicle of any kind, or to damage to or destruction of property leased to, or owned or rented by, an educational board.

c) Proof of an assault shall be a report of the incident to the appropriate law enforcement agency as soon as practicable.

d) If there exists any coverage for the criminal acts or non-acts of, or upon, the certificated employee other than that provided pursuant to Section 2-3.124 of the School Code, the Section 2-3.124 carrier shall be regarded only as a supplemental insurer with respect to the criminal-related insurance coverage.

Section 56.70 Limits of Coverage and Recourse

a) Limits on civil liability insurance coverage shall not exceed an aggregate maximum of $3,000,000 per single occurrence, subject to the following additional limitations:

1) For all civil liability claims other than those involving any civil rights issue or claim, the civil liability insurance coverage shall be limited to a maximum of $1,000,000 per person suffering damages from the certificated employee's action or non-action.

2) For those civil liability claims involving any civil rights issue or claim, the civil liability insurance coverage shall be limited to a maximum of $250,000 per occurrence per person whose civil rights were violated by the certificated employee's action or non-action.

b) Limits on criminal-related insurance coverage provided pursuant to Section 2-3.124 shall be as follows:

1) Reimbursement of attorneys' fees for defense of a criminal proceeding shall be limited to a maximum of $35,000.

A) All legal defense work in the certificated employee's behalf that relates to investigations, charges, motions, hearings, prehearings, trials, conferences, appeals and other actions or activity, and that stems from the same body of facts shall be regarded as one criminal proceeding.

B) The $35,000 maximum shall apply only to the sum total of fees of all attorneys who provide criminal defense legal services to the certificated employee, following that employee's arrest or service with a formal notice of a criminal charge against him or her. Attorneys' fees shall include only the fees for one or more attorneys who actually provide criminal defense legal work for the certificated employee. Expenses or fees for private investigative services or for expert witnesses shall not be covered or regarded as attorneys' fees.

2) Bail bond coverage shall be limited to a maximum of $1,000 per criminal proceeding, as the term "criminal proceeding" is used in subsection (b)(1)(A) of this Section.

3) Coverage for assault-related personal property damage shall be limited to $250 per incident.

c) Nothing in this Part shall preclude any insurance carrier from offering other separate coverage to certificated employees that would have increased limits of coverage or additional coverage and for which the employee would pay a premium.

d) There shall be no recourse against the State Board or the State of Illinois because of any action or non-action of, upon or against a certificated employee. Recourse shall be against parties including, but not necessarily limited to, those in the following list:

1) the certificated employee;

2) the educational board, if the educational board is subject to Section 10-20.20 of the School Code;

3) any insurance carrier, company or broker providing coverage pursuant to Section 10-22.3 of the School Code;

4) any insurance carrier, company or broker providing coverage applicable to the employee's action or non-action but not provided pursuant to any section of the School Code;

5) any other defendant; and

6) any Section 2-3.124 carrier.

Section 56.80 Information about Insurance Coverage

a) Once the State Board has contracted with a Section 2-3.124 carrier to make Section 2-3.124 coverage available, the State Board shall generally publicize the fact that such coverage is in place.

1) Inclusion of the above-required publication in one or more general mailings or newsletters of the State Board to the educational boards contained in the State Board's mailing list(s) shall be regarded as satisfying this requirement of general publication. This publication may be included with other information or documents from the State Board.

2) An educational board that has received or been made aware of the publication referenced in subsection (a)(1) of this Section shall:

A) disseminate the information provided in this publication to all of its certificated employees and shall post the information in one or more locations where it is likely to remain and be seen by all of the educational board's certificated employees; and

B) inform certificated employees that requests for additional information about particulars of the insurance provided by the Section 2-3.124 carrier should be directed to the carrier and not to the certificated employee's employer or to the State Board of Education.

b) If the Section 2-3.124 carrier makes available other additional coverage with increased limits of coverage that can be purchased by the certificated employee, the carrier shall inform the certificated employee that he or she is under no obligation to apply for or purchase any additional coverages or increased limits.

Section 56.90 Effective Date of Coverage

No Section 2-3.124 coverage shall be effective prior to the beginning of the 1998-99 school year, as defined in Section 56.10 of this Part, and in no instance shall the coverage be effective prior to 7 a.m., August 14, 1998.

Section 56.100 Relationship to Insurance Law and Regulation

Nothing in this Part is intended to be construed or implemented in violation of any applicable State or federal insurance law or regulation.

Section 56.110 Relationship to Policy Language

In the event of any conflict between this Part and any policy of insurance issued by any Section 2-3.124 carrier pursuant to Section 2-3.124 of the School Code, the language of this Part shall prevail to the extent permitted by Section 56.100 of this Part.

Section 56.120 Construction and Severability of Rules

If any provision of this Part or application thereof to any entity, person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Part that can be given effect without the invalid provision or application, and to this end the provisions of this Part are declared to be severable.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Professional Development Block Grant

2) Code Citation: 23 Ill. Adm. Code 160

3)

Section Numbers:	Proposed Action:
160.10	Repealed
160.20	Repealed
160.30	Repealed
160.40	Repealed

4) Statutory Authority: 105 ILCS 5/Art. 1C

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 160 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this repealer replace an emergency repealer currently in effect? No

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This repealer will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER c: FINANCE

PART 160
PROFESSIONAL DEVELOPMENT BLOCK GRANT (REPEALED)

Section
160.10 Purpose
160.20 Use of Funds
160.30 Application, Approval, and Funding
160.40 Terms of the Grant

AUTHORITY: Implementing and authorized by Article 1C of the School Code [105 ILCS 5/Art. 1C].

SOURCE: Adopted at 19 Ill. Reg. 16533, effective December 5, 1995; amended at 22 Ill. Reg. 13652, effective July 13, 1998; repealed at 29 Ill. Reg. _____, effective _____.

Section 160.10 Purpose

a) This Part establishes the procedures and criteria for approval of applications submitted by school districts to the State Board of Education for professional development block grant funds as authorized by Article 1C of the School Code [105 ILCS 5/Art. 1C].

b) *The purpose of the block grant is to allow greater flexibility and efficiency in the distribution of certain funds to school districts and in the use of these funds for the improvement of educational services pursuant to locally established priorities* (Section 1C-1 of the School Code [105 ILCS 5/1C-1]).

Section 160.20 Use of Funds

a) Block grant funds provided pursuant to this Part shall be used only for professional development initiatives that address issues identified in a district's school improvement plan.

b) An amount not exceeding five percent of a district's block grant funds may be allocated for administrative costs directly related to the use of those grant funds.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Section 160.30 Application, Approval, and Funding

Each public school district is entitled to receive an annual distribution of block grant funds. This shall be calculated by the State Board of Education based upon the total amount of funds appropriated for this purpose and *the number of full-time certified instructional staff employed in the district* as reflected in the Teacher Service Record for the immediately preceding school year. "Full-time certified instructional staff" includes only those individuals included in the elementary, secondary, and special education categories on the Teacher Service Record who are full-time employees of the district. The following procedures shall apply to the distribution of these funds.

a) The State Board of Education shall annually notify school districts of the estimated amount of the block grant entitlement per qualifying staff member, and shall notify districts of the final entitlement amount within 60 days after the amount of the appropriation is determined. The Board shall distribute application forms to school districts, allowing at least 45 days for districts to complete the applications and return them to the agency.

b) Each school district wishing to apply for block grant funds shall use the forms supplied by the State Board to furnish the following:

1) A summary of the proposed use of the professional development funds, indicating the types of activities to be funded; and

2) Such certifications and assurances as the State Board of Education may require.

c) State Board staff shall contact any school district whose application is incomplete, identifying such additional information as may be necessary for approval of the application.

d) Failure to comply with submission timelines may delay a school district's receipt of block grant funds.

e) The State Superintendent of Education shall approve each application that demonstrates compliance with Article 1C of the School Code and this Part.

Section 160.40 Terms of the Grant

a) Approved block grants will be paid to recipients in semiannual installments.

b) All grant funds shall be subject to the Illinois Grant Funds Recovery Act [30 ILCS 705].

c) Each school district applying for funds under this program must have a staff development plan on file, approved as required by Section 2-3.59 of the School Code and the State Board's rules at 23 Ill. Adm. Code 30 (Staff Development Plans and Programs).

d) Funds granted under this program must be used exclusively as set forth in Section 160.20 of this Part and must be expended in accordance with the approved application and the grantee's policies and procedures related to such expenditures. Funds may only be expended for activities occurring during the grant period, which shall extend from July 1 of one year through June 30 of the following year.

e) Each school district receiving block grant funds shall submit semiannual expenditure reports on forms supplied by the State Board of Education. Such reports shall describe expenditures of block grant funds for particular functions, by categories such as salaries, benefits, purchased services and supplies and materials.

f) To permit compliance with Section 1C-4 of the School Code [105 ILCS 5/1C-4], each school district shall annually provide to the State Superintendent of Education a year-end report including such information as the State Superintendent may require regarding the use of the funds provided pursuant to this Part (e.g., numbers of teachers served, academic area(s) of focus).

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Scientific Literacy

2) Code Citation: 23 Ill. Adm. Code 220

3)

Section Numbers:	Proposed Action:
220.10	Repealed
220.20	Repealed
220.30	Repealed
220.40	Repealed
220.50	Repealed
220.60	Repealed
220.70	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.94

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 220 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this repealer replace an emergency repealer currently in effect? No

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) This rulemaking was not included in either of the two most recent Regulatory Agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER e: INSTRUCTION

PART 220
SCIENTIFIC LITERACY (REPEALED)

Section
220.10 Purpose
220.20 Eligible Applicants
220.30 Application Procedure and Content
220.40 Proposal Review Criteria – Initial Applications
220.50 Proposal Review Criteria – Renewal Applications
220.60 Approval of Proposals
220.70 Terms of the Grant

AUTHORITY: Implementing and authorized by Section 2-3.94 of the School Code [105 ILCS 5/2-3.94].

SOURCE: Adopted at 15 Ill. Reg. 17073, effective November 13, 1991; amended at 24 Ill. Reg. 8536, effective June 6, 2000; amended at 26 Ill. Reg. 890, effective January 15, 2002; repealed at 29 Ill. Reg. _____, effective _____.

Section 220.10 Purpose

This Part establishes the procedure and criteria for approval of applications submitted by eligible applicants to the State Board of Education for grants to assist in establishing scientific literacy programs as authorized in Section 2-3.94 of the School Code [105 ILCS 5/2-3.94]. "Scientific literacy" shall be understood to include:

a) The capacity to formulate questions; to seek, comprehend and use available information; and to gather and interpret data and draw logical inferences in relation to an area of investigation.

b) The ability to comprehend, communicate, and apply the language, concepts, theories and practices of science, mathematics and technology in ways that promote mutual understanding, cooperative problem-solving, and shared vision.

c) The awareness that science and mathematics are ongoing processes and growing

disciplines, constantly evolving and being refined through inquiry and open-ended investigation.

d) The awareness that science and mathematics are interdependent and that the technology and methods of each are interrelated and mutually supportive.

e) The ability to use appropriate scientific and mathematical instruments to gain access to information, process ideas, and communicate results.

f) The understanding that science, mathematics, and technology have strengths and limitations, in both theory and application, particularly as they relate to societal and ethical issues.

Section 220.20 Eligible Applicants

a) The eligible applicants for grants issued pursuant to this Part shall be as enumerated in Section 2-3.94 of the School Code. Charter schools, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], and area vocational centers are also eligible to apply. [105 ILCS 5/27A-11.5, 2-3.109a, and 2-3.109b, respectively.]

b) *Any programs or services funded by grants made under this Part may be offered to private school teachers and private school students, provided public schools have already been afforded adequate access to such programs and services.* [105 ILCS 5/2-3.94]

c) Any combination of eligible entities may submit a joint proposal. A single entity must be designated as the administrative agent, and the chief executive officer of each participating entity must sign the proposal.

Section 220.30 Application Procedure and Content

a) The State Board of Education will issue a Request for Proposals (RFP) specifying the information that must be included and requiring that proposals be submitted to the State Board of Education no later than the date specified in the RFP, which shall provide at least 45 calendar days in which to submit proposals. Separate RFPs shall be issued for pilot projects and for staff development projects. The State Superintendent of Education will approve one-year projects, as well as multi-year projects that meet the criteria established for continuation. Funding for

subsequent years will be contingent on the level of funding appropriated for the program and on the grantee's progress toward meeting its objectives (see Section 220.50).

b) Each RFP shall indicate the descriptive information that applicants will be required to provide about their proposed projects (e.g., needs to be addressed, goals, plan of work, means of evaluation, and plan for dissemination of results). Each RFP shall identify any area or areas of high priority for the program year.

c) Each RFP shall describe the proposal format that applicants will be required to follow (e.g., cover page, proposal abstract, proposal narrative, letters of intent to participate, etc.).

d) Each proposal shall include a budget summary and payment schedule, completed on the form provided, and a narrative budget breakdown, i.e., a detailed explanation of each line item of expenditure.

e) Each proposal shall include a Certification and Assurances for Application and Award and a Drug-Free Workplace Certification, submitted on forms supplied by the State Board.

f) Each not-for-profit applicant shall also be required to:

1) submit either an Internal Revenue Service statement of its 501(c)(3) status, a copy of its certificate of incorporation as a not-for-profit corporation, or evidence of its acceptance as a not-for-profit organization by the U.S. Postal Service; and

2) attach a description of past involvement and present qualifications for providing educational opportunities in scientific literacy for teachers and/or students.

g) Each renewal application must provide the following:

1) a summative evaluation of the preceding year's program, documenting the services provided and describing the degree to which the grantee achieved its stated objectives;

2) an updated narrative description of activities, timelines, evaluation procedures and the personnel to be responsible for them in the renewal

year, relating the activities and objectives proposed to the evaluation results provided pursuant to subsection (g)(1) of this Section;

3) an updated Budget Summary and Payment Schedule, with a budget narrative for the renewal year; and

4) the assurances and certification form referred to in subsection (e) of this Section, bearing a current signature and applicable to the renewal period.

h) Incomplete proposals will not be considered for funding.

Section 220.40 Proposal Review Criteria – Initial Applications

a) It is the intent of the State Board of Education, subject to the quality of proposals received and the level of funding appropriated, to provide funds statewide.

b) Proposals submitted in response to the Request for Proposals shall be evaluated in accordance with the following criteria:

1) The proposed project's goals, objectives, and activities reflect the description of scientific literacy set forth in Section 220.10 of this Part, and the project's design will contribute to improvement in either:

A) knowledge and skills of elementary and secondary teachers in the content and pedagogy of scientific literacy; or

B) students' knowledge and skills that constitute scientific literacy. (30 points)

2) The proposal incorporates appropriate elements designated in the Request for Proposals as receiving high-priority consideration. (20 points)

3) The evaluation design will provide information that can be used to judge the project's impact and will add to the research base regarding scientific literacy. (20 points)

4) The proposed project is based on well-documented needs. (15 points)

5) The proposal provides sufficient documentation to support the effectiveness of the proposed program in increasing scientific literacy,

indicates how the program will be sustained when grant funds are no longer available, and includes a dissemination plan. (10 points)

6) The proposed budget is cost-effective and is consistent with the scope of the objectives and activities. (5 points)

c) The State Superintendent of Education will make final determinations in accordance with the criteria set forth in this Section.

Section 220.50 Proposal Review Criteria – Renewal Applications

Renewal applications shall be evaluated in accordance with the following criteria:

a) The evaluation of the previous year's project indicates that its stated objectives have been met and that the project has been conducted in conformance with the application approved by the State Superintendent of Education; or

b) In instances where certain of a project's objectives have not been met, the grantee has described the relative status of each such objective, the reason(s) for incomplete achievement, and either:

1) the steps to be taken to ensure that the objective will be met during the renewal period, if the objective remains a valid part of the proposal for renewal; or

2) if the grantee has determined that the objective should be deleted from its plan or altered in light of the previous year's experience, the grantee has provided its rationale for such deletion or change and has described how the program's goals for the renewal period will be met in light of the change.

Section 220.60 Approval of Proposals

a) The State Superintendent of Education shall determine the amount of individual grant awards on the basis of:

1) recommendations based on the criteria set forth in Sections 220.40 and 220.50;

2) the total amount of funds appropriated for scientific literacy development

grants; and

3) the approvable amounts requested in the top-ranked proposals identified pursuant to Sections 220.40 and 220.50.

b) Notification of grant awards for approved proposals will be made not later than forty-five (45) calendar days after the amount of the appropriation for this program is determined.

Section 220.70 Terms of the Grant

Each RFP shall inform potential recipients of the terms and conditions that apply to their receipt and use of grant funds under this program, including the following:

a) Applicants may be asked to clarify certain aspects of their proposals. A negotiated and finalized proposal returned to the applicant, with an authorized signature affixed to the cover page, will constitute an approved grant agreement with the State Board of Education.

b) Orders for payment will be submitted to the Office of the Comptroller by the State Board of Education according to a negotiated payment schedule. Payments may be reduced from scheduled amounts if periodic reports show excessive cash on hand.

c) An approved budget may be amended by completing an amendment to the approved budget, using forms supplied by the State Board of Education, to show the new amounts required and attaching an explanation for the changes. A budget amendment must be submitted for approval whenever an individual line item changes by more than $1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. Budget amendments will be approved if the proposed distribution of resources or activities would have been approvable within the original application.

d) All grants issued under this Part shall be subject to the Illinois Grant Funds Recovery Act [30 ILCS 705].

e) The applicant may operate its own program or may enter into a subcontract with another not-for-profit agency to implement the program.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

f) Grant recipients must submit a final project report to the State Board within 30 days after the ending date of the grant period.

g) Programs approved for multi-year funding are expected to comply with the requirements of subsection (f) of this Section at the conclusion of each funding year.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Alcohol and Drug Education Initiative

2) Code Citation: 23 Ill. Adm. Code 225

3)

Section Numbers:	Proposed Action:
225.10	Repealed
225.20	Repealed
225.30	Repealed
225.40	Repealed
225.50	Repealed
225.60	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.93

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 225 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

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

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER e: INSTRUCTION

PART 225
ALCOHOL AND DRUG EDUCATION INITIATIVE (REPEALED)

Section
225.10 Purpose
225.20 Eligible Applicants
225.30 Application Procedure and Content
225.40 Proposal Review and Approval Criteria
225.50 Allocation of Funds
225.60 Terms of the Grant

AUTHORITY: Implementing and authorized by Section 2-3.93 of the School Code [105 ILCS 5/2-3.93].

SOURCE: Adopted at 15 Ill. Reg. 17585, effective November 20, 1991; amended at 26 Ill. Reg. 894, effective January 15, 2002; repealed at 29 Ill. Reg. _____, effective _____.

Section 225.10 Purpose

These rules establish the procedure and criteria for approval of applications submitted to the State Board of Education by eligible applicants for grants to assist in establishing alcohol and drug education initiative projects designed to develop drug-free community planning and implementation strategies and staff development activities and to purchase software and curriculum materials as authorized in Section 2-3.93 of the School Code (Ill. Rev. Stat. 1989, ch. 122, par. 2-3.93).

Section 225.20 Eligible Applicants

Proposals for grant awards under Section 2-3.93 of the School Code [105 ILCS 5/2-3.93] may be submitted by public school districts. Charter schools, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], and area vocational centers are also eligible to apply (see 105 ILCS 5/27A-11.5, 2-3.109a, and 2-3.109b, respectively).

a) If a joint application is submitted, then an administrative agent shall be designated, and the superintendent from each of the participating entities shall

sign the application.

b) Applicants who propose to use a subcontractor shall provide the information required by Section 225.30(c)(8).

Section 225.30 Application Procedure and Content

It is the intention of the State Board of Education to provide discretionary grants to eligible applicants on a year-to-year basis. Funding for future projects, i.e., those projects funded after their initial grant year, shall be contingent upon availability of funds for the initiative. Consideration shall be given to all applicants pursuant to Section 225.40 regardless of previous participation in the drug and alcohol education initiative.

a) The State Board of Education will issue a Request for Proposals (RFP) specifying the information which applicants must include in their proposals, and requiring that proposals be submitted to the State Board of Education no later than the date specified in the RFP. The RFP shall provide at least forty-five (45) calendar days in which to submit proposals. No Fax copies will be accepted.

b) Priority for funding shall be given to projects which focus upon improvement of the curriculum, instructional programs, staff development or school policy development. Higher priority shall be given to project proposals that contain the following elements.

1) A drug abuse prevention instructional model with appropriate curriculum materials (e.g., sequential, age-appropriate instruction in development of self-esteem, communication, decision-making, resistance skills and other areas of critical thinking) as part of a comprehensive health education program in grades K through 12 that allows integration across grade levels and in other areas of learning (i.e., addresses the Illinois State Goals for Learning in Physical Development and Health pursuant to 23 Ill. Adm. Code 210.App. A and/or other fundamental learning areas as defined in Section 27-1 of the School Code).

2) An effective teacher training program that includes curriculum selection or development and strategies for working with community agencies.

3) A school and community partnership to study and recommend drug use prevention policies for use by schools and communities.

4) Prevention strategies that focus on primary prevention (i.e., activities to

educate students about drug use, promote self-esteem and strengthen resistance skills) and secondary prevention (i.e., strategies for identification and remediation of at-risk students).

c) Each proposal shall provide the following information:

1) An abstract of the proposal (not more than 200 words).

2) Comprehensive Planning
The applicant shall describe specific proposed efforts to use school, social service agency, business, and other regional and local community services to the extent their use is practicable. The applicant shall list all individuals involved in planning the proposed alcohol and drug education initiative, identify the organization, agency or group each represents, and describe the nature and extent of that individual's involvement.

3) Needs Assessment
The applicant shall describe the students' need for the proposed project and document that need with current statistical and/or descriptive information.

4) Objectives and Activities
A statement of the project's objectives and activities in relation to the needs identified in subsection (3) shall be stated in measurable terms. Applicants shall submit activity statements (program goals along with specific objectives and activities), which shall include:

A) What will be done;

B) When each activity will be implemented and completed;

C) Who will conduct each activity; and

D) Who will be served by each activity.

5) Evaluation Design

A) Formative Evaluation

The applicant shall describe the evaluation process for determining whether progress is being made toward achieving its project

objectives.

B) Summative Evaluation

The applicant shall describe the evaluation process for determining the success of the project. The evaluation shall be designed so that it will report the degree to which the project completed its proposed objectives; document the services provided; and include descriptive statistics, such as the number served and the resources used.

6) Budget/Fiscal Information
The budget summary and payment schedule must be completed on the form provided in the RFP. A budget breakdown, i.e., a detailed explanation of each line item of expenditure, also shall be provided.

7) Certification and Assurances
The applicant shall submit the certification and assurances form attesting to the following:

A) The applicant has the necessary legal authority to apply for and to receive the proposed grant. The filing of the application has been authorized by the governing body of the applicant, and the applicant's representative has been duly authorized to file the application, and to otherwise act as the authorized representative of the applicant in connection with the application and any award in relation thereto.

B) The activities and services for which assistance is sought under the program will be administered by or under the supervision of the applicant in accordance with the laws and regulations applicable to the contract. No subcontractors will be used except as stated in the application.

C) In planning the program proposed in the application, there has been, and in establishing and carrying out the program, there will be (to the extent applicable to the program) participation of persons broadly representative of the cultural and educational resources of the area to be served, including persons representative of the interests of potential beneficiaries.

D) All funds provided shall be used for the purposes stated in the approved proposal.

E) The applicant understands that payment for approved services and expenses will be made on a reimbursement-of-claims basis, and that payment will be made in accordance with the applicable statutes, regulations and standards after an application for payment is submitted to the State Board of Education.

F) The applicant will maintain records on program and fiscal activities related to each award for a period of three (3) years for a state-funded program, and five (5) years for a federally funded program, following the end of each award period. Such records shall include a fiscal accounting for all monies in accordance with generally accepted governmental accounting principles. The State Board of Education shall have the right to inspect the applicant's records for auditing and monitoring purposes. If there are outstanding audit exceptions, then records will be retained on file until such exceptions are closed out to the satisfaction of the State Board of Education.

G) All rights, including copyright, to data, information, and/or other materials developed pursuant to an award are retained by the State Board of Education, unless otherwise agreed in writing by the State Board of Education. All such work products produced by the applicant through work pursuant to the award shall be made available to the State Board of Education upon request.

H) The applicant will obey all laws, regulations, and executive orders prohibiting discrimination on the basis of race, color, national origin, sex, age, or handicap, and all other laws, regulations, and executive orders applicable to its activities, including but not limited to the School Code (Ill. Rev. Stat. 1989, ch. 122, par. 1-1 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Illinois Human Rights Act (Ill. Rev. Stat. 1989, ch. 68, par. 1-101 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 2000e et seq.), the Public Works Employment Discrimination Act (Ill. Rev. Stat. 1989, ch. 29, par. 16.9 et seq.), and the Americans

with Disabilities Act of 1990 (Public Law 101-336).

I) The applicant is not barred from entering into a contract by Section 33E-3 or 33E-4 of the Criminal Code of 1961 (Ill. Rev. Stat. 1989, ch. 38, pars. 33E-3, 33E-4).

J) The applicant is not barred from entering into a contract by Section 10.1 of the Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127, par. 132-10.1).

K) The applicant is not barred from entering into a contract by Section 11.1 of the Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127, par. 132-11.1).

L) If the applicant is an individual, then the applicant is not in default on an educational loan as provided in Section 3 of the Educational Loan Default Act (Ill. Rev. Stat. 1989, ch. 127, par. 3553).

8) Subcontracting
The applicant may subcontract to implement the program; however, all program responsibilities are to be retained by the applicant to ensure compliance with the terms and conditions of the grant. All subcontracting shall be documented and have the prior approval of the State Superintendent of Education. Approval of subcontracts shall be subject to the same criteria as are applied to the original project application. The following information is required if any subcontracting is used:

A) Name and address of subcontractor(s).

B) Need/purpose for subcontracting.

C) Measurable and time-specific services to be provided.

D) Associated costs, i.e., amounts, including the total, to be paid for services specified in the subcontract.

E) Projected number of students to be served.

F) Specific provisions limiting the delivery of goods and services under them to those authorized under the terms of the grant award issued by the State Board of Education to the eligible applicant.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Section 225.40 Proposal Review and Approval Criteria

Proposals submitted in response to the Request for Proposals shall be evaluated in the following manner and in accordance with the criteria set forth in subsection (c).

a) Information contained in proposals submitted in accordance with Section 225.30(c) shall be reviewed by State Board of Education staff to determine that the information demonstrates compliance with Section 2-3.93 of the School Code and this Part.

b) If the proposal is incomplete, then State Board staff shall send a written notice to applicants requesting that they supply the needed information. Such applicants shall supply the requested information within thirty (30) calendar days of said notice.

c) Complete alcohol and drug education initiative project applications shall be reviewed and rank ordered by State Board staff and selected professionals from the drug use prevention and education fields in Illinois on the basis of the following criteria and points:

1) The extent to which the proposal contains specific objectives, corresponding activities, and an evaluation design which meet requirements specified in the Request for Proposals (60 points).

2) The extent to which the proposal demonstrates collaborative planning as evidenced by the inclusion of a variety of school staff members, parents, business and industry leaders, and community representatives to develop a school and community drug-free plan and assist in the implementation of that plan (15 points).

3) The proposal contains a statement of need for the project based upon analysis of relevant data concerning the persons/communities to be served (15 points).

4) The proposed budget is cost-effective in relation to the proposed activities and objectives (10 points).

d) The State Superintendent of Education will make final determinations in accordance with the criteria stated in subsection (c).

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Section 225.50 Allocation of Funds

The State Superintendent of Education shall determine the amount of individual grant awards on the basis of the following criteria. The final award amounts will be based on these criteria following negotiations with the grant recipient:

a) the total funds appropriated for alcohol and drug education initiative projects;

b) the program needs, resources, and amounts requested in the top-ranked proposals determined pursuant to Section 225.40; and

c) the need to assure delivery of alcohol and drug education and prevention programs on a statewide basis and in a manner that will have the greatest impact in preventing alcohol and drug use.

Section 225.60 Terms of the Grant

a) All grants issued under this Part shall be governed by the Illinois Grant Funds Recovery Act [30 ILCS 705].

b) The time period of the grant shall run from July 1 of the calendar year or from a date to be negotiated through June 30 of the following calendar year.

c) A negotiated and finalized proposal returned to the applicant, with an authorized signature affixed to the cover page, will constitute an approved agreement with the State Board of Education. This notification will be made not later than 45 calendar days after the amount of the negotiated budget for the applicant's project is determined.

d) Recipients of grant awards shall maintain records on program and fiscal activities for a period of three years following the end of the grant period; however, if there are outstanding audit exceptions, then records shall be retained until such exceptions are closed out to the satisfaction of the State Board of Education. Such records include fiscal accounting for all monies in accordance with 23 Ill. Adm. Code 110 (Program Accounting Manual) and the final report specified in subsection (f). An audit report which includes a certified opinion and statement of receipts and disbursements compared to the approved budget shall be submitted to the State Board no later than 45 days after the end of the contract period.

e) Payments from the State Board of Education to grantees shall be made according to a negotiated payment schedule. Initial payment shall not exceed 50 percent of

the project budget. Amounts projected for each month are expected to be a reflection of need for that month and not simply the total budget divided by the number of months in the project. Following negotiations, budgets may be amended by completing an amendment to the approved budget, using forms supplied by the State Board of Education and attaching supplementary documentation showing variances and justifications. A budget amendment is necessary whenever an approved individual line item changes by more than $1,000 or 20 percent (whichever is larger) from the approved budget. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. Changes will be approved if the proposed distribution of resources or activities would have been approvable within the original application.

f) Successful applicants shall submit a final report specifying:

1) the extent to which project objectives have been accomplished;

2) prevention services provided;

3) resources utilized; and

4) any similar program-related information that the State Superintendent of Education may request upon 30 days' written notice.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Summer School for Remedial Education

2) Code Citation: 23 Ill. Adm. Code 230

3)

Section Numbers:	Proposed Action:
230.10	Repealed
230.20	Repealed
230.30	Repealed
230.40	Repealed
230.50	Repealed
230.60	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.61

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 230 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this repealer replace an emergency repealer currently in effect? No

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 230
SUMMER SCHOOL FOR REMEDIAL EDUCATION (REPEALED)

Section
230.10 Definitions
230.20 Eligible Applicants
230.30 Procedures and Criteria for Approval of Applications
230.40 Allocation of Funds
230.50 Distribution of Grant Awards
230.60 Program Evaluation Standards

AUTHORITY: Implementing and authorized by Section 2-3.61 of the School Code [105 ILCS 5/2-3.61].

SOURCE: Adopted at 10 Ill. Reg. 12615, effective July 9, 1986; amended at 13 Ill. Reg. 1535, effective January 23, 1989; amended at 28 Ill. Reg. 15475, effective November 22, 2004; repealed at 29 Ill. Reg. _____, effective _____.

Section 230.10 Definitions

"Potential Dropout" means a student who is subject to compulsory attendance as defined in Section 26-1 of the School Code [105 ILCS 5/26-1] and who is identified by school district officials as a potential dropout on the basis of his or her academic performance and/or personal behavior. This definition includes a student whose academic and/or personal performance demonstrates to school district officials that he or she is uninvolved, unmotivated, and/or disaffected (e.g., repeated tardiness or absence, disruptiveness, or failure to complete assignments).

"Remedial Students" means those students at risk of academic failure as evidenced by meeting at least one of the following criteria:

students who are potential dropouts as defined in this Section;

students who have failed an academic subject;

students who are not likely to graduate because of insufficient academic credits; or

students who, by teacher judgment (e.g., based upon observation of students' actions, attendance patterns, or relationships with others) and assessment results, demonstrate a proficiency level one grade or more below current placement level.

"Summer School" means instruction offered during that period of the calendar year not embraced within the regular school term.

Section 230.20 Eligible Applicants

Eligible applicants, for the purposes of this Part, are those school districts with remedial students as defined in Section 230.10 of this Part.

Section 230.30 Procedures and Criteria for Approval of Applications

a) Eligible applicants must annually submit a completed application on forms provided by the State Board of Education that include:

1) a total grant request not more than the amount for which the applicant is eligible in accordance with Section 230.40 of this Part;

2) information describing the local school district's proposed project, including the needs of remedial students and the related project activities, expectations for improving student achievement, and assessment procedures for evaluating the program; and

3) a completed budget and budget summary form of proposed expenditures eligible under Section 2-3.61 of the School Code [105 ILCS 5/2-3.61] and this Part.

b) Local assessment procedures for evaluating the program as specified in subsection (a)(2) of this Section must meet the following minimum standards:

1) assessment procedures must include systematic data collection and analysis of students' needs, services provided, and results achieved;

2) assessment procedures must be based on good testing practices as described in "Standards for Educational and Psychological Testing"

(1999), published by the American Educational Research Association, 1230 17th St., N.W., Washington, D.C. 20036 (no later amendments to or editions of these standards are incorporated by this Section);

3) assessment criteria must be uniformly applied to all students tested with a particular assessment procedure; and

4) assessment procedures must include statements concerning what actions will be taken to eliminate or alleviate identified problems when analysis of the assessment data demonstrates that the applicant's expectations for improving remedial students' achievement are not being met.

c) Each application will be reviewed by State Board of Education staff to determine the extent to which the applicant has related the needs of the students to be served to the services to be provided to them and has clearly stated expectations for the program's outcomes. Evidence that an applicant has adequately related students' needs to proposed services may include, but not be limited to, plans to provide students who demonstrate deficiency in a particular academic subject area with intensive instructional support in that area.

d) An application must be submitted on or before the date specified in Section 2-3.61 of the School Code.

e) Information provided in the application, as required in subsection (a) of this Section, will be reviewed by State Board of Education staff to determine that the information demonstrates compliance with Section 2-3.61 of the School Code and this Part.

f) State Board staff will send a written notice to applicants specifying any requested information that is missing from their application. Such applicants must supply the requested information within 15 calendar days after receipt of the notice.

g) The State Superintendent of Education will approve applications that demonstrate compliance with Section 2-3.61 of the School Code and this Part, except that the State Superintendent shall have discretion to invoke the provisions of subsection (f) of this Section with respect to any such application submitted for final approval.

Section 230.40 Allocation of Funds

a) The State Superintendent of Education shall determine the amount of individual

grant awards on the basis of the following criteria:

1) per pupil allotment based on K-12 enrollment reported on the district's prior year's District Fall Enrollment/Housing Report (70% of annual legislative appropriation distributed statewide);

2) an additional per pupil allotment based on the district's Chapter I eligible count (economically disadvantaged students) as issued by U.S. Department of Education (30% of annual legislative appropriation distributed statewide);

3) the total funds appropriated for purposes of Section 2-3.61 of The School Code; and

4) the amounts requested in the approved applications.

b) The minimum grant award for an approved local school district application will be $1,000.

Section 230.50 Distribution of Grant Awards

Distribution of grant award monies to local school districts shall be made on or before the date specified in Section 2-3.61 of The School Code.

Section 230.60 Program Evaluation Standards

The State Board of Education will annually evaluate programs that receive funds under this Part on the basis of the following standards.

a) A review of program records and operations reveals that the program complies with provisions in Section 2-3.61 of The School Code and that it has been conducted in conformance with the provisions of the proposal approved by the State Superintendent of Education pursuant to the provisions of Section 230.30(g) of this Part.

b) Local assessment procedures conform to requirements of Section 230.30(b) of this Part; have determined the degree to which students met the program's objectives; and demonstrate that student achievement has been improved or, if not, that provisions have been made to remove or alleviate problems identified as affecting student achievement results.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Alternative Learning Opportunities Program

2) Code Citation: 23 Ill. Adm. Code 240

3)

Section Numbers:	Proposed Action:
240.200	Repealed
240.210	Repealed
240.220	Repealed
240.230	Repealed
240.240	Repealed
240.250	Repealed
240.260	Repealed

4) Statutory Authority: 105 ILCS 5/Art. 13B

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that Subpart B of this Part regulates grants that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with the repeal of these provisions, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Subpart B of Part 240, as well as several other topics, and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

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

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

8) Do these proposed amendments contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 240
ALTERNATIVE LEARNING OPPORTUNITIES PROGRAM

SUBPART A: PROGRAM APPROVAL

Section

240.10 Purpose
240.20 Requirements for Student Participation
240.25 Enrollment of Students with Individualized Education Programs
240.30 Program Requirements
240.40 Student Success Plan
240.50 Requirements for Returning the Student to the Regular School Program
240.60 Supplemental Services and Instructional Time
240.70 Application for Program Approval
240.75 Program Approval Criteria
240.80 Application for Program Continuation
240.90 Program Funding
240.100 Suspension and Revocation of Program Approval
240.110 Terms and Conditions of Approval

SUBPART B: ALTERNATIVE LEARNING OPPORTUNITIES PROGRAM GRANTS

240.200 Purpose (Repealed)
240.210 Eligible Applicants (Repealed)
240.220 Planning Grants (Repealed)
240.230 Implementation Grants (Repealed)
240.240 Supplemental Grants (Repealed)
240.250 Grant Awards (Repealed)
240.260 Terms of the Grant (Repealed)

AUTHORITY: Implementing and authorized by Article 13B of the School Code [105 ILCS 5/Art. 13B].

SOURCE: Adopted at 26 Ill. Reg. 11888, effective July 22, 2002; amended at 27 Ill. Reg. 10004, effective June 23, 2003; amended at 29 Ill. Reg. _____, effective _____.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: ALTERNATIVE LEARNING OPPORTUNITIES PROGRAM GRANTS

Section 240.200 Purpose (Repealed)

~~This Subpart B establishes the procedures and criteria for approval of applications submitted to the State Board of Education by school districts for grants to assist in planning for, implementing or expanding Alternative Learning Opportunities Programs operated pursuant to Article 13B of the School Code and this Part.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 240.210 Eligible Applicants (Repealed)

~~a) School districts, with district plans for the establishment and operation of Alternative Learning Opportunities Programs that have been approved by the State Board of Education pursuant to Section 240.75 of this Part, are eligible to apply for implementation and supplemental grants.~~

~~b) Any school district that has not received approval pursuant to Section 240.75 of this Part to operate an Alternative Learning Opportunities Program is eligible to apply for a planning grant.~~

~~c) A school district with an approved plan may apply for an implementation and/or a supplemental grant in a given funding cycle.~~

~~d) In cases where more than one school district is participating in an Alternative Learning Opportunities Program or planning for such a program, an administrative agent shall be designated and the superintendent from each of the participating districts shall sign the application.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 240.220 Planning Grants (Repealed)

~~a) A planning grant shall be used to *support costs associated with developing a district plan for the establishment of a new Alternative Learning Opportunities Program or to seek approval for an existing program* [105 ILCS 5/13B-40.20].~~

~~b) Each application for a planning grant shall consist of the following:~~

~~1) background information about the district (e.g., district achievement~~

~~levels, programs and services currently offered to assist at-risk students, financial condition of the district);~~

~~2)~~ ~~background information about the students and families that the district serves (e.g., employment conditions; the community's dropout and truancy rates; number of families with limited English proficiency; rates of poverty, child abuse and neglect; information regarding drug/alcohol abuse);~~

~~3)~~ ~~a description of the process to be used to identify the need of the district's students for the Alternative Learning Opportunities Program;~~

~~4)~~ ~~a list of the persons, and their affiliations, who will be involved in the planning process;~~

~~5)~~ ~~a plan of work for the planning process that includes objectives, specific activities, timelines, and responsible parties;~~

~~6)~~ ~~a detailed budget for the use of the grant funds; and~~

~~7)~~ ~~a Certification and Assurances for Application and Award and a Drug-Free Workplace Certification, submitted on forms supplied by the State Board of Education.~~

~~c)~~ ~~Planning grant applications shall be reviewed and ranked according to the following criteria.~~

~~1)~~ ~~The district's financial and programmatic resources and student demographics demonstrate that it has unmet needs that could be effectively addressed by an Alternative Learning Opportunities Program. (40 points)~~

~~2)~~ ~~The planning activities proposed respond to the needs identified and are directed at improvement of the achievement of students who are at risk of academic failure. (40 points)~~

~~3)~~ ~~The activities proposed are cost-effective, as evidenced by the scope of the planning work to be conducted and the number of entities to be involved. (20 points)~~

~~d)~~ ~~The selection of proposals for funding may be based in part on geographic~~

~~distribution and/or the need to provide resources to school districts and communities with varying demographic characteristics.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 240.230 Implementation Grants (Repealed)

~~a)~~ ~~An implementation grant shall be used to *support the excess cost of instruction and support services provided by an Alternative Learning Opportunities Program* [105 ILCS 5/13B-40.30].~~

~~b)~~ ~~Each application for an initial implementation grant (i.e., from applicants that have not yet received two consecutive years of funding for implementation) shall consist of the following:~~

~~1)~~ ~~the district's plan for the Alternative Learning Opportunities Program developed pursuant to Section 240.70(c) of this Part;~~

~~2)~~ ~~evidence that the State Board of Education has approved the Alternative Learning Opportunities Program for operation or that the Application for Program Approval has been submitted in accordance with Section 240.70 of this Part;~~

~~3)~~ ~~evidence of the program's effectiveness in meeting the needs of at-risk students; and~~

~~4)~~ ~~a Certification and Assurances for Application and Award and a Drug-Free Workplace Certification, submitted on forms supplied by the State Board of Education.~~

~~c)~~ ~~Initial implementation grant applications shall be reviewed and ranked according to the following criteria.~~

~~1)~~ ~~The program proposal provides innovative and proven strategies, other than those routinely offered in the regular school program, for developing effective linkages among parents, education, and health and social service providers that are designed to improve the academic achievement of the students enrolled in the program. (50 points)~~

~~2)~~ ~~The proposal has demonstrated a sufficient need for the Alternative Learning Opportunities Program, as evidenced by the number or~~

~~proportion of students eligible for participation, and that need is unlikely to be met without additional resources to pay for the excess costs of operating the program. (30 points)~~

~~3) The program is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided. (20 points)~~

~~d) A grantee may seek continuation of its implementation grant in succeeding fiscal years by meeting the requirements of Section 240.80 of this Part and submitting, in a format prescribed by the State Board of Education, evidence of program performance as measured by the percentage of students achieving one or more of the outcomes specified in their Student Success Plans and the overall progress of the program in increasing the percentage of students, in each participating school district, that meets State standards (see Section 13B-40.30 of the School Code).~~

~~e) The selection of proposals for funding may be based in part on geographic distribution and/or the need to provide resources to school districts and communities with varying demographic characteristics.~~

~~f) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Board in a particular Request for Proposals.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 240.240 Supplemental Grants (Repealed)

~~a) A supplemental grant shall be used to *significantly extend the services of an existing Alternative Learning Opportunities Program to additional students or to develop a new component to enhance an existing program* [105 ILCS 5/13B-40.25]. For purposes of this grant, the term "significantly" means that additional students cannot be effectively served by the program with existing resources, such as staff or space, or that grade levels not previously served by the program will be added.~~

~~b) Each application for a supplemental grant shall consist of the following:~~

~~1) the district's approved plan for the Alternative Learning Opportunities Program developed pursuant to Section 240.70(c) of this Part;~~

~~2) if the application proposes the extension of services to additional students,~~

~~then a description of the students proposed to be served (e.g., percentage or number of additional students to be enrolled; grade levels of those students; need for academic, social, health or other supports not now provided to improve educational achievement);~~

~~3) if the application proposes a new component to enhance the current program, then a description of the new component(s) to be developed or implemented and how the component(s) will meet demonstrated needs of both the students enrolled in the program and of the school district(s) that established the Alternative Learning Opportunities Program;~~

~~4) evidence that the current program is successfully meeting the needs of the students enrolled, as measured by the percentage of students achieving one or more of the outcomes specified in their Student Success Plans and the overall progress of the program in increasing the percentage of students, in each participating school district, that meet State standards;~~

~~5) a detailed funding proposal that at a minimum includes the cost of providing the existing Alternative Learning Opportunities Program, the sources and amount of revenue currently allocated to support the program, and an itemization of the proposed new costs to serve additional students and/or implement the new component(s); and~~

~~6) a Certification and Assurances for Application and Award and a Drug-Free Workplace Certification, submitted on forms supplied by the State Board of Education.~~

~~c) A supplemental grant application shall be recommended for funding if it provides sufficient evidence of the need for the expanded or enhanced Alternative Learning Opportunities Program and of the program's inability to meet this need without the supplemental grant.~~

~~d) An Alternative Learning Opportunities Program may receive supplemental grants in subsequent years if it proposes enhancements to or expansion of its program not previously funded by supplemental grant awards.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 240.250 Grant Awards (Repealed)

~~Approval of grant applications shall be determined by the State Superintendent of Education~~

~~based upon the recommendations resulting from the review processes described in Sections 240.220(c), 240.230(c) and (d), and 240.240(c) of this Part and the approvable amounts requested in the top-ranked proposals under each category.~~

~~a) The State Board of Education shall annually determine the maximum amount of the Alternative Learning Opportunities Act appropriation to be allocated for each grant type. For planning grants, this amount shall not exceed 20 percent of the total appropriation in any given year.~~

~~b) The Request for Proposals shall stipulate the maximum amount available for individual grant awards for each type, except that:~~

~~1) for initial implementation grants (not to exceed two consecutive years of funding), a grantee shall receive no more than the amount that exceeds its per capita tuition rate, up to $2,000 per student enrolled, multiplied by the average daily attendance of the students enrolled in the program;~~

~~2) for continuation implementation grants (i.e., beginning in the third consecutive year of funding), a grantee shall receive no more than the amount that exceeds its per capita tuition rate, up to $1,000 per student enrolled, multiplied by the average daily attendance of the students enrolled in the program;~~

~~3) for supplemental grants, a grantee shall receive no more than the amount that exceeds its per capita tuition rate, up to $1,000 per student enrolled, multiplied by the average daily attendance of the students enrolled in the program; and~~

~~4) no single grant awarded in a given fiscal year will exceed the percentage of the total allocated to the grant type that is equal to the proportion of the school district's audited average daily attendance used for the purpose of calculating General State Aid to the total average daily attendance of the State.~~

~~c) For purposes of this Section 240.250, the per capita tuition rate shall be the rate determined for the school year preceding the date of the application.~~

~~d) In instances of a program operated by a cooperative of two or more school districts, the per capita tuition rate used to calculate the maximum grant award shall be based on the average of the per capita tuition rates of the participating school districts.~~

~~e) For programs operated for less than a full school year, both the maximum grant amount specified in subsection (b) of this Section and the per capita tuition rate shall be prorated based upon the number of days the program has operated compared to the required days of actual pupil attendance as specified in Section 10-19 of the School Code [105 ILCS 5/10-19].~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 240.260 Terms of the Grant (Repealed)

~~a) All grants issued under this Part shall be governed by the Illinois Grant Funds Recovery Act [30 ILCS 705].~~

~~b) Applicants may be asked to clarify certain aspects of their proposals. A negotiated and finalized proposal returned to the applicant, with an authorized signature affixed to the cover page, will constitute an approved grant agreement with the State Board of Education.~~

~~c) Orders for payment will be submitted to the Office of the Comptroller by the State Board of Education on a quarterly basis.~~

~~1) The initial payment for implementation and supplemental grants shall be made based upon the grantee's projected enrollment multiplied by the district's attendance rate. This rate shall be calculated by dividing the average daily attendance in the preceding year by the district's enrollment for the same year.~~

~~2) The remaining quarterly grant payments shall be adjusted to reflect the program's reported average daily attendance for the preceding quarter to ensure that the grantee receives no more than the amount specified in Section 240.250(b) of this Part.~~

~~d) If a grantee chooses not to reapply for a grant in the fiscal year following the grant award, then the grantee shall submit a final project report in a format and including information as determined by the State Board of Education. This report must be submitted within 30 days after the ending date of the grant period.~~

~~e) An approved budget may be amended by completing an amendment to the approved budget, using forms supplied by the State Board of Education, to show the new amounts required and attaching an explanation for the changes. A budget~~

~~amendment is necessary whenever an approved individual line item changes by more than $1,000 or 20 percent (whichever is larger) from the approved budget. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. Changes will be approved if the proposed distribution of resources or activities would have been approvable within the original application.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Urban Education Partnership Program

2) Code Citation: 23 Ill. Adm. Code 245

3)

Section Numbers:	Proposed Action:
245.10	Repealed
245.20	Repealed
245.30	Repealed
245.40	Repealed
245.50	Repealed
245.60	Repealed
245.70	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.106

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 245 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this repealer replace an emergency repealer currently in effect? No

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

8) Does this repealer contain any incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 245
URBAN EDUCATION PARTNERSHIP PROGRAM (REPEALED)

Section
245.10 Purpose
245.20 Nature of the Program
245.30 Eligible Applicants
245.40 Application Procedure and Content
245.50 Application Review Criteria
245.60 Grant Awards
245.70 Terms of the Grant

AUTHORITY: Implementing and authorized by Section 2-3.106 of the School Code [105 ILCS 5/2-3.106].

SOURCE: Adopted at 18 Ill. Reg. 237, effective December 23, 1993; amended at 26 Ill. Reg. 909, effective January 15, 2002; repealed at 29 Ill. Reg. _____, effective _____.

Section 245.10 Purpose

This Part establishes the procedure and criteria for approval of applications submitted by eligible applicants to the State Board of Education for grants under the Urban Education Partnership Program as authorized in Section 2-3.101 of the School Code (Ill. Rev. Stat. 1991, ch. 122, par. 2-3.101) [105 ILCS 5/2-3.101] and pursuant to Chapter 2 of the federal Elementary and Secondary Education Act (ESEA).

Section 245.20 Nature of the Program

a) Because urban communities house a disproportionate number of low-income, at-risk individuals who require community involvement to address the educational and social needs of students, Urban Education Partnership Programs include:

1) the planning, development, operation, expansion, or dissemination of programs, projects and activities that improve student achievement in large and small urban communities; and

2) the development and maintenance of collaborative efforts or partnerships involving an attendance center and at least one parent or community group, social service agency, business entity, or institution of higher education.

b) *Urban Education Partnership Programs shall include but not be limited to components designed to improve student attendance at school and in class, increase student homework output and quality, increase student time on the task of acquiring basic and higher order skills, improve teacher-given classroom grades, improve State and national standardized test scores and assessment results, improve community involvement in the development and implementation of effective school programs, and improve parent involvement to foster a positive home environment, meaningful parent-child communication in matters of educational performance and progress, and increased parent participation in home learning activities, school volunteer activities and school governance.* (Section 2-3.101 of the School Code.)

Section 245.30 Eligible Applicants

a) An Illinois school district, charter school, public university laboratory school approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], or area vocational center is eligible to apply for an Urban Education Partnership grant if:

1) *the number of students enrolled in the public schools of the district*, charter or laboratory school, or area vocational center *is 1,500 or more, and not less than 10% of those students are low income students as determined with reference to the annual public schools Fall Enrollment Housing Report that the school district is required to file with the State Board of Education; or*

2) *the school district*, charter or laboratory school, or area vocational center *receives not less than $100,000 in a fiscal year from funds allocated and distributed under Chapter 1 of Title I of the federal Elementary and Secondary Education Act of 1965, and not less than 10% of the students enrolled in the public schools of the school district are "minority students", defined for purposes of this Section to mean a pupil who is Black (having origins in any of the black racial groups in Africa), Hispanic (of Spanish or Portuguese culture with origins in Mexico, South*

or Central America, or the Caribbean Islands, regardless of race), Asian American (having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands), or American Indian or Alaskan Native (having origins in any of the original peoples of North America). [Section 2-3.106 of the School Code]

b) The State Board of Education shall identify in its annual Request for Proposals the types of projects (planning, initial implementation, continuation, and/or dissemination) which will be funded for the fiscal year in question.

c) No grantee will be eligible to receive State funding under this program for more than three consecutive school years for the same attendance center.

Section 245.40 Application Procedure and Content

a) The State Board of Education will issue a Request for Proposals (RFP) specifying the information that must be included in each proposal and requiring that proposals be submitted to the agency no later than the date specified in the RFP. The submission deadline shall provide at least forty-five (45) calendar days in which to submit proposals.

b) Each proposal for an Urban Education Partnership grant must consist of the components listed below.

1) A completed application cover page bearing the signature of the official authorized to submit the proposal and bind the applicant to its contents.

2) An abstract of the proposal (not to exceed one page).

3) A narrative description of the proposed project, containing the elements identified in subsection (c), (d), (e), or (f) below, as applicable to the type of project being proposed.

4) Budget information, supplied on forms provided by the State Board of Education as part of the RFP.

5) A budget narrative correlating the budget line items to descriptions of anticipated expenditures, submitted on the form provided by the State Board as part of the RFP.

6) An evaluation design describing the methods to be used to assess the effectiveness of the project. Implementation and continuation proposals must include a description of how formative evaluation will be used in the development and improvement of the program.

7) A completed Nonpublic School Verification and Involvement Form, provided by the State Board as part of the RFP.

8) Such certifications and assurances as the State Board may require, submitted on forms supplied by the Board as part of the RFP.

9) Letters of intent from all partners external to the school district, describing each entity's commitment to and role in the project (implementation and continuation proposals only).

c) The proposal narrative for each planning proposal shall include the following.

1) Background information on the district and attendance center.

2) A statement of need and a description of the process by which the need was identified.

3) A description of the proposed planning project, indicating whether activities will be conducted for the purpose of

A) identifying a program whose implementation would address the needs identified, or

B) planning for an identified program, in which case the program shall be described and its target population identified.

4) The plan of work for the project, delineating objectives, specific activities, timelines, and responsible parties.

d) The proposal narrative for each implementation proposal shall include the following.

1) Background information on the district and attendance center, which may be either

A) a statement that the information previously provided as part of the planning proposal for the program remains accurate, or

B) a description of any changes affecting the overview previously provided.

2) A statement of need and a description of the process by which the need was identified.

3) A description of the proposed program, including identification of the external entity(ies) involved and the roles and responsibilities of each.

4) A description of the features which make the program applicable to other attendance centers and amenable to replication for their use.

5) The plan of work for the project, delineating objectives, specific activities, timelines, and responsible parties.

e) The proposal narrative for each continuation proposal shall include the following.

1) Background information on the district and the attendance center, which may be either

A) a statement that the information previously provided remains accurate, or

B) a description of any changes affecting the overview previously provided.

2) A statement of need, which may be either

A) a statement that no changes have occurred in the information previously provided, or

B) a description of any relevant changes.

3) Updated program information, including any changes in the external entity(ies) involved or in their roles and responsibilities, or in the relationship of the program to other special projects in operation at the attendance center. This description must discuss the activities proposed

for the continuation period in light of the evaluation of the preceding year's project, including especially the identification of each unmet objective and the rationale for its continued inclusion or its deletion from the project.

4) The plan of work for the project, delineating objectives, specific activities, timelines, and responsible parties.

f) The proposal narrative for each dissemination proposal shall include the following.

1) Background information, including:

A) An overview of the district, the attendance center where the program has been in operation, and the student population served;

B) A description of the specific program to be disseminated;

C) A discussion of the features of the program which warrant its replication; and

D) A description of the target audience for whom this information would be relevant.

2) The plan of work for the project, delineating objectives, specific activities, timelines, and responsible parties.

Section 245.50 Application Review Criteria

Proposals will be evaluated by State Board staff in accordance with the applicable criteria set forth below.

a) Review Criteria for Planning Proposals

1) The proposed activities respond to the need identified and are directed at the improvement of student outcomes. (60 points)

2) There is a demonstrated need for the program and/or activities identified within the proposal. (30 points)

3) The activities proposed will be cost-effective, as evidenced by the scope of the planning work to be conducted and the number of entities to be involved. (10 points)

b) Review Criteria for Implementation Proposals

1) The proposed program responds to the need identified and the proposed work plan is reasonable in light of the project's goal. (30 points)

2) The proposed program is directed at the improvement of student outcomes. (30 points)

3) There is a demonstrated need for the program and/or activities identified within the proposal. (20 points)

4) The applicant demonstrates the replicability and adaptability of the program to other attendance centers and LEA's. (10 points)

5) The program or activities proposed will be cost-effective, as evidenced by the cost in relation to the numbers to be served, the services to be provided, or the scope of activities to be conducted. (10 points)

c) Review Criteria for Continuation Proposals

1) The program proposal is justified in light of the evaluation of prior project activities. (30 points)

2) The services and/or activities proposed are designed to improve student outcomes. (30 points)

3) There is a demonstrated need for the program and/or activities identified within the proposal. (20 points)

4) The program described can be replicated and adapted for use by other attendance centers and LEA's. (10 points)

5) The program or activities proposed will be cost-effective, as evidenced by the cost in relation to the numbers to be served, the services to be provided, or the scope of activities to be conducted. (10 points)

d) Review Criteria for Dissemination Proposals

1) The applicant has identified a target audience for the program information in question and has demonstrated that the program is relevant to that audience. (60 points)

2) Dissemination of the program involved is warranted, as evidenced by the evaluation of program activities. (30 points)

3) The dissemination plan is cost-effective, based on the scope of the program, the nature and quantity of the materials to be developed, and the size and location of the target audience. (10 points)

Section 245.60 Grant Awards

Final approval of grants under this program will be determined by the State Superintendent of Education and will be based upon recommendations resulting from the evaluation/review process.

a) The State Superintendent of Education shall determine the amount of individual grant awards on the basis of:

1) Recommendations based on the criteria set forth in Section 245.50 of this Part;

2) The total amount of funds appropriated for the Urban Education Partnership Program; and

3) The approvable amounts requested in the top-ranked proposals identified pursuant to Section 245.50 of this Part.

b) Notification of grant awards for approved proposals will be made not later than 45 calendar days after the deadline for proposal submission or the date when the amount of the appropriation for this program is determined, whichever is later.

Section 245.70 Terms of the Grant

a) Applicants may be asked to meet with State Board staff to clarify aspects of their proposals. State Board staff will negotiate a final contract with each successful applicant. Grant payments will be made by the State Board according to a

negotiated payment schedule. Payments may be reduced from scheduled amounts if periodic reports show excessive cash on hand.

b) Allocations in an approved budget may be amended by completing an amendment to the approved budget, using forms supplied by the State Board of Education, to show the new amounts required and attaching an explanation for the changes. A budget amendment must be submitted for State Board approval whenever any individual line item changes by more than $1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. Amendments will be approved if the proposed distribution of funds would have been allowable within the original application.

c) All grants issued under this Part shall be governed by the Illinois Grant Funds Recovery Act [30 ILCS 705].

d) No subcontracting is allowed under this program.

e) Each grant recipient must submit a year-end report to the State Board of Education no later than October 15 of the calendar year in which the grant period ends. That report must include the following information:

1) Objectives and activities completed.

2) Resources utilized during the grant period.

3) Planned strategies for the continued development and implementation of the program, including resources to be utilized.

f) Each grant recipient shall submit a complete final expenditure report, on a form supplied by the State Board of Education, no later than 30 calendar days after the end of the grant period.

g) In addition, a final report is required of recipients completing two years of program implementation, i.e., at the end of the continuation phase. This final report must be submitted to the State Board no later than October 15 of the calendar year in which the continuation grant period ends and must include:

1) A final evaluation of the program, including the extent to which the program proved to be a successful strategy for improving the academic

achievement of the target population, and its replicability by other school districts.

2) A final summary of methods, data, and conclusions (as a journal-style article, 2-5 pages).

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Comprehensive Arts Programs

2) Code Citation: 23 Ill. Adm. Code 250

3)

Section Numbers:	Proposed Action:
250.10	Repealed
250.20	Repealed
250.30	Repealed
250.40	Repealed
250.50	Repealed
250.60	Repealed
250.70	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.65

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 250 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this repealer replace an emergency repealer currently in effect? No

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) This rulemaking was not included in either of the two most recent Regulatory Agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 250
COMPREHENSIVE ARTS PROGRAMS (REPEALED)

Section
250.10 Purpose
250.20 Eligible Applicants
250.30 Application Procedures and Content
250.40 Proposal Review and Approval Criteria
250.50 Allocation of Funds
250.60 Distribution of Grant Awards
250.70 Reporting Requirements

AUTHORITY: Implementing and authorized by Section 2-3.65 of The School Code (Ill. Rev. Stat. 1989, ch. 122, par. 2-3.65).

SOURCE: Adopted at 10 Ill. Reg. 12590, effective July 9, 1986; amended at 15 Ill. Reg. 463, effective January 7, 1991; repealed at 29 Ill. Reg. _____, effective _____.

Section 250.10 Purpose

This Part establishes the procedure and criteria for approval of proposals submitted by eligible applicants to the State Board of Education for grants to assist the applicants in planning comprehensive arts programs in grades kindergarten through six as authorized in Section 2-3.65 of the School Code (Ill. Rev. Stat. 1985, ch. 122, par. 2-3.65). "Comprehensive arts programs" means a program which includes dance, drama, music and visual arts.

Section 250.20 Eligible Applicants

a) Applications for grant awards may be submitted by public school districts offering grades K-6. Districts may submit a joint application for funds. However, a single district must be designated as the fiscal agent for purposes of receiving and distributing grant funds, and the proposal must have the signatures of the superintendents of each of the districts in the joint proposal.

b) One grant will be awarded per district or joint application. The grant monies shall

be used to develop a comprehensive arts program in at least one attendance center within the district(s) that receive a grant.

Section 250.30 Application Procedures and Content

a) The State Board of Education will issue a Request for Proposal (RFP) specifying the information which applicants must include in their proposal, and requiring that proposals be submitted to the State Board of Education no later than forty-five (45) calendar days from the date specified in the RFP.

b) Each proposal must provide the following information:

1) a description of need for the proposed program including an outline of the current arts education program in grades K-6;

2) a description of the long-term goal(s) of the project, which must include the initial development of a comprehensive K-6 arts program or the expansion of an existing program to achieve comprehensive coverage as defined in Section 2-3.65 of The School Code and Section 250.10 of this Part (These may be based upon the State Board of Education's Fine Arts Outcome Statements printed in the RFP and the State Board of Education's Comprehensive Arts Education Program included in the State Board's "Illinois Plan for the Arts in General Education (Fiscal Years 1984-1988)"; copies of both are available upon request.);

3) a description of the time-specific program objectives to be achieved and the activities to be carried out in relation to them;

4) a list of the attendance center(s), person(s), materials, supplies and facilities to be utilized in the activities;

5) a description of methods the applicant will use to assess the effectiveness of the project in relation to its goals, including criteria to be used and data to be collected;

6) a description of how the evaluation information will be used in the continued development of the program;

7) a description of how and when the goals of the program will be implemented upon its development; and

8) a proposed budget on forms provided by the State Board of Education which shall be limited to the funds needed to support the developmental phase of a comprehensive K-6 arts program. Expenditure shall be limited to Personal Services, Contractual Services, Professional Development materials, and Supporting Services.

Section 250.40 Proposal Review and Approval Criteria

Proposals submitted for competition in response to the Request for Proposal shall be evaluated and ranked in accordance with the following criteria, which are based on Section 250.30(b) of this Part.

a) whether the goal(s) reflect the needs of the district(s) and the provisions of Section 2-3.65 of The School Code - 30 points;

b) whether the proposed objectives and activities are related to the goal(s) - 15 points;

c) whether the proposed evaluation process is designed to assess the effectiveness of project activities in relation to project goals and objectives - 15 points;

d) whether the proposed budget is consistent with the proposal's activities - 15 points;

e) whether a commitment to continued local district development and operation of comprehensive arts is reflected in the proposal, pursuant to Section 250.30(b)(7) - 15 points; and

f) whether the goals of prior year grant awards have been achieved as evidenced in evaluation data - 10 points.

Section 250.50 Allocation of Funds

The State Superintendent of Education shall determine the amount of individual grant awards on the basis of the following criteria:

a) the total funds appropriated for comprehensive arts development grants; and

b) the approvable amounts requested in the top ranked proposals determined

pursuant to Section 250.40; and

c) the intent to provide services on a geographic basis throughout the state.

Section 250.60 Distribution of Grant Awards

Grant awards for approved proposals will be distributed within 45 days after the State Board of Education receives a Budget Agreement Form signed by the district superintendent. This form and the approved application shall constitute the agreement between the parties.

Section 250.70 Reporting Requirements

Grant recipients will annually submit a final report to the State Board of Education by August 15. That report will describe:

a) goal(s) and objectives completed and resources utilized during the grant period;

b) evaluation of the project; and

c) resources to be utilized and planned strategies for the continued development and implementation of a comprehensive arts education instructional program.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Mathematics and Science Loan Program

2) Code Citation: 23 Ill. Adm. Code 360

3)

Section Numbers:	Proposed Action:
360.10	Repealed
360.20	Repealed
360.30	Repealed
360.40	Repealed
360.50	Repealed
360.60	Repealed
360.70	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.54

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that this Part regulates activities that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with this repealer, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Part 360 as well as several other topics and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

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

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

8) Does this repealer contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER j: TEXTBOOKS

PART 360
MATHEMATICS AND SCIENCE LOAN PROGRAM (REPEALED)

Section

360.10 Definitions
360.20 Purpose
360.30 Eligible and Ineligible Items
360.40 Allotment of Funds
360.50 Application Approval Procedure and Criteria
360.60 Purchase and Payment Procedures
360.70 Disposition of Equipment and Materials

AUTHORITY: Implementing and authorized by Section 2-3.54 of The School Code (Ill. Rev. Stat. 1986 Supp., ch. 122, par. 2-3.54).

SOURCE: Emergency rules adopted at 11 Ill. Reg. 3350, effective January 28, 1987, for a maximum of 150 days; adopted at 11 Ill. Reg. 16541, effective September 30, 1987; repealed at 29 Ill. Reg. _____, effective _____.

Section 360.10 Definitions

"Equipment" means durable hardware items (e.g., microscopes, scales, and plastic models) which are nonconsumable, moveable, and usable for a period of more than one year, and which are intended to be used as part of students' mathematics or science instruction.

"Instructional materials" means only those items directly associated with the use of a particular piece of requested equipment, as defined herein (e.g., prepared slides for use with a microscope, computer software packages for use with a computer).

"Parent" means a biological parent or legal guardian.

"School" has the meaning given in Section 2-3.54 of The School Code (Ill. Rev. Stat. 1986 Supp., ch. 122, par. 2-3.54).

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Section 360.20 Purpose

The purpose of the mathematics and science loan program is to make loans of mathematics and science equipment, including instructional materials, free of charge to any student of a school meeting the requirements of Section 2-3.54 of The School Code. Loans of equipment and instructional materials will be provided directly to the students at their request or at the request of their parents or guardians, as authorized in Section 2-3.54 of The School Code.

Section 360.30 Eligible and Ineligible Items

a) Items eligible for loan under this Part shall be limited to mathematics and science equipment, including instructional materials, as defined in Section 360.10 of this Part.

b) General-purpose equipment and instructional materials, such as chairs, students' desks, audio-visual equipment, chalkboards, and waste receptacles, as well as consumable supplies, such as chemicals, chalk, paper, and workbooks, are ineligible.

c) Equipment which becomes a permanent part of the school building is ineligible.

d) Equipment provided under this program will be inventoried and maintained by the applicant.

Section 360.40 Allotment of Funds

a) Allotment of the funds for this program will be made based upon the amount appropriated and will be calculated according to the following formula:

1) A per-pupil allocation based on K-12 enrollment (70% of the available appropriation); and

2) An additional allocation for each Chapter 1 eligible student, distributed according to the ratio of total public to nonpublic students in schools located within a district's geographic boundaries (30% of the available appropriation).

b) The K-12 enrollment used in making the allocations shall be taken from the 1985-86 Fall Enrollment/Housing Report, adjusted so that students attending school full-time in another district shall be counted in their home districts.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED REPEALER

Section 360.50 Application Approval Procedure and Criteria

a) A student or parent must request the loan of eligible equipment and instructional materials through completion of a student request form at the school where the student is in attendance. Such forms shall be provided by the school attended and shall contain the following language: "I hereby request the loan of mathematics and/or science equipment and instructional materials in accordance with Section 2-3.54 of The School Code. I understand that this request will remain valid so long as ___(student name)___ is enrolled in ___(school name)___ and that I may at any time withdraw this request." Each school shall retain the individual parent or student request forms for three years after the student has left the school.

b) Based upon the student request forms received, schools shall compile aggregate applications, on application forms provided by the State Board of Education. Each school's aggregate application shall then be submitted to the State Board of Education for approval. Schools may not apply more than once, i.e., they may not utilize portions of their allotments at different times. A completed application shall contain the following information:

1) Name, address, and telephone number of the school or district and its contact person.

2) Grade levels where equipment and materials will be used.

3) Complete description of each item requested, including brand name, model or catalog number (if any), quantity, unit price, and amount of shipping and handling costs (if any).

A) Each price shown shall be a firm figure supplied by the vendor, shall reflect the results of the applicable bidding and advertising procedures required by the Illinois Purchasing Act (Ill. Rev. Stat. 1985, ch. 127, par. 132.1 et seq.), and shall include all applicable costs (i.e., shipping, handling, set-up), as referred to in subsection (b)(3) of this Section.

B) Payment will not be made in excess of the amount approved for any item.

4) Name(s), address(es), telephone number(s), and Federal Employer Identification Number(s) of vendor(s).

5) Breakdown of amount requested by categories of equipment/materials and areas of use (i.e., mathematics or science).

c) Each completed application form shall bear the current date and the signature of the school's chief administrative officer.

d) Staff of the State Board of Education will review the information provided in the application to ensure compliance with Section 2-3.54 of The School Code and this Part. Staff of the State Board of Education will advise schools in cases where information needed for approval is lacking.

e) No modifications to approved applications (e.g., substitutions, returns, price increases, or changes in model or vendor) may be made without prior written approval by the State Board of Education. Such modifications shall be granted only when made necessary by circumstances beyond the control of the applicant or the vendor and when such modifications otherwise conform to the requirements of this Part.

Section 360.60 Purchase and Payment Procedures

a) The State Board of Education shall approve each application which contains all information set forth in subsections (b) and (c) of Section 360.50 of this Part, requests only eligible items, and does not exceed the amount available for the submitting school.

b) Approval of an application by the State Board of Education shall constitute authorization for the school to order the items requested therein.

1) Purchase of equipment and instructional materials under the provisions of this Part shall be conducted in accordance with the applicable provisions of the Illinois Purchasing Act (Ill. Rev. Stat. 1985, ch. 127, par. 132.1 et seq.).

2) At the time notification of approval of an application is made, the State Board of Education shall provide a supply of documents which shall be used by the school official to confirm the receipt of the listed equipment and materials and to certify that the equipment will be processed as required by the State Property Control Act (Ill. Rev. Stat. 1985, ch. 127, par. 133b1 et seq.).

c) As requested items are received, the responsible official shall sign a confirmation

form and return it to the State Board of Education, signifying that the items listed thereon have been received and will be tagged with inventory identification numbers as required by the State Property Control Act. Such forms shall be accompanied by copies of vendors' invoices showing the cost of each item purchased.

d) Invoices for items purchased under this program may not include any costs applicable to items not purchased under this program.

Section 360.70 Disposition of Equipment and Materials

Each school shall notify the State Board of Education in writing when it has unused or unneeded equipment and instructional materials received pursuant to this Part which are available for reallocation to pupils attending another school.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULE

1) Heading of the Part: Replacement of Required Rules

2) Code Citation: 23 Ill. Adm. Code 500

3) Section Number: 500.10 — Proposed Action: New Section

4) Statutory Authority: 105 ILCS 5/2-3.6, 2-3.54, 2-3.61, 2-3.65, 2-3.93, 2-3.94, 2-3.106, 2-3.117a, Art. 1C, and Art. 13B

5) A Complete Description of the Subjects and Issues Involved: This Part will replace 11 existing Parts or Subparts of ISBE's rules that have been identified as extraneous because they regulate programs and activities that are not currently occurring due to lack of funding. This new Part will acknowledge that existing statutory language requires the State Board to have rules on the subjects covered by those 11 Parts and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

The sets of rules that are slated for repeal and identified in Part 500 are:

23 Ill. Adm. Code 30, Staff Development Plans and Programs;
23 Ill. Adm. Code 56, Insurance for Certificated Employees;
23 Ill. Adm. Code 160, Professional Development Block Grant;
23 Ill. Adm. Code 220, Scientific Literacy;
23 Ill. Adm. Code 225, Alcohol and Drug Education Initiative;
23 Ill. Adm. Code 230, Summer School for Remedial Education;
23 Ill. Adm. Code 240, Alternative Learning Opportunities Program (Subpart B);
23 Ill. Adm. Code 245, Urban Education Partnership Programs;
23 Ill. Adm. Code 250, Comprehensive Arts Programs;
23 Ill. Adm. Code 360, Mathematics and Science Loan Program; and
23 Ill. Adm. Code 575, School Technology Program (Subpart A).

6) Will this proposed rule replace any emergency rules currently in effect? No

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

8) Does this rulemkaing contain incorporations by reference? No

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULE

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) This rulemaking was not included in either of the two most recent Regulatory Agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULE

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER o: MISCELLANEOUS

PART 500
REPLACEMENT OF REQUIRED RULES

Section
500.10 Purpose; Declaration

AUTHORITY: Implementing Sections 2-3.54, 2-3.59, 2-3.60, 2-3.61, 2-3.65, 2-3.93, 2-3.94, 2-3.106, 2-3.117a, and 2-3.124 and Articles 1C and 13B of the School Code [105 ILCS 5/2-3.54, 2-3.59, 2-3.60, 2-3.61, 2-3.65, 2-3.93, 2-3.94, 2-3.106, 2-3.117a, 2-3.124, Art. 1C, and Art. 13B] and authorized by Sections 2-3.6 [105 ILCS 5/2-3.6], 2-3.54, 2-3.61, 2-3.65, 2-3.93, 2-3.94, 2-3.106, and 2-3.117a and Articles 1C and 13B of the School Code.

SOURCE: Old Part 500 repealed at 19 Ill. Reg. 16850, effective December 11, 1995; new Part 500 adopted at 29 Ill. Reg. _____, effective _____.

Section 500.10 Purpose; Declaration

a) The purpose of this Part is to acknowledge the requirement for promulgation of rules by the State Board of Education (ISBE) for:

1) the mathematics and science loan program, pursuant to Section 2-3.54 of the School Code [105 ILCS 5/2-3.54];

2) staff development plans and programs, pursuant to Sections 2-3.59 and 2-3.60 of the School Code [105 ILCS 5/2-3.59 and 2-3.60];

3) summer school for remedial education, pursuant to Section 2-3.61 of the School Code [105 ILCS 5/2-3.61];

4) comprehensive arts programs, pursuant to Section 2-3.65 of the School Code [105 ILCS 2-3.65];

5) the alcohol and drug education initiative, pursuant to Section 2-3.93 of the School Code [105 ILCS 5/2-3.93];

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULE

6) scientific literacy, pursuant to Section 2-3.94 of the School Code [105 ILCS 5/2-3.94];

7) the urban education partnership program, pursuant to Section 2-3.106 of the School Code [105 ILCS 2-3.106];

8) school technology grants, pursuant to Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a];

9) insurance for certificated employees, pursuant to Section 2-3.124 of the School Code [105 ILCS 5/2-3.124];

10) the professional development block grant under Article 1C of the School Code [105 ILCS 5/Art. 1C]; and

11) alternative learning opportunities program grants, pursuant to Article 13B of the School Code [105 ILCS 5/Art. 13B].

b) Inasmuch as no funding for the initiatives identified in subsection (a) of this Section has been forthcoming for a period of years, ISBE has found that its existing rules on these subjects serve no purpose and constitute unnecessary regulatory documentation. ISBE has therefore repealed its rules formerly found at 23 Ill. Adm. Code 360, 30, 230, 250, 225, 220, 245, 575 (Subpart A), 56, 160, and 240 (Subpart B), respectively, but will restore these to effectiveness if warranted by the resumption of applicable funding.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: School Technology Program

2) Code Citation: 23 Ill. Adm. Code 575

3)

Section Numbers:	Proposed Action:
575.10	Repealed
575.20	Repealed
575.30	Repealed
575.40	Repealed
575.50	Repealed
575.60	Repealed

4) Statutory Authority: 105 ILCS 5/2-3.117a

5) A Complete Description of the Subjects and Issues Involved: In the course of our comprehensive review of ISBE's rules, it has become apparent that Subpart A of this Part regulates grants that are no longer being funded. ISBE has therefore found that its rules on this subject serve no purpose and constitute unnecessary regulatory documentation.

Concurrent with the repeal of these provisions, ISBE is proposing a unified new Part to acknowledge that existing statutory language requires the State Board to have rules on the subject covered by Subpart A of Part 575, as well as several other topics, and will explain the agency's intention to place back into effect any of those rules for which funding might be restored in the future.

6) Will this rulemaking replace an emergency rulemaking currently in effect? No

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (W-475)
Springfield, Illinois 62777

(217) 782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent regulatory agendas because: It was not yet apparent that a mechanism could be found for replacing the sets of obsolete rules ISBE wishes to repeal.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER o: MISCELLANEOUS

PART 575
SCHOOL TECHNOLOGY PROGRAM

SUBPART A: SCHOOL TECHNOLOGY GRANTS

Section
575.10 Purpose (Repealed)
575.20 Eligible Expenditures (Repealed)
575.30 Application Procedure and Content (Repealed)
575.40 Matching Requirements (Repealed)
575.50 Proposal Review and Approval (Repealed)
575.60 Terms of the Grant (Repealed)

SUBPART B: SCHOOL TECHNOLOGY REVOLVING LOAN PROGRAM

Section
575.100 Purpose
575.200 Use of Funds
575.300 Maximum Amount of Loan
575.400 Application Procedures
575.500 Review of Application and Notification of Loan Award
575.600 Repayment Procedures
575.700 Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 2-3.117a of the School Code [105 ILCS 5/2-3.117a].

SOURCE: Adopted at 20 Ill. Reg. 3522, effective February 13, 1996; emergency amendment at 22 Ill. Reg. 9591, effective May 22, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19770, effective November 2, 1998; amended at 23 Ill. Reg. 8370, effective July 12, 1999; amended at 25 Ill. Reg. 8167, effective June 21, 2001; amended at 26 Ill. Reg. 915, effective January 15, 2002; amended at 28 Ill. Reg. 13227, effective September 17, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: SCHOOL TECHNOLOGY GRANTS

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 575.10 Purpose (Repealed)

~~This Subpart establishes the procedures and criteria for approval of applications for funding submitted by school districts pursuant to Section 2-3.117 of the School Code [105 ILCS 5/2-3.117]. Charter schools, public university laboratory schools approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code (105 ILCS 5/18-8.05(K)], and area vocational centers are also eligible to apply (see 105 ILCS 5/27A-11.5, 2-3.109a, and 2-3.109b, respectively).~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 575.20 Eligible Expenditures (Repealed)

~~a) Funding is available under the School Technology Program for *Technology-based learning resources which will improve educational opportunities and student achievement throughout the State* (Section 2-3.117 of the School Code).~~

~~b) "Technology-based learning resources" shall include but not be limited to:~~

~~1) computers, servers, modems, printers, and other peripheral equipment;~~

~~2) software and optical media;~~

~~3) CD-ROM drives and laser disc players;~~

~~4) installation, cabling, wiring, network hardware, and routers;~~

~~5) on-line services and charges for connectivity;~~

~~6) other equipment or technological devices integral to the effective use of technology in an educational setting; and~~

~~7) staff development and/or planning activities related to the use of technology in an educational setting.~~

~~c) Funding levels available to districts may vary according to the extent of their pre-existing technology-related investments (e.g., access or lack of access to the Internet, sufficiency or insufficiency of computer equipment). The State Board shall delineate any such parameters in an RFP issued pursuant to Section 575.30 of this Part.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 575.30 Application Procedure and Content (Repealed)

~~a) Subject to the availability of funds, the State Board of Education will annually issue one or more Requests for Proposals (RFPs) specifying particular areas of technology investment eligible for funding. Each RFP shall identify the information which applicants must include in their proposals and shall require that proposals be submitted to the State Board no later than the date specified in the RFP. An RFP shall provide at least 45 calendar days in which to submit proposals.~~

~~b) Each proposal shall consist of the following components:~~

~~1) A cover page, completed on a form supplied by the State Board of Education and signed by the school district superintendent;~~

~~2) A description of the district's need for the proposed project, activity, and/or resources in light of the technology-based learning resources available to the district's staff and students;~~

~~3) A narrative description of the proposed project, activity, and/or resources requested, responding to the requirements enumerated in the relevant RFP;~~

~~4) A statement that the district will provide the matching resources required under the RFP, if applicable (see Section 575.40 of this Part);~~

~~5) Identification of the staff members to be involved in the proposed activities and a description of how they were chosen;~~

~~6) If requested, a plan for evaluating the proposed project, activities, and/or use of resources, which shall correspond to the applicable specifications set forth in the RFP;~~

~~7) Budget information, provided on forms supplied by the State Board of Education; and~~

~~8) Such certifications and assurances as the State Board of Education may require.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 575.40 Matching Requirements (Repealed)

~~School districts receiving funds or technology-based resources under this program may be required to demonstrate particular forms and/or levels of local matching effort. Any such requirements shall be specified by the State Board of Education in the applicable RFP.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 575.50 Proposal Review and Approval (Repealed)

~~a) Proposals submitted under this program will be evaluated in accordance with the following criteria:~~

~~1) The school district has demonstrated a need for the proposed project, activity, and/or resources. (30 points)~~

~~2) There is a clearly expressed relationship between the proposed project, activity, and/or resources and the district's educational goals, learning approaches, and/or school improvement plans. (30 points)~~

~~3) Receipt of funding under this program will contribute to the accomplishment of the district's long-term plans for the use of technology. (20 points)~~

~~4) The school and district staff to be involved were chosen in a manner congruent with the district's educational goals and school improvement plans. (10 points)~~

~~5) The district has well-developed strategies for drawing upon community resources to improve student learning. (10 points)~~

~~b) The selection of proposals for funding may be based in part on geographic distribution and/or the need to provide resources to districts with varying demographic characteristics.~~

~~c) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Board in a particular RFP.~~

~~d) The State Superintendent of Education will determine the amount of individual grant awards. The final award amounts will be based upon:~~

~~1) the total amount of funds available for the program; and~~

~~2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (a), (b), and (c) of this Section.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

Section 575.60 Terms of the Grant (Repealed)

~~An approved grant agreement with the Illinois State Board of Education is subject to the following terms.~~

~~a) Orders for payment will be submitted to the Office of the Comptroller by the State Board of Education according to a negotiated payment schedule. Following negotiations, budgets may be amended by completing an amendment to the approved budget, using forms supplied by the State Board of Education and attaching supplementary documentation providing a rationale for the changes. A budget amendment must be submitted to the State Board of Education for approval whenever an individual line item changes by $1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. Changes will be approved if the proposed distribution of funds would have been allowable within the original application.~~

~~b) All funds granted and all equipment purchased with funds granted under this program shall be subject to the Illinois Grant Funds Recovery Act [30 ILCS 705]. Funds and equipment granted for the operation of this program shall be used exclusively for the purposes stated in the approved proposal and expended in accordance with the approved budget and the grantee's policies and procedures related to such expenditures. Funds may only be expended for activities occurring during the grant period. *No funds may be used to help support or sustain any institution controlled by any church or sectarian denomination* (Article X, Section 3 of the Illinois Constitution; Ill. Const. 1970, Art. X, Sec. 3).~~

~~c) Each grant recipient shall submit a final report to the State Board of Education within 30 days after the end of the grant period. The report shall include:~~

~~1) an assessment of the extent to which the project's or activities' objectives were achieved, as specified by the State Board of Education in the RFP;~~

~~2) information on results or outcomes, as specified by the State Board of Education in the RFP;~~

~~3) a discussion of planned strategies for sustained activity in the area of technology use, including application of the resources provided under this program.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Life Reinsurance Agreements

2) Code Citation: 50 Ill. Adm. Code 1103

3)

Section Numbers:	Proposed Action:
1103.10	Amendment
1103.25	New Section
1103.30	Amendment
1103.40	Amendment
1103.50	Repeal

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

5) A Complete Description of the Subjects and Issues Involved: The Division of Insurance is amending this Part in order to eliminate inaccurate references found in Section 1103.30 which sets forth Accounting Requirements. In addition, we are adding a Definition Section, which brings greater clarity to the Part because the Department has been consolidated under the IDFPR. And finally, we are eliminating Section 1103.50 because these provisions are no longer needed.

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

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: 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.

11) 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:

Eve Blackwell-Lewis, Staff Attorney
Department of Financial and
Professional Regulation

Barb Smith, Rules Coordinator
Department of Financial and
Professional Regulation

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Division of Insurance 320 West Washington, 4th Floor Springfield, Illinois 62767-0001	or	320 West Washington 3rd Floor Springfield, Illinois 62767-0001
(217) 782-2867		(217) 785-0813

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will not affect a small business, small municipality or not for profit corporation

B) Reporting, bookkeeping or other procedures required for compliance: No new requirements are being proposed.

C) Types of professional skills necessary for compliance: Administrative

13) Regulatory Agenda on which this amendment was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Division did not anticipate the need to amend this Part.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~INSURANCE~~
SUBCHAPTER o: REINSURANCE

PART 1103
LIFE REINSURANCE AGREEMENTS

Section
1103.10 Preamble
1103.20 Scope
1103.25 Definitions
1103.30 Accounting Requirements
1103.40 Written Agreements
1103.50 Existing Agreements (Repealed)
1103.EXHIBIT A Risk Category

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

SOURCE: Adopted at 18 Ill. Reg. 685, effective January 5, 1994; amended at 29 Ill. Reg. _____, effective _____.

Section 1103.10 Preamble

a) The ~~Illinois Insurance~~ Department of Financial and Professional Regulation-Division of Insurance (Division) recognizes that licensed insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus.

b) However, it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements, for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement such as catastrophic mortality or extraordinary survival. The terms of reinsurance~~such~~ agreements ~~referred to herein and~~ described in Section 1103.30 would violate:

1) Section 133 and 136 of the Illinois Insurance Code~~, hereafter the "~~ (Code)~~" (Ill. Rev. Stat. 1991, ch. 73, pars. 745 and 748)~~ [215 ILCS 5/133 and 136], relating to financial statements that~~which~~ do not properly reflect the financial condition of the ceding insurer;

2) Section 173.2 of the Code ~~(Ill. Rev. Stat. 1991, ch. 73, par. 785.2)~~ [215 ILCS 5/173.2], relating to reinsurance reserve credits, thus resulting in a ceding insurer improperly reducing liabilities or establishing assets for reinsurance ceded; and

3) Section 188 of the Code ~~(Ill. Rev. Stat. 1991, ch. 73, par. 800)~~ [215 ILCS 5/800], relating to creating a situation that may be hazardous to policyholders and the people of this State.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 1103.25 Definitions

Department means the Illinois Department of Financial and Professional Regulation.

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

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

(Source: Added at 29 Ill. Reg. _____, effective _____)

Section 1103.30 Accounting Requirements

a) No insurer subject to this Part shall, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Division~~Department~~ if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist:

1) Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period~~,~~ are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall, using assumptions equal to the applicable

statutory reserve bases on the business reinsured. Those expenses include commissions, premium taxes and direct expenses including but not limited to billing, valuation, claims and maintenance expected by the company at the time the business is reinsured;~~.~~

2) The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, including but not limited to modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, shall not be considered to be ~~such~~ a deprivation of surplus;

3) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary terminations of in-force reinsurance by ceding insurer shall be considered ~~such~~ a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions that~~which~~ allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty;

4) The ceding insurer shall, at specific points in time scheduled in the agreement, terminate or automatically recapture all or part of the reinsurance ceded;

5) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies. For example, it is improper for a ceding company to pay reinsurance premiums or other fees or charges to a reinsurer that~~which~~ are greater than the direct premiums collected by the ceding company;

6) The treaty does not transfer all of the significant risk inherent in the

business being reinsured. Exhibit A of this Part identifies, for a representative sampling of products or type of business, the risks ~~which are~~ considered to be significant. For products not specifically included, the risks determined to be significant shall be consistent with Exhibit A;

7) Requirements concerning credit quality, reinvestment or disintermediation risk.

A) The credit quality, reinvestment or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in subsection (a)(7)(B)~~ below~~) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust account or escrow account or otherwise establish a mechanism that~~which~~ segregates, by contract or contract provision, the underlying assets.

B) Notwithstanding the requirements of subsection (a)(7)(A)~~ above~~, the assets supporting the reserves for the following classes of business and any classes of business that~~which~~ do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of those~~such~~ assets; Health Insurance LTC/LTD, Traditional Non-Par Permanent, Traditional Par Permanent, Adjustable Premium Permanent, Indeterminate Premium Permanent, Universal Life Fixed Premium (no dump-in premiums allowed). The associated formula for determining the reserve interest rate adjustment shall use a formula that~~which~~ reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = \frac{2(I + CG)}{(X + Y - I - CG)}$$

i) I is the net investment income ~~[(Exhibit 2, Line 16, Column 7 of the Life, Accident and Health Annual Statement) and (Underwriting and Investment Exhibit Part 1, Line 15 of the Fire and Casualty Annual Statement)]~~

ii) CG is capital gains less capital losses ~~[(Exhibit 4, Line 10,~~

~~Column 6 of the Life, Accident and Health Annual Statement) and (Part 1A, Line 10, Column 7 of the Fire and Casualty Annual Statement)]~~

iii) X is the current year cash and invested assets ~~[(Page 2, Column 1, Line 10A of the Life, Accident and Health Annual Statement) and (Page 2, Column 1, Line 8A of the Fire and Casualty Annual Statement)] plus investment income due and accrued [(Page 2, Column 1, Line 16 of the Life, Accident and Health Annual Statement) and (Page 2, Column 1, Line 15, of the Fire and Casualty Annual Statement)] less borrowed money [(Page 3, Column 1, Line 22 of the Life, Accident and Health Annual Statement) and (Page 3, Column 1, Line 7 plus Line 8 of the Fire and Casualty Annual Statement)]~~

iv) Y is the same as X but for the prior year;

8) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ~~ninety~~ (90~~)~~ days after~~of~~ the settlement date;

9) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured;

10) The ceding insurer is required to make representations or warranties about future performance of the business being reinsured;

11) The amount of the total admitted assets of the ceding insurance company less the amount of all funds withheld by any reinsurer as a result of all reinsurance treaties is less than the total gross amount available to policyholders either through the exercise of policy cash surrender or loan provisions;

12) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding company typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured, and the remaining liability to the ceding insurer remains basically unchanged.

b) Requirements for reinsurance of in-force business.

1) Agreements entered into after January 5, 1994,~~the effective date of this Part~~ along with any subsequent amendments to those agreements~~thereto~~, that~~which~~ involve the reinsurance of business issued prior to the effective date of the agreements or amendments ~~thereto~~ must meet the requirements of Section 174 of the Illinois Insurance Code ~~(Ill. Rev. Stat. 1991, ch. 73, par. 786)~~ [215 ILCS 5/174]. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this Part and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the Division~~Department~~. The actuary shall maintain documentation and be prepared to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this Part.

2) Any increase in surplus net of federal income tax resulting from arrangements described in subsection (b)(1) ~~above~~ shall be identified separately on the insurer's statutory financial statements as a surplus item in the "Change in Surplus as a result of Reinsurance" line for companies filing on the Life, Accident and Health blank;~~(aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account (Page 4, Column 1, Line 46 of the Life, Accident and Health Annual Statement) and~~ in the "Aggregate write-ins for gains (or losses) in Surplus" line for companies filing on the Property and Casualty blank and Health blank; ~~(Page 4, Column 1, Line 30 of the Fire and Casualty Annual Statement), and~~ recognition of the surplus increase as income shall be reflected on a net of tax basis in the "Commissions and Expense allowances on reinsurance ceded" line for companies filing on the Life, Accident and Health blank; ~~"Reinsurance ceded" (Page 4, Column 1, Line 5, of the Life, Accident and Health Annual Statement)~~ and in the "Aggregate write-in for miscellaneous income" for companies filing on the Property and Casualty blank~~"Miscellaneous Income" (Page 4, Column 1, Line 12, of the Fire and Casualty Annual Statement)~~ as earnings emerge from the business reinsured.

For example, on the last date of calendar year N, company XYZ pays a $20 million initial commission and expense allowance to company ABC for reinsuring an existing block of business.

Assuming a 34% tax rate, the net increase in surplus at inception is $13.2 million ($20 million - $6.8 million) that~~which~~ is reported on the "Change in Surplus as a result of Reinsurance" line of the Summary of Operations~~"Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account~~. $6.8 million (34% of $20 million) is reported as income on the "Commissions and Expense~~expense~~ allowances on reinsurance ceded" line of the Summary of Operations. At the end of the year N + 1 the business has earned $4 million. ABC has paid $.5 million in profit and risk charges in arrears for the year and has received a $1 million experience refund. Company ABC's annual statement would report $1.65 million (66% of ($4 million - $1 million - $.5 million) up to a maximum of $13.2 million) on the "Commissions and Expense allowances~~expense allowance~~ on reinsurance ceded" line of the Summary of Operations, and - $1.65 million on the "Change in Surplus as a result of Reinsurance" line of the Summary of Operations~~"Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account~~. The experience refund would be reported separately as an "Aggregate write-in for~~a~~ miscellaneous income" item in the Summary of Operations.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 1103.40 Written Agreements

a) No reinsurance agreement or amendment to any agreement shall be used to reduce any liability or to establish any asset in any financial statement filed with the Division~~Department~~, unless the agreement or~~,~~ amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement.

b) In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement must be executed within a reasonable period of time, not exceeding ~~ninety (~~90~~)~~ days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded.

c) The reinsurance agreement shall contain provisions that:~~which provide:~~

1) The~~That the~~ agreement shall constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that

there are no understandings between the parties other than as expressed in the agreement; and

2) Any change or modification to the agreement shall be null and void unless made by amendment to the agreement and signed by both parties.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

Section 1103.50 Existing Agreements (Repealed)

~~Insurers subject to this Part shall reduce to zero by December 31, 1994 any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this Part which, under the provisions of this Part would not be entitled to recognition of such reserve credits or established assets provided, however, that such reinsurance agreements shall have been in compliance with the laws and regulations in existence immediately preceding the effective date of this Part.~~

(Source: Repealed at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Medical Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1285

3) Section Number: 1285.100 — Proposed Action: Amendment

4) Statutory Authority: Medical Practice Act of 1987 [225 ILCS 60]

5) A Complete Description of the Subjects and Issues Involved: Amends Section 1285.100 relating to the requirements for renewing a Visiting Professor Permit. The Special Purpose Examination (SPEX) will no longer be accepted. The reason for change is the USMLE (United States Medical Licensing Examination) Step II examination has been changed to include a clinical skills and a clinical knowledge portion and the SPEX examination tests only clinical knowledge. The two examinations were considered more equivalent prior to the change in the USMLE examination.

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

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

8) Does this rulemaking contain any incorporations by reference? No

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

10) Statement of Statewide Policy Objective if applicable: This rulemaking has no impact on local governments.

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

Interested persons may submit written comments to:

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

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

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: Medical skills are required for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1285
MEDICAL PRACTICE ACT OF 1987

SUBPART A: MEDICAL LICENSING, RENEWAL
AND RESTORATION PROCEDURE

Section
1285.20 Six (6) Year Post-Secondary Programs of Medical Education
1285.30 Programs of Chiropractic Education
1285.40 Approved Postgraduate Training Programs
1285.50 Application for Examination
1285.60 Examinations
1285.70 Application for a License on the Basis of Examination
1285.80 Licensure by Endorsement
1285.90 Temporary Licenses
1285.91 Visiting Resident Permits
1285.95 Professional Capacity Standards for Applicants Having Graduated More Than 2 Years Prior to Application
1285.100 Visiting Professor Permits
1285.101 Visiting Physician Permits
1285.105 Chiropractic Physician Preceptorship (Repealed)
1285.110 Continuing Medical Education (CME)
1285.120 Renewals
1285.130 Restoration and Inactive Status
1285.140 Granting Variances

SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

Section
1285.200 Medical Disciplinary Board
1285.205 Complaint Committee
1285.210 The Medical Coordinator
1285.215 Complaint Handling Procedure
1285.220 Informal Conferences
1285.225 Consent Orders
1285.230 Summary Suspension
1285.235 Mandatory Reporting of Impaired Physicians by Health Care Institutions

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1285.240 Standards
1285.245 Advertising
1285.250 Monitoring of Probation and Other Discipline and Notification
1285.255 Rehabilitation
1285.260 Fines
1285.265 Subpoena Process of Medical and Hospital Records
1285.270 Inspection of Physical Premises
1285.275 Failing to Furnish Information

SUBPART C: GENERAL INFORMATION

Section
1285.310 Public Access to Records and Meetings
1285.320 Response to Hospital Inquiries
1285.330 Rules of Evidence
1285.335 Physician Delegation of Authority
1285.340 Anesthesia Services in an Office Setting

AUTHORITY: Implementing the Medical Practice Act of 1987 [225 ILCS 60] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 13 Ill. Reg. 483, effective December 29, 1988; emergency amendment at 13 Ill. Reg. 651, effective January 1, 1989, for a maximum of 150 days; emergency expired May 31, 1989; amended at 13 Ill. Reg. 10613, effective June 16, 1989; amended at 13 Ill. Reg. 10925, effective June 21, 1989; emergency amendment at 15 Ill. Reg. 7785, effective April 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 13365, effective September 3, 1991; amended at 15 Ill. Reg. 17724, effective November 26, 1991; amended at 17 Ill. Reg. 17191, effective September 27, 1993; expedited correction at 18 Ill. Reg. 312, effective September 27, 1993; amended at 20 Ill. Reg. 7888, effective May 30, 1996; amended at 22 Ill. Reg. 6985, effective April 6, 1998; amended at 22 Ill. Reg. 10580, effective June 1, 1998; amended at 24 Ill. Reg. 3620, effective February 15, 2000; amended at 24 Ill. Reg. 8348, effective June 5, 2000; amended at 26 Ill. Reg. 7243, effective April 26, 2002; amended at 28 Ill. Reg. 5857, effective March 29, 2004; amended at 29 Ill. Reg. _____, effective _____.

SUBPART A: MEDICAL LICENSING, RENEWAL AND RESTORATION PROCEDURE

Section 1285.100 Visiting Professor Permits

a) Any person not licensed in this State to practice medicine in all of its branches or as a chiropractic physician who has been appointed as a visiting professor at a medical, osteopathic or chiropractic program (program of medicine) in this State

must be the holder of a Visiting Professor Permit issued by the Department of Financial and Professional Regulation-Division of Professional Regulation (Division) pursuant to the provisions of Section 18 of the Act.

b) An application for a Visiting Professor Permit shall be made on forms provided by the Division~~Department~~. The application shall include:

1) The name and location of the applicant's program of medicine, dates of attendance, date and type of degree conferred;

2) Certification from the jurisdiction of original licensure indicating:

A) The date of issuance and status of the license; and

B) Whether the records of the licensing authority contain any record of any disciplinary action or pending action;

3) Verification, signed by a dean of a program of medicine located in another jurisdiction, that the applicant was qualified and has and maintains professor status in the program;

4) Certification from the Dean of the program of medicine indicating:

A) That the entity has contracted with the applicant and the applicant has received a faculty appointment to teach in the program;

B) Name and address of the patient care clinics or facilities affiliated with the medical program at which the applicant will be providing instruction and/or providing clinical care and a justification for any clinical activities that will be provided at the facilities;

C) The nature of the educational services to be provided by the applicant and the qualifications of the applicant to provide these services;

D) The term of the contract;

5) A copy of the applicant's current curriculum vitae; and

6) The fee of $300.

c) In determining the need for the issuance of a Visiting Professor Permit, the Division~~Department~~, upon the recommendation of the Medical Licensing Board, shall consider the availability to the program of medicine of the services for which the Visiting Professor Permit is sought.

d) Written notice of the Division's~~Department's~~ final action on every application for a Visiting Professor Permit shall be given to the applicant and the program of medicine designated. When the application is approved, the Visiting Professor Permit shall be delivered or mailed to the program of medicine. The applicant shall not commence the faculty appointment before the program receives written notification of the approval of the application.

e) The initial Visiting Professor Permit shall be valid for 2 years or for the term of the faculty appointment, if less than 2 years. The Visiting Professor Permit may be renewed. Renewed Visiting Professor Permits shall be issued to expire on July 31 in the year of the physician license renewal. Individuals holding a valid Visiting Professor Permit on the effective date of this Section are eligible for renewal of that permit pursuant to subsection (f).

f) Permit Renewal

1) Effective July 31, 2006 for~~For~~ the first renewal of the Visiting Professor Permit, the permit holder shall file an application with the Division~~Department~~, on forms provided by the Division~~Department~~, that includes:

A~~1~~) Certification from the Dean of the program of medicine indicating the term of the renewal contract and a list of the affiliated patient care clinics and facilities where the permit holder will be providing instruction and the justification for any clinical activities that will be provided at the facilities;

B~~2~~) Certification from the jurisdiction of original licensure indicating the current status of the license;

C~~3~~) Proof of successful completion of:

i~~A~~) the United States Medical Licensing Examination (USMLE) Step 2 Clinical Skills and Clinical Knowledge~~or the Special Purpose Examination (SPEX)~~ in accordance with Section 1285.60 for a visiting professor to practice

medicine in all of its branches; or

ii~~B~~) the National Board of Chiropractic Examiners (NBCE) Part II or SPEC in accordance with Section 1285.60 for a visiting professor to practice chiropractic; and

D~~4~~) The renewal fee of $300.

2) After the first renewal,~~Renewal of~~ a Visiting Professor Permit shall be renewed ~~after the first initial renewal~~ in accordance with subsection (g).

g) For renewals not made pursuant to subsection (f), the application for renewal of a Visiting Professor Permit shall be made on forms supplied by the Division~~Department~~ at least 60 days prior to expiration of the permit. The Visiting Professor Permit renewal application shall include:

1) Certification from the Dean of the program of medicine indicating a valid contract between the visiting professor and the school and a list of the affiliated patient care clinics and facilities where the permit holder will be providing instruction and the justification for any clinical activities that will be provided at the facilities;

2) Certification from the jurisdiction of original licensure indicating the current status of the license;

3) Completion of the 150 hours continuing medical education in accordance with Section 1285.110; and

4) The renewal fee of $300.

h) When any person on whose behalf a Visiting Professor Permit has been issued shall be discharged or shall terminate his/her faculty appointment, any permit issued in the name of such person shall be null and void as of the date of discharge or termination. The program of medicine shall immediately deliver or mail by registered mail to the Division~~Department~~ the Visiting Professor Permit and written notice of the reason for the return of the permit.

i) Only one Visiting Professor Permit shall be issued to an applicant. If the faculty appointment for which the permit was issued is terminated and the holder of the permit desires to remain in the State and practice or teach his/her profession, he/she must apply for, meet all the requirements of this State for, and receive a

license to practice that profession.

j) Whenever a program of medicine is required to deliver or return a Visiting Professor Permit to the Division~~Department~~ and that permit has been lost or destroyed or is for any other reason unavailable for return to the Division~~Department~~, the program of medicine shall immediately mail or deliver to the Division~~Department~~ a written explanation concerning the inability to return the permit.

k) When there has been a change in or addition to privileges of a visiting professor or a change in a facility where instruction or clinical care is being provided, the program shall notify the Division~~Department~~ in writing of the changes and a justification for the changes. The Division~~Department~~, upon recommendation of the Licensing Board, shall review the information and determine if a new permit needs to be issued.

l) Nothing in this Section shall prohibit the holder of a Visiting Professor Permit from applying for and receiving a license to practice his/her profession in this State during the term of his/her faculty appointment. In the event the holder of a permit is issued a license to practice his/her profession in this State, upon receipt of the license, the permit shall become null and void and shall be returned to the Division~~Department~~ pursuant to the provisions of subsection (h).

m) *Persons holding a permit under this Section shall only practice medicine in all of its branches or practice the treatment of human ailments without the use of drugs and without operative surgery in the State of Illinois in their official capacity under their contract within the medical school itself and any affiliated institution in which the permit holder is providing instruction as part of the medical school's educational program and for which the medical school has assumed direct responsibility.* (Section 18 of the Act)

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Real Estate Appraiser Licensing

2) Code Citation: 68 Ill. Adm. Code 1455

3) Section Number: 1455.320 Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

5) A complete description of the subjects and issues involved: This rulemaking reduces the fee for a Temporary Practice Permit from $200 to $150.

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

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objectives: To effect compliance Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as interpreted by the Appraisal Subcommittee in its Policy Statement 5. That Policy Statement prohibits a Temporary Practice Permit fee greater than $150.

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

Dept of Financial and Professional Regulation
Attn: Barb Smith
320 W. Washington St., 3rd Floor
Springfield IL 62786

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

Mary Anne Benden
Director of Enforcement for Real Estate Bureau
Dept of Financial and Professional Regulation
Division of Banks and Real Estate

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

310 S. Michigan Ave. Suite 2130
Chicago IL 60604-4278

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses outside of Illinois will only experience a positive impact via a reduced fee.

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~OFFICE OF BANKS AND REAL ESTATE~~

PART 1455
REAL ESTATE APPRAISER LICENSING

SUBPART A: DEFINITIONS

Section
1455.10 Definitions

SUBPART B: LICENSING REQUIREMENTS

Section
1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Appraiser License; Application by Non-Resident for Licensure by Reciprocity
1455.110 Application for Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Appraiser License; Late Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Appraiser License; Expiration Date
1455.120 Conversion of a State Licensed Real Estate Appraiser License to an Associate Real Estate Appraiser License; Late Conversion; No Issuance of State Licensed Real Estate Appraiser License
1455.130 Application for Temporary Practice Permit; Term of Permit; Scope of Practice; Regulatory Responsibility; Notice
1455.140 Issuance of Certificate to Real Estate Appraisers; Temporary Practice Permits

SUBPART C: EDUCATION REQUIREMENTS

Section
1455.150 Pre-License Education Requirements; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Appraiser; Non-Resident Pre-License Education
1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, Associate Real Estate Appraiser, and State Licensed Real Estate Appraiser; Non-Resident

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Continuing Education Approval

SUBPART D: EXPERIENCE REQUIREMENTS

Section
1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License
1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License
1455.190 Verification of Experience Credit
1455.200 Acceptable Appraisal Experience Credit

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

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1455.370 Pre-License Course Curriculum; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Appraiser
1455.380 Examples of Acceptable Pre-License Education Courses
1455.390 Continuing Education Course Requirements of Education Providers
1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation Other Than as a Student
1455.410 Distance Education
1455.420 Expiration Date and Renewal for Education Providers and Pre-License and Continuing Education Courses
1455.430 Continuing Education Reporting
1455.440 Transcript or Certificate of Completion

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1455.450 Appraiser Applicants − Transition Provisions
1455.460 Education Providers, Pre-License and Continuing Education Courses − Transition Provisions

SUBPART J: HEARINGS

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1455.470 Applicability
1455.480 Administrative Law Judges
1455.490 Disqualification of an Administrative Law Judge

1455.APPENDIX A Caption for a Case Filed by the Agency
1455.APPENDIX B Caption for a Case Filed by the Petitioner

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28,

1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998, for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 13011, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20815, effective November 20, 1998; old Part repealed at 26 Ill. Reg. 10883 and new Part adopted by emergency rulemaking at 26 Ill. Reg. 10844, effective July 1, 2002, for a maximum of 150 days; old Part repealed at 26 Ill. Reg. 17689 and new Part adopted at 26 Ill. Reg. 17692, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 14653, effective August 29, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 824, effective December 29, 2003; amended at 29 Ill. Reg. _____, effective _____.

SUBPART G: ADMINISTRATIVE PROVISIONS

Section 1455.320 Fees

a) Initial application fee for appraiser license.

1) The application fee for an initial license as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser, and an Associate Real Estate Appraiser shall be $225.

2) In addition to the initial fee for an initial applicant as a State Certified General Real Estate Appraiser and a State Certified Residential Real Estate Appraiser prescribed in subsection (a)(1), each applicant shall pay $75, which shall include the National Registry fee.

b) Renewal application fee for appraiser license.

1) The application fee to renew a license as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser or a State Licensed Real Estate Appraiser shall be calculated at $250 per year,

which shall include the National Registry fees.

2) The application to renew an Associate Real Estate Appraiser License shall be calculated at $150 per year.

3) The application fee to renew a license that has expired, as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser, an Associate Real Estate Appraiser, or a State Licensed Real Estate Appraiser, shall be the sum of all lapsed renewal fees plus a $50 late fee.

c) Application fee to convert a license.

1) The application fee to convert a license as a State Licensed Real Estate Appraiser issued pursuant to a predecessor Act to a license as an Associate Real Estate Appraiser shall be $250.

2) The application fee to convert a license that has expired as a State Licensed Real Estate Appraiser issued pursuant to a predecessor Act to a license as an Associate Real Estate Appraiser shall be $250, plus a $50 late fee.

d) Application fee for temporary practice permit.
The application fee for a temporary practice permit pursuant to the Act and this Part shall be $150~~$200~~. There shall be no additional fee required for an extension granted pursuant to the Act and this Part for a temporary practice permit.

e) Initial application fee for a license as an education provider, a pre-license course, and a continuing education course.

1) The application fee for a license as an education provider shall be $1050, plus course application fees.

2) The application fee for a license for a pre-license course shall be $150.

3) The application fee for a license for a continuing education course shall be $100.

f) Application fee to renew a license as an education provider, a pre-license course, and a continuing education course.

1) The application fee to renew a license as an education provider shall be calculated at $550 per year.

2) The application fee to renew a license that has expired as an education provider shall be the sum of all lapsed renewal fees plus a $50 late fee.

3) The application fee to renew a license as a pre-license course shall be calculated at $100 per year.

4) The application fee to renew a license that has expired as a pre-license course shall be the sum of all lapsed renewal fees plus a $50 late fee.

5) The application fee to renew a license as a continuing education course shall be calculated at $75 per year.

6) The application fee to renew a license that has expired as a continuing education course shall be the sum of all lapsed renewal fees plus a $50 late fee.

g) For the purposes of determining if a license has expired under this Section, the Department of Financial and Professional Regulation-Division of Banks and Real Estate (DBRE)~~OBRE~~ shall consider the license expired if the postmark on the renewal application is a date later than the expiration date or, if delivered other than by mail, the license shall be considered expired if the renewal application is received by DBRE~~OBRE~~ on a date later than the expiration date.

h) General.

1) All fees paid pursuant to the Act and this Part are non-refundable.

2) The fee for the issuance of a duplicate license certificate or pocket card, for the issuance of a replacement license certificate or pocket card that has been lost or destroyed, or for the issuance of a license certificate or pocket card with a name or address change, other than during the renewal period, shall be $25.

3) The fee for a certification of a licensee's record for any purpose shall be $25.

4) The fee for a decorative wall license showing registration shall be the cost of producing the license.

5) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.

6) Applicants for an examination as a State Certified Real Estate Appraiser, a State Certified Residential Real Estate Appraiser, or an Associate Real Estate Appraiser shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.

7) The fee for requesting a waiver of any education requirement provided by the Act and this Part shall be $50.

8) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce the copy.

9) The fee for certifying any record, e.g., a copy of a disciplinary order or application, shall be $1 per page.

10) DBRE~~OBRE~~ may charge an administrative fee not to exceed $2,000, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1455.320 of this Part.

(Source: Amended at 29 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Rate Setting

2) Code Citation: 89 III. Adm. Code 356

3)

Section Numbers:	Adopted Action:
356.20	Amend
356.40	Amend
356.50	Amend

4) Statutory Authority: 20 ILCS 505

5) Effective Date of Amendments: June 8, 2005

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: 28 Ill Reg. 7734; June 11, 2004

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

11) Differences between proposal and final version: The Department made only one non-substantive change other than editing and formatting changes that were suggested by the Joint Committee on Administrative Rules.

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 Amendments: The adopted rulemaking removes references to reporting requirements in this Part and consolidates all the information in 89 Ill. Adm. Code 357.120. A cross-reference to that Section has been added.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

(217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER c: FISCAL ADMINISTRATION

PART 356
RATE SETTING

Section

356.1 Purpose (Renumbered)
356.2 Definitions (Renumbered)
356.3 Types of Reimbursement Made by the Department (Renumbered)
356.4 Cost Information Requirements of Providers (Renumbered)
356.5 Determining Rate Reimbursement Levels (Renumbered)
356.6 Disallowable Costs and Reduced Reimbursement (Renumbered)
356.7 Notice and Appeal of Provider Rates (Renumbered)
356.10 Purpose
356.20 Definitions
356.30 Types of Reimbursement Made by the Department
356.40 Cost Information Requirements of Providers
356.50 Determining Rate Reimbursement Levels
356.60 Disallowable Costs and Reduced Reimbursement
356.70 Notice and Appeal of Provider Rates
356.80 Reimbursement for Program Enhancements

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505].

SOURCE: Adopted at 5 Ill. Reg. 324, effective December 29, 1981; amended at 6 Ill. Reg. 11851, effective September 30, 1982; amended at 10 Ill. Reg. 11432, effective July 1, 1986; amended at 11 Ill. Reg. 675, effective January 2, 1987; amended at 11 Ill. Reg. 7255, effective April 15, 1987; amended at 18 Ill. Reg. 11512, effective July 8, 1994; emergency amendment at 20 Ill. Reg. 9265, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14390, effective November 1, 1996; emergency amendment at 23 Ill. Reg. 8461, effective July 6, 1999, for a maximum of 150 days; emergency expired on December 2, 1999; amended at 24 Ill. Reg. 7692, effective June 1, 2000; amended at 29 Ill. Reg. 8696, effective June 8, 2005.

Section 356.20 Definitions

"Administrative cost" means those costs related to the management and organizational maintenance of the purchase of care provider such as program

administration, postage, and clerical support.

"Allowable costs" means those reasonable costs, as defined in this Section~~herein~~, that~~which~~ will be considered for reimbursement. Prior to the final rate determination, allowable costs are subject to revenue offset and application of reasonable cost standards if applicable, as specified in Section 356.50.

"Cost report" means a report of all costs incurred and revenue earned by~~to~~ a provider that~~which~~ are directly associated with services purchased by the Department for its clients.

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

"Disallowable costs" means those costs that~~which~~ will not be considered for reimbursement.

"Fiscal year" means July 1 through June 30.

"For-profit agencies" means those agencies that~~which~~ are registered as for-profit by the Secretary of State and recognized as for-profit entities by the Internal Revenue Service.

"Fringe benefits" means those provider costs not paid as salaries but incurred by agencies directly for the benefit of their employees. Fringe benefits include, but are not limited to employee health and retirement benefits, payroll taxes, worker's compensation insurance and unemployment compensation insurance. Liability insurance and malpractice insurance are not considered fringe benefits because the provider itself receives substantial benefits and protections from incurring those costs.

"Historical costs" means the total expenditure incurred for all programs the purchase of care provider provided for the previous State ~~state~~ fiscal year~~,~~ that~~which~~ are presented via certified audit.

"Ownership costs" means the costs of maintenance, utilities, property and building insurance, depreciation, amortization of leasehold improvements, rent, property taxes, interest and other related costs.

"Preoperating expenses" are those operating expenses that~~which~~ are incurred in making preparation for rendering client care before the first client is admitted

(e.g., costs based upon the amount of time an executive director spends on developing a new program prior to the initiation of program services, staff salaries paid during training prior to the initiation of program services, etc.).

"Purchase of care providers" means those service providers with whom the Department of Children and Family Services (Department) does business through contracts on a reimbursable basis for units of service delivered to specific clients.

"Reasonable costs" means those costs incurred by purchase of care providers that~~which~~ are determined to be necessary and appropriate in accordance with Section 356.50.

"Reimbursement rates" are rate levels used by the Department to reimburse for institutional and group home care; foster care; day care center and home care; adoption, counseling and homemaker service; and others as required for contracting purposes. These services are further defined in 89 Ill. Adm. Code 302~~,~~ (Services Delivered by the Department of Children and Family Services).

"Revenues to be offset" means funding provided by a governmental unit via a grant mechanism that~~which~~ is not clearly linked to the provision of service to any one particular client. The Department will wholly or partially discount such funding in determining the providers' reimbursable costs.

"Support costs" means~~ the costs of:~~ food and dietary, laundry, housekeeping, and other related costs.

"Total agency costs" means the total expenditure incurred for all programs the purchase of care provider provides during a State fiscal year.

"Unit of service" means a measured length of time, such as an hour or a day or some other measurable service component, that will enable the Department to determine the amount of service provided individually or in aggregate to clients.

(Source: Amended at 29 Ill. Reg. 8696, effective June 8, 2005)

Section 356.40 Cost Information Requirements of Providers

a) Cost Reporting – Except as otherwise provided by this subsection, all providers shall annually file a certified cost report on a schedule provided by the Department. The time period covered by the cost report shall correspond to the

Department's fiscal year unless otherwise approved by the Department. The Department may designate cost reports filed by the provider with other State~~state~~ agencies as suitable for fulfilling this requirement when those reports provide all of the information needed by the Department in a clear and usable way. Any provider that completes an audit in accordance with 89 Ill. Adm. Code 357.120 (Purchase of Service Fiscal Reports and Records) shall bind the~~OMB Circular A-133 shall annually submit a copy of that audit to the Department in addition to the~~ DCFS cost report required by this subsection within that audit. Day care providers are exempt from all audit and cost reporting requirements unless they are involved in the cost based rate negotiations authorized under Section 356.30(a) of this Part. Providers involved in those rate negotiations shall file the cost report on the Department schedule, as described in this subsection, and, if required to file an OMB Circular A–133 audit, a copy of that audit with the cost report bound within the audit. ~~Cost reports shall be available to the general public upon written request. The Department will immediately notify a provider of any requests for its cost reports. No cost report will be released sooner than two weeks from the date the provider was notified of the request. The reports will be provided at cost.~~

b) Accrual Accounting – The provider shall use the accrual basis of accounting when reporting financial data.

c) Audits – Providers shall cooperate in any audits undertaken to verify the truth, accuracy, and completeness of reported costs, in accordance with 89 Ill. Adm. Code 434~~,~~ (Audits, Reviews, and Investigations).

d) Total Costs and Revenue – Providers must report all costs of service and must disclose their total costs and revenue. Supporting documentation will be required to verify the costs allocated to each of the various services the Department purchases and to the sum of other services the agency provides. The reported total cost and revenue must be certified by a licensed public accountant.

e) Historical Costs – Historical costs will be established when the provider has operated one or more years and independent auditors concur with the reported total costs. New providers who have not established their historical costs shall be permitted to submit budgeted information for the first fiscal reporting period. However, no rate increases shall be authorized for the next fiscal year until audited historical costs are available. When the rate increase is authorized based on historical costs, it will coincide with the effective date of the contract if the audit is received in accordance with contractual requirements.

f) Other Information Required – As a condition of contract issuance or renewal, the Department will request and receive promptly any other financial information, reasonably related to rate determination, needed to determine the provider's costs. For determining State Fiscal Year 2000 rates, this may include submission of program budgets. (See Section 356.50(f).)

(Source: Amended at 29 Ill. Reg. 8696, effective June 8, 2005)

Section 356.50 Determining Rate Reimbursement Levels

This Section applies to those situations where the Department promulgates standard or individual rates identified in Section 356.30(b)(2) and (3).

a) Forms – Financial reporting forms shall be used in establishing rates of reimbursement, regardless of the type of service provided.

b) For-Profit Agencies – Contracts with for-profit agencies must clearly identify any profit factor that~~which~~ must directly correspond to units of services provided. Profit will be categorized as an administrative cost and will be limited to 9%~~nine percent~~ of the total contract amount. Profit will also be included in calculating the overall administrative cost standard.

c) Reasonable Cost Standards – Reasonable cost standards shall be applied to certain categories of costs except that program and transportation costs may be exempted if warranted by the special needs of the clientele. The reasonable cost standards establish reimbursement ceilings for categories of costs. The standards are derived from the median costs of all agencies providing similar services. Fringe benefits above 25%~~ percent~~ of salaries shall not be reimbursed by the Department. Administrative costs may not exceed 20%~~ percent~~ of the costs for other services. Reimbursement may exceed the reasonable cost standards if a higher rate is negotiated as a result of a rate appeal or rate enhancement that clearly demonstrates that costs in excess of the standards are the result of a necessary level of resources purchased in a prudent manner. However, administrative costs may not exceed 20%~~ percent~~ of the costs of other services.

d) Revenues to be Offset – Revenues to be offset shall include grants, other non-purchase-of-service revenue from other governmental agencies, revenues from the school lunch program, and revenues from local education agencies. All revenues to be offset shall be reported by the provider. These revenues will be considered

as part of the resources available to the provider in determining reasonable costs. The Department will not reimburse a provider for the proportion of services or administrative charges that have been paid, wholly, or in part, by such revenues.

e) Units of Service and Provider Capacity – Reimbursement rates shall be determined on the basis of actual units of service provided or the median utilization for all agencies providing similar services, whichever is greater. However, significant deviations from the utilization level may be used in rate-setting if unusual circumstances beyond the control of the provider directly caused a significant change in occupancy rates.

f) Special Provisions for Calculating Individual Rate Reimbursement including Child Care Institutions, Group Homes, Maternity Centers, and Shelter Programs – For State Fiscal Year 2000 (from July 1, 1999 through June 30, 2000), the rates for all child care institutions, group homes, maternity centers, independent living, specialized foster care, treatment foster care and shelter programs will be calculated as outlined in this Section except that programs that would receive reductions will be held harmless at State Fiscal Year 1999 levels if both Fiscal Year 1998 cost reports and a program budget for State Fiscal Year 2000 are submitted within 30 days after notice to the program. If a program fails to submit a cost report within the 30-day period, the rate will be adjusted to 80% of the applicable State Fiscal Year 1999 rate. If a program files a cost report but not a budget, the rate will not be held harmless and will be adjusted downward based on the rate calculation methodology, but in no instance shall the rate be less than 80% of the program's State Fiscal year 1999 rate. This rate adjustment for State Fiscal Year 2000 applies regardless of the other provisions of this Part.

1) The Department will conduct a joint rate calculation with the Illinois Department of Human Services.

2) Reimbursement rates shall be determined on the basis of actual units of service provided, or the median utilization level for all similar providers, whichever is greater. The maximum utilization level that will be used to determine reimbursement rates shall be 98% ~~percent~~ of licensed or approved program capacity. For the purpose of establishing the median utilization level, residential programs will be grouped into two categories:

A) Child Care Institutions and Group Homes; and

B) Maternity Homes and approved Shelter programs.

3) The reasonable cost standards for support and ownership costs shall be 120% ~~percent~~ of the median costs of all similar providers. Providers shall be deemed dissimilar, and subject to an adjusted cost standard if one or more of the following conditions has occurred on or after July 1, 1983:

A) the provider has built an entirely new building used directly by clients of the program,

B) the provider has renovated a building used directly by program clients and the annual depreciation and/or interest costs are $20,000 or more, or

C) the provider has entered a first-time lease for a building used directly by program clients.

4) These costs shall be demonstrated by an annual audit cost report and accompanying notes as prescribed by 89 Ill. Adm. Code 357.120 (Purchase of Service Fiscal Reports and Records)~~434 (Audits, Reviews, and Investigations)~~. The reasonable cost standards shall include a geographic differential factor to reflect the differences in costs due to geographic location when such cost differentials exist. The existence of such differentials is determined by measurement of the audited costs reported by providers and the application of generally accepted statistical tests to these costs. Any geographic differential factor that ~~which~~ results from these tests is included in the Department's rate notices sent to providers.

5) Historical costs, except depreciation, interest and amortization of allowable pre-operating expenses shall be increased by inflation adjustment factor to reflect the increases in costs caused by general inflation. The maximum increase in a facility's reimbursement rate shall be 150% ~~percent~~ of the inflation adjustment factor for the most current year. The percentage limitation shall be applied to the most recent rate unless that rate declined due to a combination of both reduced utilization and reduced costs. In such case, the next most recent rate shall be used to determine the allowable maximum increase. This limitation will not be applied to cost increases mandated by regulatory agencies or program changes approved by the Department Director.

6) New programs not having historical costs shall have a rate set via a process that~~which~~ begins with completion of a projected historical cost budget in the same format used to set historical cost rates. The Regional Office developing the contract shall negotiate costs based on a comparison of the budget with levels of staffing generally needed for similar programs; with prevailing wage rates; and with levels of supply, ownership, support and other costs common to similar programs. The Department shall review the results and shall engage in further negotiations when an examination of submitted data determines an anomaly or disparity in the data in comparison to other data submitted by other providers. A new start rate shall then be set using the reasonable cost standards applying to the particular program under the terms of this Part with one exception: To allow for the phase-in placement of clients, the divisor applied to costs will be the greater of:

A) the number five percentage points lower than the median utilization level applying to ongoing programs of the same type; or

B) the projected utilization agreed to by the Department and the provider.

g) The Department will adopt Day Care Rates developed by the Illinois Department of Human Services for similar day care services.

(Source: Amended at 29 Ill. Reg. 8696, effective June 8, 2005)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Purchase of Service

2) Code Citation: 89 III. Adm. Code 357

3)

Section Numbers:	Adopted Action:
357.20	Amended
357.30	Amended
357.100	Amended
357.110	Amended
357.120	Amended
357.130	Amended
357.140	Amended

4) Statutory Authority: 20 ILCS 505

5) Effective Date of Amendments: June 8, 2005

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 materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 28 Ill Reg. 7744; June 11, 2004

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

11) Differences between proposal and final version: In Section 357.120, clarified that notes on the financial statements should include the basis of accounting and recording and the method of depreciation of assets.

Clarified that limited scope audit reports shall include the objectives, scope and methodology; the audit results, including findings, conclusions, and recommendations; a reference to compliance with generally accepted accounting principles; and if applicable, the nature of any privileged and confidential information omitted. Additionally, language was added that reports must be received within the time frames established in the contract.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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 rulemakings currently in effect? No

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

15) Summary and Purpose of Amendments: The adopted rulemaking incorporates reporting requirements from other Parts and consolidates all the information in Section 357.120 of this Part.

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

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

(217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER c: FISCAL ADMINISTRATION

PART 357
PURCHASE OF SERVICE

Section

357.1 Purpose (Renumbered)
357.2 Definitions (Renumbered)
357.3 Procuring Services (Renumbered)
357.4 Issuance of Requests for Proposals (Renumbered)
357.5 Content of Requests for Proposals (Renumbered)
357.6 Evaluation of Proposals (Renumbered)
357.7 Notification of Awards (Renumbered)
357.8 Disclosure of Proposals (Renumbered)
357.9 Contract Approval (Renumbered)
357.10 Purpose
357.11 Fiscal Reports and Records (Renumbered)
357.12 Required Documentation (Renumbered)
357.13 Contract Termination (Renumbered)
357.20 Definitions
357.30 Purchase of Day Care Services
357.40 Procuring Services
357.50 Issuance of Requests for Proposals
357.60 Content of Requests for Proposals
357.70 Evaluation of Proposals
357.80 Notification of Awards
357.90 Disclosure of Proposals
357.100 Contract Approval
357.110 Compliance During the Contract Period
357.120 Fiscal Reports and Records
357.130 Required Documentation
357.140 Contract Termination

AUTHORITY: Implementing 42 CFR 431 and authorized by Section 5 of the Department of Children and Family Services Act [20 ILCS 505].

SOURCE: Adopted and codified at 5 Ill. Reg. 14546, effective December 29, 1981; amended at 6 Ill. Reg. 9294, effective July 26, 1982; amended at 8 Ill. Reg. 12127, effective July 13, 1984;

amended at 9 Ill. Reg. 11292, effective July 15, 1985; amended at 13 Ill. Reg. 3344, effective March 1, 1989; amended at 21 Ill. Reg. 13160, effective October 1, 1997; amended at 26 Ill. Reg. 3015, effective February 15, 2002; amended at 29 Ill. Reg. 8706, effective June 8, 2005.

Section 357.20 Definitions

"Adult" means a person age 18 and older.

"Department", as used in this Part, means the Illinois Department of Children and Family Services.

"Equal proposals for family preservation services" means proposals received by the Department which have been assigned, after review, the same number of evaluation points and the services to be provided are equal pursuant to the requirements of Section 357.70.

"Fiscal year" means July 1 through June 30.

"Illinois Sex Offender Registry" means the registry of felony child offenders operated and maintained by the Illinois State Police.

"Legal child care arrangement" means child care is being provided in a licensed child care facility, in a child care facility that~~which~~ is exempt from licensing, or in the child's own home.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority that~~which~~ is punishable solely by fines as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)

"Negotiated contract" means a written contract with an agency or individual to provide needed child welfare or youth services, which contract is not competitively bid, but rather is mutually agreed upon with a provider. Use of such contracts is further described in Section 357.40.

"New service initiatives" means services that previously~~which heretofore~~ have not been provided by or purchased by the Department in the State or in a specific geographical area of the state.

"Professional services" as used in this Part means child welfare services as

defined in~~ Department Rules,~~ 89 Ill. Adm. Code 302~~,~~ (Services~~Service~~ Delivered by the Department of Children and Family Services)~~,~~ and youth services, as defined in this Section~~below~~.

"Program plan" means that part of the purchase of service contract that~~which~~ explains in detail who will be served, where and how they will be served and what outcomes are expected from the service.

"Purchase of service provider" means an agency or individual offering services to a Department client through a signed contract with the Department. As used in this Part, the term does not include grants-in-aid that~~which~~ are awarded pursuant to 89 Ill. Adm. Code 360~~,~~ (Grants-in-Aid).

"Requests for proposals" or "RFPs" ~~(RFPs)~~ means a formal~~form of~~ invitation to bid that~~which~~ the Department uses to obtain professional services. The RFP explains the purpose, outlines the scope of the work and solicits proposals from individuals or organizations for the funding of services for certain initiatives or projects undertaken by the Department.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Department that replaced the CANTS system.

~~"Statewide Child Sex Offender Registry" means the registry of felony child sex offenders operated and maintained by the Illinois State Police.~~

"Youth services" include but are not limited to community services, primary prevention, outreach and recreational opportunities, including the use of indigenous community volunteers to provide programs designed to correct conditions contributing to delinquency; diversion services, including client advocacy, family counseling, employment and educational assistance and service brokerage; and emergency services, including 24-hour crisis intervention and shelter care. Youth services are further defined in 89 Ill. Adm. Code 310~~,~~ (Delivery of Youth Services Funded by the Department of Human Services).

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

Section 357.30 Purchase of Day Care Services

a) The Department may purchase day care services for an eligible child in any legal child care arrangement including, but not limited to, licensed day care facilities,

facilities exempt from licensing, and relatives and individuals who provide care in the children's homes.

b) As a condition of receiving payment for day care services from the Department, each in-home day caregiver, license exempt day care provider and assistant, and all adult members of the household in which a day care home exempt from licensing operates shall:

1) complete and submit to the Department on a form prescribed by the Department a certification under penalty of perjury whether the person has been convicted of a crime, other than a minor traffic violation, or has been indicated as a perpetrator of child abuse and neglect; and

2) complete and submit to the Department an authorization for a background check which may include, solely at the discretion of the Department, a criminal history check, a check of the Statewide Automated Child Welfare Information System (SACWIS)~~Child Abuse and Neglect Tracking System (CANTS),~~ and a check of the Illinois~~Statewide Child~~ Sex Offender Registry; and

3) if requested, submit his or her fingerprints to the Department within 30 days after the Department's written request for such fingerprints.

c) The Department shall conduct a check of SACWIS ~~the Child Abuse and Neglect Tracking System~~ and the ~~Statewide Child~~ Sex Offender Registry on all individuals listed in subsection (b) of this Section when:

1) care is being given to a child for whom the Department is legally responsible;

2) a child is a member of an intact family that ~~which~~ is receiving Department services; or

3) one of the individuals required to complete the authorization for background checks as provided in subsection (b) of this Section acknowledges that he or she has been indicated as a perpetrator of child abuse or neglect.

d) The Department shall conduct a check of ~~the~~ SACWIS~~Child Abuse and Neglect Tracking System~~ and the Illinois~~Statewide Child~~ Sex Offender Registry on a

random basis for all other individuals required to complete the authorization for background checks in subsection (b) of this Section.

e) The Department shall send a notice to the individuals in subsection (b) of this Section requiring them to submit to fingerprinting whenever he or she acknowledges that he or she has been convicted of a crime, other than a minor traffic violation, as defined in Section 357.20.

f) The Department may, in its sole discretion and on a random basis, require fingerprints of not more than 15% of all other individuals in subsection (b) of this Section and submit the fingerprints to the Illinois State Police.

g) Authorization for payment for day care services shall be denied or withdrawn whenever an individual in subsection (b) of this Section:

1) failed or refused to submit the authorization for background checks and fingerprints (if requested), as required by subsection (b) of this Section; or

2) is found to have been convicted of any of the criminal acts listed in Appendix A of 89 Ill. Adm. Code 385~~,~~ (Background Checks), or to have been indicated as the perpetrator of child abuse or neglect~~which bar licensure under Part 385~~, or is listed in the Illinois~~Statewide Child~~ Sex Offender Registry.

h) In addition, if the Department learns one of the individuals in subsection (b) of this Section has falsified information on the certification form, the Department may deny or withdraw authorization for payment for day care services to that provider.

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

Section 357.40 Procuring Services

a) The Department procures professional child welfare and youth services by means of negotiated contracts and competitively bid contracts.

b) Negotiated contracts are used in the following circumstances:

1) When the nature of the service is such that it can only be obtained from a single service provider.

2) When, in the opinion of the Department, maintenance of ongoing established services is necessary to ensure the continuity of care and assistance to children, youth and families served by the Department.

3) When, in the opinion of the Department, an emergency exists and the urgency for the service will not allow time for preparing requests for proposals.

4) When the Department is not required to use competitive bidding by statute or by the provisions of subsection (c)(1)~~ below~~:

c) Although the professional services governed by this Part are exempt from the competitive bidding procedures of the Illinois Procurement Code~~Purchasing Act~~ [30 ILCS 500~~505~~] as opposed to the goods and services governed by the standard procurement rules of the Department of Central Management Services, the Department nevertheless recognizes the value of competition and therefore issues Request for Proposals (RFPs) in the following situations:

1) The Department shall issue a RFP for all new service initiatives over $25,000 except where the RFP is required by Federal regulations such as 45 CFR 74. The Director shall waive the RFP requirement when a determination is made that an emergency exists. An emergency shall include, but not be limited to, the following situations:

A) When the service initiative is immediately needed to prevent interruption in services to current clients, or

B) The service initiative is immediately needed to assure the clients' health and welfare.

2) In addition, the Department shall issue RFPs for service contracts (except for substitute care and day care) over $50,000 at least once every 6~~six~~ years. However, comprehensive community-based youth services provided through local boards or local service systems shall be reviewed once every ~~4four~~ years in accordance with Department of Human Services' requirements found in 89 Ill. Adm. Code 334~~,~~ (Administration and Funding of Community-Based Services to Youth). When requests for proposals are issued, purchase of service providers shall submit a response in accordance with the RFP in order to be considered for contracts for the

fiscal year specified. When an RFP is not required, subsequent contracts may be negotiated and renewed at the Department's discretion without recourse to a RFP. The Department will review such contracts in order to determine that the provider is complying with the provisions of the current contract and providing effective services that~~which~~ meet the needs of the Department's clients.

3) When equal proposals for family preservation services have been submitted to the Department, not-for-profit corporations are to be given preference over for-profit corporations.

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

Section 357.100 Contract Approval

Federal and State regulations authorize the Illinois Department of Children and Family Services to purchase service and care for eligible children and families from purchase of service providers. Purchase of service providers shall meet the following prerequisites before a contract is approved:

a) When licensure is required to provide the service, the purchase of service provider has obtained the necessary license or permit from the appropriate licensing authority to provide the specified services throughout the contract period.

b) Except for individual foster care provider contracts and day care provider contracts, the purchase of service provider has submitted a detailed program plan that~~which~~ specifies and contains the following:

1) the type and extent of services that~~which~~ will be provided. The number of individual and/or family clients that~~which~~ may be served, and the number of hours or the number of days for which services are provided may be used to define the extent of services;

2) the number and types of staff available to provide the specified services;

3) the clientele for whom the services were designed;

4) the provisions for recordkeeping and reporting as required by Department rules or the purchase of service contract;

5) that the resources are sufficient to provide the service. "Resources" include the following:

A) facilities that~~which~~ are large enough to safely accommodate the clientele, which contain sufficient equipment and furniture to provide the services offered and that~~which~~ satisfy all public health and safety regulations and Department licensing requirements;

B) staff who possess accepted professional standards of education and experience for their assignments; and

C) administrative personnel with appropriate educational backgrounds and experience for their positions;

6) a clause titled "billable service" that~~which~~:

A) clearly defines the billable unit of services such as: hour, day, week or month;

B) stipulates whether the provider will bill for client "no shows," travel, telephone conversations, canceled~~cancelled~~ appointments, staffing and group sessions.

c) The purchase of service provider has a plan to assure that minimal staffing levels, as may be required by child care facility licensing standards, and as specified in the contract, are maintained.

d) The purchase of service provider shall submit documentation that the total Department reimbursement for administration costs, including personnel and other fixed and variable costs for administration do not exceed 20% of the cost of other reimbursable items.

e) The ~~current~~ purchase of service provider has submitted evidence of financial stability. ~~for the contract period including either balance sheet data and income statement or reconciled bank balances. If the provider has been receiving contracts that in the aggregate are $25,000 or more the balance sheet and income statement must be audited.~~

f) The new purchase of service provider has submitted evidence of financial stability for the contract period including either letters of credit, statements of backing, or

audited financial statements.

g) The purchase of service provider has submitted a budget of anticipated expenditures based on the negotiated rate or the negotiated contract maximum, if a budget is required by the contract.

h) The current purchase of service provider has submitted the required financial reporting documents in accordance with Section 357.120.

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

Section 357.110 Compliance During the Contract Period

Purchase of service providers under contract to the Department must comply with Federal and State laws and regulations and Department rules. When the provider signs the purchase of service contract, this signature shall be the provider's certification of compliance with the applicable laws, regulations and rules. ~~In addition, the Department may certify compliance by reviewing the purchase of service providers' records.~~

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

Section 357.120 Fiscal Reports and Records

a) Purchase of service providers shall furnish the Department with any required reports during the contract period ~~. These reports shall detail functional expenses, revenues, and per person costs~~ in a manner specified in this Section.~~by the Department. Reports shall be received by the Department office responsible for contracts and grants within the time frames specified in the contract.~~

b) When all of the contracts with one provider expire~~contract expires~~ or terminate~~terminates~~ prior to the end of the fiscal year, the revenue and expense sections of the Department's cost report shall be submitted with an opinion from a certified public accountant. This~~a~~ report and opinion shall be submitted within 30 days after the expiration or termination of the contract.

c) Any purchase of service provider (with the exception of day care providers, unless they are involved in cost based rate negotiations authorized under 89 Ill. Adm. Code 356.30(a), and governmental agencies) who receives ~~more than~~ $150,000 or more from the Department within ~~a~~ the State fiscal year shall submit an agency-wide~~a~~ certified independent audit using the requirements in this

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Section and in accordance with Government Auditing Standards, 2003 (no later amendments or editions included), available from the Government Accountability Office, 441 G Street, NW, Washington, DC 20548. ~~guidelines developed by the Department. The Director or Chief Auditor of the Department shall waive audit requirements when a contract is with an individual provider and payment is not related to expenses.~~

1) All governmental and not-for-profit organizations must also consider federal audit guidelines and complete audits in accordance with the guidance specified in the Office of Management and Budget (OMB) Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations, when required by A-133 to conduct an audit. If required to prepare an audit in accordance with OMB Circular A-133, the audit must still contain the information listed in subsection (d). ~~The Director or Chief Auditor of the Department shall waive audit requirements when a contract is with an individual provider and payment is not related to expenses.~~

2) The Department may also request, at its sole discretion, certified agency-wide or limited-scope audits from any purchase of service providers (including day care providers and government entities) to ensure compliance with Federal, State and Department requirements. All governmental entities audited by the Illinois Auditor General will submit those audits to the Department within 60 days after completion.~~The audit shall contain the following information:~~

3) The audits for all entities must be completed within 180 calendar days after the completion of the provider's fiscal year.

4) A waiver of the certified audit requirement may be requested in writing and directed to the Department's Deputy Director of Monitoring and Quality Assurance. The request must state the reason for the waiver and shall be submitted prior to the due date of the report.

5) A request for an extension of the deadline for submittal of the audit and/or costs report beyond the time frame specified in subsection (c)(3) must be submitted in writing to the central office manager responsible for the administration of the reimbursement rates and excess revenue by the required due date in subsection (c)(3).

6) The Department will respond to the requests for waivers or extensions within 30 business days, specifying approval or rejection of the waiver or extension. Waivers are approvable if the cost to the provider outweighs the benefit of the requirement and extensions are approvable when circumstances beyond the agency's control prevent a timely submission (e.g., death, hospitalization or a change at the agency).

d) The agency-wide certified independent and OMB A-133 audit report submission shall contain the following information:

1) Independent Auditor's Report – an expression of the auditor's opinion on the financial statement;

2) Statement of Financial Position ~~a~~ (balance sheet);

3) Statement of Activities – a statement of revenue and expenses and changes in net assets~~fund balance~~. This statement should specifically identify revenue received for~~from~~ the Department's~~Department~~ programs. The cost of management and general expenses should be~~is to be~~ shown;

4) Statement of Cash Flows;

5)~~4)~~ Statement~~a statement~~ of functional expenses for the agency, including management and general expenses and fundraising expenses. This schedule should show by functional and natural classifications the expenses for each individual program to enable identification of costs covered by Department funding~~(expenses by program) in a multiple program agency~~;

6)~~5)~~ Notes to ~~notes on~~the financial statements, including, but not limited to, ~~that include~~ a note on the basis of accounting and the basis for recording and method for depreciation of assets~~revenues showing the total number of service units provided, measured in hours, days, weeks, or months~~; and

7)~~6)~~ Reports~~reports~~ on Compliance and Internal Controls Over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards.~~review of internal controls;~~

~~7) report on compliance; and~~

~~8) a management letter from the certified independent audit firm that specifies those accounting and internal control deficiencies that merit attention.~~

e~~d~~) Limited scope audits will be requested in the contract program plan and defined for each situation. The audit report shall include the objectives, scope and methodology; the audit results, including findings, conclusions, and recommendations, as appropriate; a reference to compliance with generally accepted government auditing standards, as necessary; the views of responsible officials; and, if applicable, the nature of any privileged and confidential information omitted. Reports shall be received within the time frames specified in the contract.~~Purchase of service providers shall maintain financial records for five years from the expiration of each contract. The Department reserves the right to inspect all purchase of service records that relate to services for which the Department provides funding. These records shall be kept according to the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations (3rd Edition, 1988), National Health Council, 1730 M Street, N.W., Suite 500, Washington, DC 20036. These standards require accrual accounting. This incorporation by reference does not include any later amendments or editions to the previously cited publication.~~

f~~e~~) Cost and Audit Reports are necessary to evaluate~~enable an evaluation of~~ the costs for all provider~~providers offering the same~~ services. Unless the Department determines that circumstances do not warrant the following action, noncompliance with the fiscal reporting requirements included in this Part and the cost reporting requirements in accordance with 89 Ill. Adm. Code 356.40 (Cost Information Requirements of Providers) will result in:

1) withholding of rate increases~~, if the provider does not comply with the fiscal reporting requirements as specified in the contract~~; or

2) ~~withholding of rate increases and~~ non-renewal or termination of the purchase of service contract~~, if the provider does not comply with the end of year fiscal reporting requirements.~~; or

3) withholding of current contract payments in full or in part for services provided. Such withholding of payments will occur 60 days after the provider has received written notice from the Director of the Department.

~~f)~~ ~~Unless the Department determines that circumstances do not warrant the following action, failure to submit the required audit, which must be submitted within 180 days after the end of the fiscal year, will result in:~~

~~1)~~ ~~non-renewal of the purchase of service contract, or~~

~~2)~~ ~~termination of the purchase of service contract, or~~

~~3)~~ ~~withholding of current contract payments for services provided. Such withholding of payments will occur 60 days after the provider has received written notice of the pending action from the Director of the Department.~~

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

Section 357.130 Required Documentation

a) Purchase of service providers shall maintain financial records for 5 years from the expiration or termination of each contract. The Department reserves the right to inspect all purchase of service provider records that relate to services for which the Department provides funding. These records shall be kept in accordance with generally accepted accounting principles.~~are required to keep~~ The records must be~~which are~~ detailed and accurate enough to document the reasons for a decision, the ways monies were spent, and the beneficiaries of income, goods, and services. Such required recordkeeping shall include but not be limited to:

1) establishment of financial recordkeeping which includes:

A) Cash Receipts Journal

B) Cash Disbursements Journal

C) General Journal

D) General Ledger

E) All cash disbursements and/or expenses, ~~must be~~ fully supported by documentation, such as invoices, time sheets, time studies, or approved cost allocation plans~~.~~

F) Revenue and expenses by program

G) Annual budgets and quarterly actual and budget variance analyses

H) Annual furniture and equipment inventory with procedure for disposition and explanation of the tagging system for Department contract items

2) establishment of programmatic compliance recordkeeping that~~which~~ includes:

A) individual~~Individual~~ client files on each client applying for and receiving service;~~,~~

B) schedule~~Schedule~~ of service provided to each client that~~which~~ includes the date and time service was provided~~,~~ and the agency's employee providing service;~~.~~

b) Purchase of service providers shall maintain individual client records for clients for whom services were purchased by the Department 5~~five~~ years from the date services are terminated. Individual client records shall contain:

1) the original referral from the Department or in the case of funded day care facilities the documentation of need for services if it was the provider's responsibility to gather it or if the Department submitted it to the provider;

2) documentation that~~which~~ supports Title IV-E and XIX (42 CFR 431) eligibility determinations, ~~and~~ redeterminations, court orders, and court findings regarding reasonable effort (i.e., effort to prevent placement or that effort was not possible) as appropriate, if it was the provider's responsibility to gather it or if the Department submitted it to the provider;

3) documentation that~~which~~ supports the need for child protective services if it was the provider's responsibility to gather it or if the Department submitted it to the provider;

4) documentation of the service planning goals established within required timeframes, when the case was opened and the changes made in the service planning goals as the client's needs changed;

5) documentation of the child and family's progress or lack of progress toward achieving the service planning goals including the social service worker's or other responsible employee's reports and official records regarding the child and family's cooperation in meeting service planning goals;

6) basic client social history data and updates, as necessary, if it was the provider's responsibility to gather it or if the Department submitted it to the provider; and

7) any other documentation specifically required in the purchase of service contract.

c) Purchase of service providers shall maintain personnel records of all employees who provide direct or supportive services to Department clients. Personnel records shall be maintained on each employee for 5~~five~~ years after the termination of employment. The following information shall be maintained:

1) proof of educational background including high school or college transcripts or a copy of the diploma; or, if the employee has attended a training program, documentation of the employee's completion of the program;

2) detailed summary of the employee's work experience;

3) at a minimum, yearly employee performance evaluations;

4) payroll data, including salary, accrued vacation and sick days, records of when vacation and sick days were taken, and travel expense records; and

5) documentation that a background check was completed for each employee in accordance with ~~the Department's rule,~~ 89 Ill. Adm. Code 385~~,~~ (Background Checks).

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

Section 357.140 Contract Termination

a) The Department of Children and Family Services and the purchase of service provider reserve the right to terminate a purchase of service contract at any time

upon provision of 30 days written notice to the other party. However, if either party fails to comply with the terms of the contract, the contract may be terminated by the other party effective upon the date of written notice of termination.

b) The Department shall not be liable for payment for service provided after the contract termination date or after the last child for whom the Department is making payment is removed from the provider's care, whichever is later. The Department is also not liable for any payments to individuals or entities for which the purchase of service provider is contractually obligated.

c) The purchase of service provider~~agency~~ shall return to the Department all funds received from the Department that are in excess of actual costs of providing the contract services that were delivered before the contract was terminated.

d) Upon expiration or termination of the contract, any building and equipment meeting the following two conditions shall be identified to the Department within 90 days and returned subject to final disposition decision:

1) exceeding $1,500 in value at the time of purchase with a useful life of 3~~three~~ years; and

2) purchased directly with Department funds and not included in an acceptable cost allocation plan.

(Source: Amended at 29 Ill. Reg. 8706, effective June 8, 2005)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Grants-in-Aid

2) Code Citation: 89 III. Adm. Code 360

3)

Section Numbers:	Adopted Action:
360.3	Amended
360.4	Amended
360.6	Amended

4) Statutory Authority: 20 ILCS 505

5) Effective Date of Amendments: June 8, 2005

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: 28 Ill Reg. 7763; June 11, 2004

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

11) Differences between proposal and final version: The Department made only editing and formatting changes that were suggested by the Joint Committee on Administrative Rules.

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 Amendments: The adopted rulemaking removes references to reporting requirements in this Part and consolidates all the information in 89 Ill. Adm. Code 357.120. A cross-reference to that Section has been added.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER c: FISCAL ADMINISTRATION

PART 360
GRANTS-IN-AID

Section

360.1 Purpose
360.2 Definitions
360.3 General Characteristics of Grants in-Aid
360.4 Applications for Grants
360.5 Grants-in-Aid for Day Care (Repealed)
360.6 Grants-in-Aid for Child Abuse and Neglect Research, Demonstration and Development
360.7 Continuation of Grants-in-Aid (Repealed)
360.8 Monitoring and Required Reports (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505] and the Child Care Act of 1969 [225 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 7807, effective August 3, 1981; amended at 8 Ill. Reg. 17263, effective October 1, 1984; amended at 9 Ill. Reg. 7928, effective May 15, 1985; amended at 21 Ill. Reg. 15486, effective December 15, 1997; amended at 23 Ill Reg. 854, effective January 15, 1999; amended at 29 Ill. Reg. 8724, effective June 8, 2005.

Section 360.3 General Characteristics of Grants in-Aid

a) Grants-in-aid are subject to the Illinois Grant Funds Recovery Act [30 ILCS 705].

b~~a~~) Grants-in-aid are used for the following general purposes:

1) To provide initial start-up funding for programs in their developmental stages.

2) Demonstration or pilot projects.

3) Research or other non-direct service projects.

4) To promote local community-based programs in the areas that lack needed

services.

5) To promote programs of value to child welfare and youth service in general, even though the Department does not make direct use of them for its own clients.

c~~b~~) Grants are generally paid in advance or on a monthly or quarterly basis, as opposed to purchase of service contracts (see 89 Ill. Adm. Code 357: Purchase of Service) that~~which~~ are paid based on units of service after the service has been provided. However, grants may also be based on provision of a minimum level of units of service or a deliverable product.

d~~c~~) Other sources of support from the Department or the community should supplement grant support as the project moves from the development or demonstration phase to becoming an ongoing program. Projects that~~which~~ are not eligible for financing from other Department funding sources may be considered for grant funding continuation provided the project's goals and objectives are being met, there is a continuing need for the project, no other funding sources are available and continued grant funds from the Department are available. Department grants for the support of Children's Advocacy Centers can be provided after the first full year of operation only when supplemented by funding from community services.

e~~d~~) All grantees ~~receiving a grant of more than $50,000 from the Department~~ shall provide the Department with an ~~independent, certified~~ audit report within 180 days after the close of the grantee's fiscal year in accordance with 89 Ill. Adm. Code 357.120 (Fiscal Reports and Records). Additionally, all grantees shall provide the Department with reports as stipulated in the grant contract and keep fiscal and programmatic records that~~which~~ document the ways in which grant monies were spent and services were rendered in accordance with 89 Ill. Adm. Code 357.130 (Required Documentation). ~~Such required record keeping includes, but is not limited to:~~

~~1) establishment of financial record keeping which includes:~~

~~A) Cash Receipts Journal~~

~~B) Cash Disbursements Journal~~

~~C) General Journal~~

~~D)~~ ~~General Ledger~~

~~E)~~ ~~All cash disbursements and/or expenses must be fully supported by documentation; such as, invoices, time sheets, time studies, or approved cost allocation plans.~~

~~2)~~ ~~establishment of programmatic compliance record keeping which include:~~

~~A)~~ ~~individual client files on each client applying for and receiving service.~~

~~B)~~ ~~schedule of service provided to each client which includes the date and time service was provided, and the agency's employee providing service.~~

f~~e~~) Disallowable costs for which grant monies may not be used are the same as the disallowable costs set forth in ~~Rate Setting,~~ 89 Ill. Adm. Code 356.60 (Rate Setting).

(Source: Amended at 29 Ill. Reg. 8724, effective June 8, 2005)

Section 360.4 Applications for Grants

a) The Department accepts applications for grants on the basis of:

1) Proposals submitted in response to Requests for Proposals (RFP's) issued by the Department.

2) Direct applications for grants based on the applicant's demonstration that the proposal meets a need identified in the Department's yearly planning and needs assessment process (see 89 Ill. Adm. Code 326 Planning for Statewide Resource Allocation). This needs assessment process involves input from all Department divisions, executive offices and regions in order to identify incidences and/or the extent of problems within a specified geographical area or within a given population.

b) Requests for proposals for grants-in-aid follow the same RFP requirements of issuance, content, evaluation, notification and disclosure as contained in 89 Ill. Adm. Code 357, Purchase of Service, Sections 357.4 through 357.8.

c) Once a grant is awarded, the grantee must sign a contract with the Department and comply with the same contract requirements as described in 89 Ill. Adm. Code 357~~,~~ (Purchase of Service), Sections 357.110~~10,~~ (Compliance During the Contract Period), 357.120~~11,~~ (Fiscal Reports and Records), 357.130~~12,~~ (Required Documentation) and 357.140~~13,~~ (Contract Termination).

(Source: Amended at 29 Ill. Reg. 8724, effective June 8, 2005)

Section 360.6 Grants-in-Aid for Child Abuse and Neglect Research, Demonstration and Development

a) Grants-in-aid relating to child abuse and neglect may be provided as funding is available, for the specific purposes of:

1) reviewing or conducting applied or client research to further policy or practice development for the prevention or treatment of child abuse and neglect;

2) developing new programs, models or tools or techniques;

3) disseminating tested and validated programs and practices through support of projects which replicate these programs and practices.

b) The types of activities which may be supported by the grant program include:

1) applied research;

2) evaluation and technical assistance;

3) development or demonstration of new direct client service programs to prevent or treat child abuse or neglect;

4) education or public awareness programs or materials;

5) efforts to mobilize and coordinate community resources.

c) Each year the Department assesses the Department's research, demonstration and development needs. This assessment of need is used as the basis for the development of a statement of priorities. These priorities are issued with

guidelines requesting applications for new projects. Eligible applicants include public agencies, incorporated private agencies and qualified individuals. In order to apply for funding, applicants must develop written proposals which provide the following kinds of information:

1) the project's relationship to the Department's priorities;

2) a review of the literature in the field or other documentation of need for the project;

3) a program design which includes the project's objectives, goals, scheduled activities, and evaluation procedures;

4) the applicant's ability to implement the project;

5) personnel qualifications;

6) a budget detail and justification; and

7) other pertinent data, as requested.

d) The Department shall determine the number and amount of grant awards based upon the scope of the projects and the total grant funds available. Because the nature of the grant program is research, demonstration, and development, grant support of projects is time limited. The amount and length of funding of non-service projects, such as research and evaluation, will be based upon the scope and intent of these projects. Direct client service projects may be supported through the grant program for up to three years. Over this time period, grant support may be reduced.

e) Funding of client service projects under the grant program follows the stipulations listed below:

1) payments are made in quarterly allotments and are provided at the beginning of the quarter upon receipt of the previous quarter report;

2) payment for the upcoming quarter is based upon the completion of the task specified in the grantee's contract for the previous quarter and upon submission of the required programmatic and financial reports for the previous quarter;

3) the amount of funding for multi-year projects is determined by the terms of the grant award which will specify the levels of funding for which the grantee may be eligible over a specified time period.

f) The Director of the Department, or designee, shall determine, based on total grant funds available, grants requests received, and the scope and intent of the request in relationship to the Department's priorities, the awards to be made, the amounts of the grants and the schedule of payments. A written contract will be negotiated with the grant recipient.

g) The request for proposal will identify the criteria for determining continued need as well as the expected length of support with grant funds. Criteria for continuation of grants-in-aid will include, but are not limited to, the ability of the grantee to generate other sources of income, community support, and the availability of services in the geographic area.

h) Grantees may apply for continuation of a grant beyond the fiscal year for which the grant was initially awarded. The decision on renewal will be based on the continued need for the grant-in-aid such as client demand as evidenced by program caseload and the availability of grant funds and the Department's evaluation of the program for the funded year.

i) The Department will monitor the effectiveness of the grant in relationship to the program design that~~which~~ stipulated the objectives and goals of the grants.

j) The contract will specify~~include~~ all the required reports/materials and due dates that ~~which~~ must be submitted by the grantee~~, including cost reporting information on a quarterly basis. The grantee will be required to submit quarterly evaluation reports for services performed or will submit materials in compliance with the specifications of the RFP~~. These reports/materials will be reviewed by the administrator responsible for contracts and grants and by the program specialist in the Division of Policy and Plans. Grantees will receive copies of all monitoring reports for their programs.

(Source: Amended at 29 Ill. Reg. 8724, effective June 8, 2005)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Audits, Reviews, and Investigations

2) Code Citation: 89 III. Adm. Code 434

3)

Section Numbers:	Adopted Action:
434.1	Amended
434.2	Amended
434.7	Amended
434.11	Repealed

4) Statutory Authority: 20 ILCS 505/4

5) Effective Date of Rulemaking: June 8, 2005

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

7) Does this rulemaking contain incorporations by reference? No

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

9) Notice of Proposal Published in Illinois Register: 28 Ill Reg. 7784; June 11, 2004

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

11) Differences between proposal and final version: In regard to excess revenue calculations, the Department clarified that programs reimbursed through rates containing an enhancement add-on may retain the allowable 7% after the year in which the enhancement was granted.

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 Amendments: The adopted rulemaking removes references to reporting requirements in this Part and consolidates all the information in 89 Ill. Adm. Code 357.120. A cross-reference to that Section has been added.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

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

Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER f: GENERAL ADMINISTRATION

PART 434
AUDITS, REVIEWS, AND INVESTIGATIONS

Section
434.1 Purpose
434.2 Definitions
434.3 Audit Standards to be Applied and Audit Procedures to be Followed for the Office of Field Audits – OFA
434.4 Scope of the OFA Audit/Review or Investigation
434.5 Reports of OFA Auditors
434.6 Exit Conferences
434.7 Certified Audits, Cost Reports and Desk Reviews
434.8 Records Maintenance and Availability for Audit
434.9 Responsibilities of the Office of Field Audits
434.10 Administrative Hearings of Draft Audit Findings and Recommendations
434.11 Referrals by Department Employees to the Investigations Unit (Repealed)
434.12 Severability of This Part

AUTHORITY: Implementing and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4] and the Fiscal Control and Internal Auditing Act [30 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 8634, effective September 1, 1981; amended at 8 Ill. Reg. 133, effective December 30, 1983; amended at 18 Ill. Reg. 6697, effective May 1, 1994; emergency amendment at 18 Ill. Reg. 8944, effective June 3, 1994, for a maximum of 150 days; emergency expired on October 31, 1994; amended at 19 Ill. Reg. 2760, effective February 27, 1995; amended at 21 Ill. Reg. 15469, effective December 15, 1997; amended at 26 Ill. Reg. 3021, effective February 15, 2002; amended at 27 Ill. Reg. 7971, effective April 30, 2003; amended at 29 Ill. Reg. 8732, effective June 8, 2005.

Section 434.1 Purpose

The purpose of this Part is to define the scope of the audits/reviews and investigations conducted by the Department. This Part also explains the process the Department will use when conducting audits/reviews and investigations of private agencies that~~who~~ contract with the Department, and agencies that are licensed by the Department.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 29 Ill. Reg. 8732, effective June 8, 2005)

Section 434.2 Definitions

"Audit/Review" means an examination of financial transactions, accounts and reports, and an evaluation of internal controls or an evaluation of compliance with applicable laws and regulations. An audit/review may also include an examination of efficiency and economy in the use of resources (such as personnel, property, space), or an examination to determine whether desired results are effectively achieved.

"Certified Audits" means the entity's annual financial and compliance report that~~which~~ has been examined by an Independent Licensed Certified Public Accountant.

"Cost Report" means a report of all costs incurred and revenue earned by a provider that are directly associated with services purchased by the Department for its clients~~the Consolidated Financial Report~~.

"Department" or "DCFS" means the Illinois Department of Children and Family Services.

"Desk Review", as used in this Part, means a review by the Department's Office of Field Audits of certified public audits and cost reports submitted by the provider agency.

"Field Auditor" is a Department employee whose responsibilities include conducting audits of contracted purchase of service providers to confirm their compliance with applicable laws and regulations, and to make recommendations to the Director regarding the results of those audits.

"Follow-up Review" means a viewing of past occurrences or contemplation or consideration of past events, circumstances, or facts.

"Investigation" means an examination of employee conduct, security systems, and contractor conduct to assure compliance with State, federal and Departmental rules and regulations. A Department investigation is not intended to focus on criminality or prepare cases for prosecution, but rather to obtain sufficient documentation to assure the Director of the appropriateness of Department and service provider employee conduct and the safeguarding of Department assets.

"Limited Review" means an examination of financial transactions, accounts and reports, an evaluation of internal controls, or an evaluation of compliance with applicable laws and regulations that is limited in scope to examine only certain areas. (Although this is not a full scope audit, it may include an examination of efficiency and economy in the use of resources (such as personnel, property, space) and an examination to determine whether desired results are effectively achieved.)

"Preliminary Review" means a limited review of financial transactions, accounts, reports and internal controls and compliance with contract provisions to assess the full scope needed during an upcoming audit.

~~"Program Type" means services provided through the same appropriation account for similar services.~~

"Related Party Transaction" means a financial transaction in which one party has the ability to influence the management or operating policies of the other party. Disclosure of related party transactions should include the nature of the relationship, a description of the transactions, including dollar amounts, and amounts due to and from related parties.

"Scope of the Audit or Investigation" means the activities and testing procedures that the auditor or investigator deems necessary to conduct an examination or investigation.

(Source: Amended at 29 Ill. Reg. 8732, effective June 8, 2005)

Section 434.7 Certified Audits, Cost Reports and Desk Reviews

a) The Department's requirements for providers include the annual filing of a cost report ~~(for all providers~~ in accordance with 89 Ill. Adm. Code 356 (Rate Setting)~~357)~~ and an audit report in accordance with 89 Ill. Adm. Code 357 (Purchase of Service) and 360 (Grants-in-Aid)~~a certified audit of entities who receive annual payments in excess of $150,000 in any one contract year. The certified audit for all entities must be completed and submitted within 180 calendar days after the completion of their fiscal year as required by Purchase of Service (89 Ill. Adm. Code 357.120(f)). All governmental and not-for-profit entities must complete audits in accordance with OMB Circular A-133~~.

b) The certified audit reports are~~audit and related cost reports are to be~~ reviewed by the Office of Field Audits and the cost reports are reviewed by the Rate Setting Unit and, when appropriate, a report on the certified audit or cost reports will be issued to Department officials who are responsible for the contracts. The general objectives of the desk review and report shall determine whether:

1) financial and service unit information is appropriately presented and is consistent with the generally accepted accounting principles;

2) costs incurred in operating the contracted service are not less than the revenues received directly for the program;

3) related party transactions are appropriately recorded and disclosed;

4) significant accounting practices and other information that require disclosure (as described by generally accepted accounting principles) are disclosed appropriately; and

5) funds were used in accordance with Department policy and whether the entity has received monies in excess of actual reimbursable costs.

c) The Office of Field Audits is responsible for answering all questions regarding the preparation of a certified audit. If the Department has not received the certified audit by the deadline of 180 calendar days after the completion of the entity's fiscal year, the Department~~Office of Field Audits~~ will notify the entity of the delinquency and send a copy of the notice to the Department's Contracts and Grants unit and regional administrative staff.

d) All certified audit reports~~audits~~ are logged in upon receipt by the Office of Field ~~I~~ Audits and a check-in list~~an audit digest (summary of findings)~~ is prepared for each audit received. If the audit does not contain adequate information, the Office of Field Audits will send a letter to the entity to request additional information. If the certified audit does not meet the standards set out in 89 Ill. Adm. Code 357.120 (Purchase of Service Fiscal Reports and Records)~~subsection (a) of this Section~~, the entity will be given 10 business days to submit omitted items or 30 business days to submit a new certified audit.

e) The Office of Field Audits will prepare a desk review report that will highlight any deficiencies that are found in the audit and will contain specific recommendations for procedural changes in the preparation of certified audits.

The completed desk review report will be sent directly to the entity, with a copy to appropriate Department regional staff.

f) Department regional staff are responsible for reviewing the recommendations contained in the desk review report and providing assistance as necessary to the entity in follow-up on the recommendations made. The desk review report may contain recommendations for contract or budget revisions that must be acted upon by the regional staff.

g) The desk review report may contain recommendations that require an additional response from the entity before the certified audit is accepted. The entity's response and concurrence with the recommendations of the desk review report will close the desk review process.

h) Effective with cost reports received for contract periods ending after July 1, 2003, excess~~Excess~~ revenue calculations shall be based on the information reported in the Cost~~Consolidated Financial~~ Report or other suitable financial report accepted by the Department. The certified independent audit report may be used to develop excess revenue calculations if sufficient detail exists within the report to support the excess revenue calculations, and an accurate cost report~~Consolidated Financial Report~~ or other suitable financial report is not available.

1) Programs Subject to Excess Revenue Determination:
The Department shall determine individual program excess revenues attributable to Department funding for contracted provider agency 24-hour substitute care programs. Examples of provider agency programs include, but are not limited to:

A) childcare institutions;

B) shelter care;

C) group homes;

D) independent living;

E) community integrated living arrangements;

F) agency foster care; and

G) other programs or contracted agencies, as determined by the Director or his/her designee.

2) Excess Revenue Determination Procedure

A) Excess revenue is the amount of purchase of service fees and governmental grant funding that exceeds total audited costs, less:

i) disallowable costs as listed in 89 Ill. Adm. Code 356.60 (Disallowable Cost and Reduced Reimbursement);

ii) fringe benefit costs, as defined in 89 Ill. Adm. Code 356.20 (Definitions), that exceed 25% of salaries and wages; and

iii) administrative costs that exceed 20% of all other allowable costs.

B) For excess revenue determinations, profit is considered as an allowable cost to the extent permitted in 89 Ill. Adm. Code 356 (Rate Setting).

C) Excess revenue attributable to Department funding is the amount of program excess revenues times Departmental revenue divided by all program purchase of service fees and government non-restricted grants.

3) Excess Revenue Amounts that May Be Retained

A) In each fiscal year, provider agencies may retain an amount of program excess revenues attributable to substitute care programs reimbursed through payments made according to standard reimbursement levels or through individual historical cost based program rates~~by means of an actual cost based rate that has been~~ calculated consistent with the process and standards defined in 89 Ill. Adm. Code 356~~. The amount retained may not exceed 7% of the program reimbursable costs~~, provided that:

i~~A~~) for programs with a licensed~~license~~ capacity, the total utilization is between 85% and 95% of the licensed or approved program capacity;

ii~~B~~) for the~~all~~ programs subject to the excess revenue review, administrative costs do not exceed 20% of reimbursable costs~~cost~~; and

iii~~C~~) the provider agency demonstrates that program staffing level meets the minimum requirements defined in the contract program plan and licensing standards where applicable. ~~Provider agencies choosing to retain excess revenues in accordance with this Section will be required to provide documentation supporting historical staffing levels in a report format prescribed by the Department.~~

B) The amount retained may not exceed the DCFS portion of 7% of the program reimbursable costs. Programs reimbursed through rates containing an enhancement add-on (see 89 Ill. Adm. Code 356.80) are not eligible to retain excess revenue amounts in the year in which the enhancement was granted.

C) All DCFS identified program excess revenue amounts retained by the provider agency must be invested in direct service (non-administrative) activities in programs funded by the Department. Provider agencies unable to demonstrate that retained program excess revenue amounts have been invested consistent with the provisions of this subsection (h)(3) will be subject to forfeiture of the retained funds.

4) Amounts Returned to the Department
Amounts to be returned to the Department must be received within 60 days after the date the excess revenue amount has been finalized and notification is mailed to the provider agency's director or his/her designee or after a payment plan has been approved.

5) Program Excess Revenue Offsets
Program excess revenue may not be offset against other program deficits occurring in the year reviewed, or any other year, without the approval of the Director or his/her designee.

~~i) Waiver of the certified audit requirement must be requested in writing and directed to the Department's Chief Internal Auditor. The request should state the~~

~~reason for the waiver request. A request for an extension of the deadline for submittal of the audit beyond the time specified in the contract must be submitted in writing to the Associate Deputy Director of the Office of Field Audits. The Department's Chief Internal Auditor and Associate Deputy Director of the Office of Field Audits will respond to requests for waivers or extensions within 30 business days, specifying approval or rejection of the waiver or extension.~~

(Source: Amended at 29 Ill. Reg. 8732, effective June 8, 2005)

Section 434.11 Referrals by Department Employees to the Investigations Unit (Repealed)

~~a) Department employees are responsible for referring specific types of problems identified as a result of their work to the unit of the Department responsible for investigations. Examples of the type of problems or inappropriate activities which should be referred are:~~

~~1) employee or provider fraud;~~

~~2) submittal of erroneous travel vouchers by Department staff;~~

~~3) threatening letters or telephone calls received by Department employees;~~

~~4) reports of alleged child abuse or neglect by Department employees in their roles as employees;~~

~~5) kickbacks between providers, or between a provider and a Department employee;~~

~~6) misuse of State funds by a Department employee;~~

~~7) misrepresentation of vital information (employment history, criminal background, identifying information) by a Department employee or provider agency;~~

~~8) knowledgeable submittal of inaccurate Department, State or federal report; and~~

~~9) release of confidential information to unauthorized individuals.~~

~~b) Any other activities which are of a potentially criminal nature (i.e., violation of~~

~~State or federal law) should also be reported to the investigations unit.~~

~~e)~~ ~~The investigation process will require the investigator(s) assigned to the case to conduct a formal verbal interview with the employee reporting the incident/activity, which will later be supplemented by a written, signed statement summarizing the content of the interview. Full, accurate disclosure of all pertinent information will be necessary to ensure the integrity of the investigation.~~

(Source: Repealed at 29 Ill. Reg. 8732, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: General Rules

2) Code Citation: 35 Ill. Adm. Code 101

3)

Section Numbers:	Adopted Action:
101.106	Amend
101.110	Amend
101.114	Amend
101.202	Amend
101.300	Amend
101.302	Amend
101.628	Amend
101.Appendix F	Amend
101.Appendix G	Repeal

4) Statutory Authority: Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act [415 ILCS 5], amended by P.A. 92-574, effective June 26, 2002

5) Effective Date of Amendments: June 8, 2005

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

7) Do these amendments contain incorporations by reference? No

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

9) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 6772; May 7, 2004

10) Has JCAR issued a Statement of Objection to these amendments? 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 letter issued by JCAR? The Board did not make any changes to the proposal it adopted for first notice.

13) Will these amendments replace any emergency amendments currently in effect? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 101 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 102, 103, 104, 105, 106, 107, 108, 125, and 130 of Title 35 of the Illinois Administrative Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

The amendments adopted in this rulemaking reflect recent statutory changes to the Environmental Protection Act. For example, P.A. 93-509 amends Section 5 of the Environmental Protection Act (415 ILCS 5/5 (2002)). Among other things, this legislation reduces the number of Board members from seven to five and correspondingly reduces the number of Board members needed for a majority vote. Accordingly, the Board amended the definition of "Board decision" in the procedural rules to reflect that the favorable vote of at least three rather than four Board members is required for a Board decision.

The amendments also make changes to correspond with P.A. 93-152, which amended the Environmental Protection Act in several significant ways. For example, this rulemaking changes Section 101.302(d) to reflect that the Illinois Environmental Protection Agency, rather than the Board, is now responsible for issuing provisional variances.

In addition, the adopted amendments make Part 101 consistent with the new State Officials and Employees Ethics Act, which created sweeping ethics requirements for State officers and employees. The new ethics statute necessitates changes to the Board's procedural rules on "*ex parte* communications." The Board amended the definition of "*ex parte* communication" in Section 101.202 to track the statutory language defining the term. The Board also amended Section 101.114 on *ex parte* communications. The main change to this Section corresponds to new statutory reporting requirements for the Board's ethics officer.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 101
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

Section
101.100 Applicability
101.102 Severability
101.104 Repeals
101.106 Board Authority
101.108 Board Proceedings
101.110 Public Participation
101.112 Bias and Conflict of Interest
101.114 Ex Parte Communications

SUBPART B: DEFINITIONS

Section
101.200 Definitions Contained in the Act
101.202 Definitions for Board's Procedural Rules

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section
101.300 Computation of Time
101.302 Filing of Documents
101.304 Service of Documents
101.306 Incorporation of Documents by Reference
101.308 Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section
101.400 Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings

101.402 Intervention of Parties
101.403 Joinder of Parties
101.404 Agency as a Party in Interest
101.406 Consolidation of Claims
101.408 Severance of Claims

SUBPART E: MOTIONS

Section
101.500 Filing of Motions and Responses
101.502 Motions Directed to the Hearing Officer
101.504 Contents of Motions and Responses
101.506 Motions Attacking the Sufficiency of the Petition, Complaint, or Other Pleading
101.508 Motions to Board Preliminary to Hearing
101.510 Motions to Cancel Hearing
101.512 Motions for Expedited Review
101.514 Motions to Stay Proceedings
101.516 Motions for Summary Judgment
101.518 Motions for Interlocutory Appeal from Hearing Officer Orders
101.520 Motions for Reconsideration
101.522 Motions for Extension of Time

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section
101.600 Hearings
101.602 Notice of Board Hearings
101.604 Formal Board Transcript
101.606 Informal Recordings of the Proceedings
101.608 Default
101.610 Duties and Authority of the Hearing Officer
101.612 Schedule to Complete the Record
101.614 Production of Information
101.616 Discovery
101.618 Admissions
101.620 Interrogatories
101.622 Subpoenas and Depositions
101.624 Examination of Adverse, Hostile or Unwilling Witnesses
101.626 Information Produced at Hearing
101.628 Statements from Participants

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

101.630 Official Notice
101.632 Viewing of Premises

SUBPART G: ORAL ARGUMENT

Section
101.700 Oral Argument

SUBPART H: SANCTIONS

Section
101.800 Sanctions for Failure to Comply with Procedural Rules, Board Orders, or Hearing Officer Orders
101.802 Abuse of Discovery Procedures

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

Section
101.902 Motions for Reconsideration
101.904 Relief from and Review of Final Opinions and Orders
101.906 Judicial Review of Board Orders
101.908 Interlocutory Appeal

101.APPENDIX A Captions
101.ILLUSTRATION A Enforcement Case
101.ILLUSTRATION B Citizen's Enforcement Case
101.ILLUSTRATION C Variance
101.ILLUSTRATION D Adjusted Standard Petition
101.ILLUSTRATION E Joint Petition for an Adjusted Standard
101.ILLUSTRATION F Permit Appeal
101.ILLUSTRATION G Underground Storage Tank Appeal
101.ILLUSTRATION H Pollution Control Facility Siting Appeal
101.ILLUSTRATION I Administrative Citation
101.ILLUSTRATION J General Rulemaking
101.ILLUSTRATION K Site-specific Rulemaking
101.APPENDIX B Appearance Form
101.APPENDIX C Withdrawal of Appearance Form
101.APPENDIX D Notice of Filing
101.APPENDIX E Certificate of Service
101.ILLUSTRATION A Service by Non-Attorney

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

101.ILLUSTRATION B Service by Attorney
101.APPENDIX F Notice of Withdrawal (Repealed)
101.APPENDIX G Comparison of Former and Current Rules (Repealed)

AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8, 2005.

SUBPART A: GENERAL PROVISIONS

Section 101.106 Board Authority

a) The Board has the authority to *determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of the Act* [415 ILCS 5/5(b)].

b) The Board has the *authority to conduct proceedings~~hearings~~ upon complaints charging violations of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order; upon administrative citations~~or of regulations thereunder~~; upon petitions for variances or adjusted standards; upon petitions for review of the Agency's final determinations on ~~denial of a~~ permit applications in accordance with Title X of the Act; upon petitions~~petition~~ to remove seals ~~a seal~~ under Section 34 of the Act; upon other petitions for review of final determination which are made pursuant to the Act or Board rules and which involve a subject which the Board is authorized to regulate. The Board may also conduct~~; and such~~ other proceedings~~hearings~~ as may be provided by the Act or any other statute or rule.* [415 ILCS 5/5(d)]~~.~~

c) In addition to subsections (a) and (b) of this Section, the Board has the authority to act as otherwise provided by law.

(Source: Amended at 29 Ill. Reg. 8743, effective June 8, 2005)

Section 101.110 Public Participation

a) General. The Board encourages public participation in all of its proceedings. The extent to which the law allows for the participation varies, depending on the type of Board proceeding involved, the party status of the person or persons seeking to participate, and the rules governing that type of proceeding. Public participation in particular proceedings may be more specifically delineated by Board or hearing officer order consistent with the provisions of applicable law and the Board's procedural rules. (See Sections 101.114 and 101.628 of this Part.)

b) Party/Non-Party Status. The issue of who constitutes a proper party in each type of adjudicatory proceeding before the Board is addressed in the rules. A person who wishes to participate in a Board adjudicatory proceeding and is not a party will be deemed a participant and will have only those rights specifically provided in these rules. A person who wishes to participate in a Board regulatory proceeding will be deemed a participant and will have only those rights specifically provided in these rules.

c) Amicus Curiae Briefs. Amicus curiae briefs may be filed in any adjudicatory proceeding by any interested person, provided permission is granted by the Board. Response briefs may be allowed by permission of the Board, but not as of right. The briefs must consist of argument only and may not raise facts that are not in evidence in the relevant proceeding. Amicus curiae briefs, and any responses, will be considered by the Board only as time allows. The briefs will not delay decision-making of the Board. (See also Section 101.302(k) of this Part.)

(Source: Amended at 29 Ill. Reg. 8743, effective June 8, 2005)

Section 101.114 Ex Parte Communications

a) For the purposes of this Section, "interested person or party" *means a person* or *entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, investment, or licensing matter* [5 ILCS 430/5-50(d)].

b) For the purposes of this Section, "Executive Ethics Commission" means the commission created by the State Officials and Employees Ethics Act [5 ILCS 430].

~~a) Adjudicatory Proceedings. Board members and employees are prohibited form engaging in ex-parte communications with respect to a pending adjudicatory proceeding. (See definitions of "ex-parte communication" in Section 101.202 of this Part.) For purposes of this Section, Board employee means a person the Board employs on a full time, part time, contract, or intern basis.~~

c~~b~~) Adjudicatory and Regulatory Proceedings. Board Members and Board employees should not engage in an ex parte communication designed to influence their action with respect to an adjudicatory or ~~a pending~~ regulatory proceeding pending before or under consideration by the Board. (See definition of "ex parte communication" in Section 101.202 of this Part.) Whenever practicable, an interested person or party or his or her official representative or attorney should make all communications with respect to an adjudicatory or ~~a pending~~ regulatory proceeding pending before or under consideration by the Board ~~must be~~ in writing and address them ~~addressed~~ to the Clerk rather than to individual Board Members or Board employees. (See Sections 101.110 and 101.628 of this Part.)

d~~c~~) Nothing in this Section precludes Board Members or Board employees from receiving informal complaints about individual pollution sources, or forbids the administrative contacts as would be appropriate for judges and other judicial officers. Information about a pollution source included in the record of a regulatory proceeding is not an ex parte communication with respect to any adjudicatory proceeding concerning the pollution source.

e~~d~~) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication from an interested person or party or his or her official representative or attorney, the recipient, in consultation with the Board's ethics officer or his or her designee, must promptly memorialize the communication and make it ~~In the event that an ex parte communication occurs, the Board Member or Board employee will make that communication~~ part of the record of the proceeding. To make an oral ex parte communication part of the record, the substance of the oral communication, along with the identity of each person involved in the communication, will be either set forth in a memorandum and placed in the record or announced on the record at a public hearing.

f) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication, other than an ex parte communication received from an interested person or party or his or her official representative or attorney, that communication must be promptly reported to the Board's ethics officer or his or her designee *by the recipient of the communication and by any*

other employee of the Board who responds to the communication [5 ILCS 430/5-50(c)].

1) *The ethics officer* or his or her designee, in consultation with the recipient of the ex parte communication, must ensure *that the ex parte communication is promptly made part of the record of the proceeding* [5 ILCS 430/5-50(c)].

2) *The ethics officer* or his or her designee, in consultation with the recipient of the ex parte communication, must *promptly file the ex parte communication with the Executive Ethics Commission, including:*

A) *All written communications;*

B) *All written responses to the communications;*

C) *A memorandum prepared by the ethics officer stating the nature and substance of all oral communications;*

D) *The identity and job title of the person to whom each communication was made;*

E) *All responses made;*

F) *The identity and job title of the person making each response;*

G) *The identity of each person from whom the written or oral ex parte communication was received;*

H) *The individual or entity represented by that person;*

I) *Any action the person requested or recommended; and*

J) *Any other pertinent information.*

3) *The disclosure shall also contain the date of any ex parte communication*. [5 ILCS 430/5-50(c)]

(Source: Amended at 29 Ill. Reg. 8743, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

Unless otherwise provided in 35 Ill. Adm. Code 101-130, or unless a different meaning of a word or term is clear from the context, the following definitions also apply to the Board's procedural rules, found in 35 Ill. Adm. Code 101 through 130:

"Act" means the Environmental Protection Act. [415 ILCS 5/1 *et seq.*]

"Adjudicatory proceeding" means an action of a quasi-judicial nature brought before the Board pursuant to authority granted to the Board under Section 5(d) of the Act or as otherwise provided by law. Adjudicatory proceedings include enforcement, variance, permit appeal, pollution control facility siting appeal, Underground Storage Tank (UST) Fund determination, water well set back exception, adjusted standard, and administrative citation proceedings. Adjudicatory proceedings do not include regulatory, quasi-legislative, or informational proceedings.

"Adjusted standard" or "AS" means an alternative standard granted by the Board in an adjudicatory proceeding pursuant to Section 28.1 of the Act and 35 Ill. Adm. Code 104.Subpart D. The adjusted standard applies instead of the rule or regulation of general applicability.

"Administrative citation" or "AC" means a citation issued pursuant to Section 31.1 of the Act by the Agency, or by a unit of local government acting as the Agency's delegate pursuant to Section 4(r) of the Act.

"Administrative citation review (appeal)" means a petition for review of an administrative citation filed pursuant to Section 31.1(d) of the Act. (See 35 Ill. Adm. Code 108.)

"Affidavit" means a sworn, signed statement witnessed by a notary public.

"Affidavit of service" means an affidavit that states that service of a document upon specified persons was made, and the manner in which, and date upon which, service was made.

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

"Agency recommendation" means the document filed by the Agency pursuant to Sections 37(a) and 28.1(d)(3) of the Act in which the Agency provides its recommended disposition of a petition for variance or an adjusted standard. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218 and 104.416.)

"Amicus curiae brief" means a brief filed in a proceeding by any interested person who is not a party. (See Sections 101.110 and 101.628 of this Part.)

"Applicant" means any person who submits, or has submitted, an application for a permit or for local siting approval pursuant to any of the authorities to issue permits or granting of siting approval identified in Sections 39, 39.1, and 39.5 of the Act.

"Article" means *any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map* [415 ILCS 5/7.1].

"Attorney General" means the Attorney General of the State of Illinois ~~and/~~or representatives thereof.

"Authorized representative" means any person who is authorized to act on behalf of another person.

"Board" means the Illinois Pollution Control Board as created in Section 5 of the Act or, if applicable, its designee.

"Board decision" means an opinion or an order voted in favor of by at least three~~four~~ members of the Board at an open Board meeting except in a proceeding to remove a seal under Section 34(d) of the Act.

"Board designee" means an employee of the Board who has been given authority by the Board to carry out a function for the Board (e.g., the Clerk, Assistant Clerk of the Board, or hearing officer).

"Board meeting" means an open meeting held by the Board pursuant to Section 5(a) of the Act in which the Board makes its decisions and determinations.

"Board's procedural rules" means the Board's regulations set forth at 35 Ill. Adm. Code 101 through 130.

"Brief" means a written statement that contains a summary of the facts of a proceeding, the pertinent laws, and an argument of how the law applies to the facts supporting a position.

"CAAPP" means the Clean Air Act Permit Program, as adopted in Section 39.5 of the Act.

"Certificate of acceptance" means a certification, executed by a successful petitioner in a variance proceeding, in which the petitioner agrees to be bound by all terms and conditions that the Board has affixed to the grant of variance.

"Chairman" means the Chairman of the Board designated by the Governor pursuant to Section 5(a) of the Act.

"Citizen's enforcement proceeding" means an enforcement action brought before the Board pursuant to Section 31(d) of the Act by any person who is not authorized to bring the action on behalf of the People of the State of Illinois.

"Clean Air Act" or "CAA" *means the* federal *Clean Air Act, as now and hereafter amended*, *42 USC 7401 et seq.* [415 ILCS 5/39.5]

"Clean Water Act" means the federal Clean Water Act, 33 USC 1251 et seq.

"Clerk" means the Clerk of the Board.

"Complaint" means the initial filing that begins an enforcement proceeding pursuant to Section 31 of the Act and 35 Ill. Adm. Code 103.

"Compliance plan" means a detailed description of a program designed to achieve compliance with the Act and Board regulations.

"Copy" means *any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article* [415 ILCS 5/7.1].

"Counter-complaint" means a pleading that a respondent files setting forth a claim against a complainant. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files setting forth a claim against a co-party. (See 35 Ill. Adm. Code 103.206.)

"Cross-media impacts" means impacts that concern multiple environmental areas, such as air, land and/or water.

"Decision date" means the Board meeting immediately preceding the decision deadline.

"Decision deadline" means the last day of any decision period, as established by law, within which the Board is required to render a decision in an adjudicatory proceeding. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions respectively.)

"Decision period" means the period of time established by the Act within which the Board is required to make a Board decision in certain adjudicatory proceedings. (See Subpart C of this Part.) (See also Sections 38(a), 40, and 40.1 of the Act that establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions, respectively.)

"Deinked stock" *means paper that has been processed to remove inks, clays, coatings, binders and other contaminants* [415 ILCS 20/2.1].

"Delegated unit" means the unit of local government to which the Agency has delegated its administrative citation or other function pursuant to Section 4(r) of the Act.

"DNR" means the Illinois Department of Natural Resources.

"Discovery" means a pre-hearing process that can be used to obtain facts and information about the adjudicatory proceeding in order to prepare for hearing. The discovery tools include depositions upon oral and written questions, written interrogatories, production of documents or things, and requests for admission.

~~"DNS" means the Illinois Department of Nuclear Safety.~~

"DOA" means the Illinois Department of Agriculture.

~~"Duplicitous" or~~ "Duplicative" means the matter is identical or substantially similar to one brought before the Board or another forum.

"Environmental Management System Agreement" or "EMSA" means the agreement between the Agency and a sponsor, entered into under Section 52.3 of the Act and 35 Ill. Adm. Code 187, that describes the innovative environmental measures to be implemented, schedules to attain goals, and mechanisms for accountability.

"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed pursuant to Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act, ~~or~~ any rule or regulation adopted under the Act, ~~or Board order thereunder or~~ any permit or term or condition of a permit, or any Board order~~thereof~~.

"Ex parte communication" means *any written or oral* ~~a~~ *communication by any* ~~between a~~ *person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the* Board. *"Ex parte communication" does not include the following:*

> *statements by a person publicly made in a public forum,* including pleadings, transcripts, and public comments made part of the proceeding's record;
>
> *statements*~~who is not a Board Member or Board employee and a Board Member or Board employee that reflects on the substance of a pending Board proceeding and that takes place outside the record of the proceeding. *Communications*~~ *regarding matters of procedure and practice, such as* ~~*the*~~ *format* ~~*of pleadings*~~*, the number of copies required, the manner of filing*~~*service*~~*, and the status of a matter; and*
>
> *statements made by a State employee of the* Board *to* Board members *or other employees of the* Board.~~*proceedings, are not considered ex parte communications*~~ [5 ILCS 430/5-50(b)~~5 ILCS 100/10-60(d)~~]~~.~~

For purposes of this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114 of this Part.)

"Fast Track rulemaking" means a Clean Air Act rulemaking conducted pursuant to Section 28.5 of the Act.

"Federally required rule" means *a rule that is needed to meet the requirements of the federal Clean Water Act, Safe Drinking Water Act, Clean Air Act (including required submission of a State Implementation Plan), or Resource Conservation and Recovery Act, other than a rule required to be adopted under subsection (c) of Section 13, Section 13.3, Section 17.5, subsection (a) or (d) of Section 22.4, or subsection (a) of Section 22.40* [415 ILCS 5/28.2].

"Filing" means the act of delivering a document or article into the custody of the Clerk with the intention of incorporating that document or article into the record of a proceeding ~~or record~~ before the Board. The Clerk's Office is located at 100 West Randolph Street, Suite 11-500, Chicago, IL 60601.

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is appealable to an appellate court pursuant to Section 41 of the Act. (See Subpart I of this Part.)

"Frivolous" means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.

"Hearing" means a public proceeding conducted by a hearing officer where the parties and other interested persons, as provided for by law and the Board's procedural rules, present evidence and argument regarding their positions.

"Hearing officer" means a person licensed to practice law in the State of Illinois who presides over hearings and otherwise carries out record development responsibilities as directed by the Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Identical-in-substance rules (or regulations)" means *State regulations which require the same actions with respect to protection of the environment, by the same group of affected persons, as would federal regulations if USEPA administered the subject program in Illinois* [415 ILCS 5/7.2].

"Initial filing" means the filing that initiates a Board proceeding and opens a

docket. For instance, the initial filing in an enforcement proceeding is the complaint; in a permit appeal it is a petition for review; and in a regulatory proceeding it is the proposal.

"Innovative environmental measures" means any procedures, practices, technologies or systems that pertain to environmental management and are expected to improve environmental performance when applied. (See 35 Ill. Adm. Code 106.Subpart G.)

"Inquiry hearing" means a hearing conducted by the Board for the purpose of seeking input and comment from the public regarding the need for a rulemaking proceeding in a specific area.

"Interlocutory appeal" means an appeal of a Board decision to the appellate court that is not dispositive of all the contested issues in the proceeding. (See Section 101.908 of this Part.) An interlocutory appeal may also be the appeal of a hearing officer ruling to the Board. (See Section 101.518 of this Part.)

"Intervenor" means a person, not originally a party to an adjudicatory proceeding, who voluntarily participates as a party in the proceeding with the leave of the Board. (See Section 101.402 of this Part.)

"Intervention" means the procedure by which a person, not originally a party to an adjudicatory proceeding, voluntarily comes into the proceeding as a party with the leave of the Board. (See Section 101.402 of this Part.)

"JCAR" means the Illinois General Assembly's Joint Committee on Administrative Rules established by the IAPA (see 5 ILCS 100/5-90).

"Joinder" means the procedure by which the Board adds a person, not originally a party to an adjudicatory proceeding, as a party to the proceeding. (See Section 101.403 of this Part and 35 Ill. Adm. Code 103.206.)

"Misnomer" means a mistake in name, giving an incorrect name in a complaint or other document with respect to any properly included party.

"Motion" means a request made to the Board or the hearing officer for the purposes of obtaining a ruling or order directing or allowing some act to be done in favor of the movant. (See definition of "movant" in this Section.)

"Movant" means the person who files a motion.

"New pollution control facility" means *a pollution control facility initially permitted for development or construction after July 1, 1981; or the area of expansion beyond the boundary of a currently permitted pollution control facility; or a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste* [415 ILCS 5/3.32(b)].

"Non-disclosable information" means *information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act* [415 ILCS 5/7(a)].

"Notice list" means the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

"Notice to reinstate" means a document filed that recommences the decision period after a decision deadline waiver has been filed. The notice will give the Board a full decision period in which to make a decision. (See Section 101.308 of this Part.)

"Oral argument" means a formal verbal statement of advocacy on a proceeding's legal questions made at a Board meeting with the Board's permission. (See Section 101.700 of this Part.)

"OSFM" means Office of the State Fire Marshal.

"OSFM appeal" means an appeal of an OSFM final decision concerning eligibility and deductibility made pursuant to Title XVI of the Act.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding who is not a party, or a person who takes part in a regulatory or other quasi-legislative proceeding before the Board. A person becomes a participant in any of several ways, including filing a comment, being added to the notice list of a particular proceeding, or testifying at hearing.

"Participant in a CAAPP Comment Process" means a person who takes part in a Clean Air Act Permit Program (CAAPP) permit hearing before the Agency or comments on a draft CAAPP permit.

"Party" means the person by or against whom a proceeding is brought.

"Party in interest" means the Agency when asked to conduct an investigation pursuant to Section 30 of the Act during an ongoing proceeding. (See Section 101.404 of this Part.)

"Peremptory rulemaking" means *any rulemaking that is required as a result of federal law, federal rules and regulations, or an order of a court, under conditions that preclude compliance with the general rulemaking requirements of Section 5-40 of the IAPA and that preclude the exercise by the* Board *as to the content of the rule it is required to adopt.* [5 ILCS 100/5-50]

"Permit appeal" means an adjudicatory proceeding brought before the Board pursuant to Title X of the Act.

"Person" means *any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.* [415 ILCS 5/3.315~~3.26~~]~~.~~

"Petition" means the initial filing in an adjudicatory proceeding other than an enforcement proceeding, including permit appeals, OSFM appeals, UST appeals, appeals of pollution control facility siting decisions, variances and adjusted standards.

"Pilot project" means an innovative environmental project that covers one or more designated facilities, designed and implemented in the form of an EMSA. (See Section 52.3 of the Act.)

"Pollution control facility" means *any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act. The following are not pollution control facilities*:

waste storage sites regulated under 40 CFR 761.42;

sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;

sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3 of the Act;

abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;

sites or facilities used by any person to specifically conduct a landscape composting operation;

regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;

the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21 of the Act*;*

the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;

the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in ~~*paragraph (5) of subsection (a) of*~~ *Section* *57.9(a)(3)*~~*22.18(b)*~~ of the Act *are exempt under this* definition;

the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;

the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;

the portion of a site or facility accepting exclusively general construction or demolition debris, located in a county with a population over 700,000, and operated and located in accordance with Section 22.38 of the Act. [415 ILCS 5/3.330~~3.32(a)~~]

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board pursuant to Section 40.1 of the Act.

"Postconsumer material" means *paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after the waste has been passed through its end usage as a consumer item, including used corrugated boxes, old newspapers, mixed waste paper, tabulating cards, and used cordage.* Additionally, it includes *all paper, paperboard, and other fibrous wastes that are diverted or separated from the municipal solid waste stream* [415 ILCS 20/3(f)(2)(i) and (ii)]. (See also definition of "recycled paper" in this Section.)

"Prehearing conference" means a meeting held in an adjudicatory case to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which *shall be to maximize understanding of the intent and application of the proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing* [415 ILCS 5/27(d)]. (See 35 Ill. Adm. Code 102.404 and 102.406.)

"Proceeding" means an action conducted before the Board pursuant to authority granted under Section 5 of the Act or as otherwise provided by law. Board proceedings are of two types: quasi-legislative (~~e.g.,~~ rulemaking and inquiry

proceedings) and quasi-judicial (adjudicatory proceedings).

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Provisional variance" means a short term variance sought by an applicant and issued~~a party and recommended~~ by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C~~104.308~~.)

"Public comment" means information submitted to the Board during a pending proceeding either by oral statement made at hearing or written statement filed with the Board.

"Qualitative description" means a narrative description pertaining to attributes and characteristics.

"Quantitative description" means a numerically based description pertaining to attributes and characteristics.

"RCRA variance" means a variance from a RCRA rule or a RCRA permit required pursuant to Section 21(f) of the Act.

"Record" means the official collection, as kept by the Clerk, of all documents and exhibits including pleadings, transcripts, and orders filed during the course of a proceeding.

"Recycled paper" means paper which contains at least 50% recovered paper material. The recovered paper material must contain at least 45% deinked stock or postconsumer material. (See also "postconsumer material" in this Section.)

"Registered agent" means a person registered with the Secretary of State for the purpose of accepting service for any entity, or a person otherwise authorized in writing as an agent for the purpose of accepting service for that entity.

"Regulatory hearing" or "proceeding" means a hearing or proceeding held pursuant to Title VII of the Act or other applicable law with respect to regulations.

"Regulatory relief mechanisms" means variances, provisional variances and

adjusted standards. (See 35 Ill. Adm. Code 104.)

"Representing" means, for purposes of Part 130, *describing, depicting, containing, constituting, reflecting or recording* [415 ILCS 5/7.1].

"Requester" means, for purposes of Part 130, the person seeking from the agency the material claimed or determined to be a trade secret (see 415 ILCS 5/7.1).

"Resource Conservation and Recovery Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law for the purpose of adoption, amendment, or repeal of a regulation.

"Sanction" means a penalty or other mechanism used by the Board to provide incentives for compliance with the Board's procedural rules, Board orders or hearing officer orders. (See also Subpart H of this Part.)

"SDWA" means the federal Safe Drinking Water Act (42 USC 300f et seq.).

"Service" means delivery of documents upon a person. (See Sections 101.300(c) and 101.304 of this Part.)

"Service list" means the list of persons designated by the hearing officer or Clerk in a regulatory or adjudicatory proceeding upon whom participants must serve motions, prefiled questions and prefiled testimony and any other documents that the participants file with the Clerk unless the hearing officer otherwise directs. (See definition of "notice list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

"Severance" means the separation of a proceeding into two or more independent proceedings, each of which terminates in a separate, final judgment.

"Site-specific rule or regulation" means a proposed or adopted regulation, not of general applicability, that applies only to a specific facility, geographic site, or activity. (See 35 Ill. Adm. Code 102.208.)

"Sponsor" means the proponent of a pilot project that enters into an EMSA with

the Agency.

"State enforcement proceeding" means an enforcement proceeding, other than a citizen's enforcement proceeding, that is brought pursuant to Section 31(a) of the Act.

"Stay" means a temporary suspension of the regular progress of a proceeding pursuant to an order of the Board or by operation of law. (See Section 101.514 of this Part.)

"Subpoena" means a command to appear at a certain time and place to give testimony upon a certain matter.

"Subpoena duces tecum" means a document that compels the production of specific documents and other items at a specified time and place.

"Summary judgment" means the disposition of an adjudicatory proceeding without hearing when the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law. (See Section 101.516 of this Part.)

"Third party complaint" means a pleading that a respondent files setting forth a claim against a person who is not already a party to the proceeding. (See 35 Ill. Adm. Code 103.206.)

"Trade secret" means *the whole or any portion or phase of any scientific or technical information, design, process (including a manufacturing process), procedure, formula or improvement, or business plan which is secret in that it has not been published or disseminated or otherwise become a matter of general public knowledge, and which has competitive value. A trade secret is presumed to be secret when the owner thereof takes reasonable measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes*. [415 ILCS 5/3.490~~3.48~~]~~.~~

"Transcript" means the official recorded testimony from a hearing.

"USEPA" means the United States Environmental Protection Agency.

"Underground storage tank appeal" or "UST appeal" means an appeal of an

Agency final decision made pursuant to Title XVI of the Act.

"UST" means underground storage tank.

"Variance" means a temporary exemption from any specified regulation, requirement or order of the Board granted to a petitioner by the Board pursuant to Title IX of the Act *upon presentation of adequate proof that compliance with the rule or regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship* [415 ILCS 5/35(a)].

"Waiver" means the intentional relinquishing of a known right, usually with respect to a hearing before the Board or entry of a Board decision within the decision period. (See also Section 101.308 of this Part.)

"Web site" means the Board's computer-based informational service accessed on the Internet at http://www.ipcb.state.il.us.

(Source: Amended at 29 Ill. Reg. 8743, effective June 8, 2005)

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE OF DOCUMENTS, AND STATUTORY DECISION DEADLINES

Section 101.300 Computation of Time

a) Computation of Time. Computation of any period of time prescribed in the Act, other applicable law, or these rules will begin with the first calendar day following the day on which the act, event or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday or national or State legal holiday.

b) Time of Filing. Documents will be considered filed when they are filed in conformance with the requirements found in Section 101.302 of this Part and any other filing requirements specifically set out in the other Parts of these rules.

1) If filed in person, by messenger service or mail delivery service other than U.S. Mail, documents are considered filed when they are received in the Office of the Clerk.

2) If a document is filed by U.S. Mail subsequent to a filing deadline, yet the postmark date precedes the filing deadline, the document will be deemed

filed on the postmark date, provided all filing requirements are met as set forth in Section 101.302 of this Part.

3) Documents filed and received in the Office of the Clerk after 4:30 p.m. will be marked as filed the following business day. The Clerk will record the appropriate filing date on all filed documents.

4) For purposes of Board decision deadlines, time does not begin until the date on which the initial filing is date-stamped by the Clerk.

c) Time of Service. In the case of personal service, service is deemed complete on the date personal delivery was effectuated. In the case of facsimile transmission, service is deemed complete on the date of a complete and proper transmittal (facsimile filings are only allowed in accordance with Section 101.302(d) of this Part). In the case of service by registered or certified mail, or by messenger service, service is deemed complete on the date specified on the registered or certified mail receipt or the messenger service receipt. In the case of service by U.S. Mail, service is presumed complete four days after mailing. The presumption can be rebutted by proper proof.

d) Date of Board Decision.

1) For purposes of statutory decision deadline proceedings, the date of the Board decision is the date of the Board meeting where a final opinion and order of the Board was adopted by the vote of at least three~~four~~ Board members.

2) For purposes of appeal, the date of the party's certified mail receipt of the Board decision is the date of service of the final opinion and order by the Board upon the appealing party. Or, in the event of a timely filed motion for reconsideration filed pursuant to Section 101.520 of this Part, the date of the party's certified mail receipt of the Board order ruling upon the motion is the date of service by the Board upon the appealing party.

(Source: Amended at 29 Ill. Reg. 8743, effective June 8, 2005)

Section 101.302 Filing of Documents

a) This Section contains the Board's general filing requirements. Additional requirements may exist for specific proceedings elsewhere in these rules. The

Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.

b) All documents filed with the Board must be filed with the Clerk's Office. Service on a hearing officer does not constitute filing with the Board unless the document is submitted to the hearing officer during the course of a hearing. Documents may be filed at:

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

c) Documents may be filed by U.S. Mail or other mail delivery service, in person or by messenger.

d) Filing by electronic transmission or facsimile will only be allowed with the prior approval of the Clerk of the Board or hearing officer assigned to the proceeding. ~~The Agency may file a provisional variance recommendation with the Board through electronic transmission or facsimile within 2 days prior to a regularly scheduled meeting date followed by a hard copy submission.~~

e) The following initial filings require filing fees and will only be considered filed when accompanied by the appropriate fee, which may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, but which may not be paid in cash:

1) Petition for Site-Specific Regulation, $75;

2) Petition for Variance, $75;

3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed pursuant to Section 40 of the Act, $75;

4) Petition to Review Pollution Control Facility Siting Decisions, pursuant to Section 40.1 of the Act, $75; and

5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Act, $75.

f) All documents filed must be served in accordance with Subpart C of this Part.

g) All documents filed with the Board should contain the relevant proceeding caption and number and must be submitted on 8½ x 11 inch recycled paper as defined in Subpart B of this Part, and double sided if feasible.

h) Unless the Board or its procedural rules provide otherwise, all documents must be filed with a signed original and 9 duplicate copies (10 total), except that:

1) Documents and motions specifically directed to the assigned hearing officer must be filed with the Clerk with a signed original and 4 duplicate copies (5 total), or as the hearing officer orders;

2) The Agency may file a signed original and 4 duplicate copies (5 total) of the record required by Section 105.116, 105.302, and 105.410;

3) The OSFM may file a signed original and 4 duplicate copies (5 total) of the record required by Section 105.508; and

4) The siting authority may file a signed original and 4 duplicate copies (5 total) of the record required by Sections 107.300 and 302.

i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except upon leave or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board with a signed original and 4 duplicate copies (5 total), or as the hearing officer directs.

j) Non-Conforming Exhibits. When possible, exhibits must be reduced to conform to 8½ X 11 inch recycled paper. However, one non-conforming original copy may be filed with the Clerk's Office. Upon closure of the proceeding, the non-conforming copy may be returned to the person filing it in accordance with 2 Ill. Adm. Code 2175.300.

k) Page Limitation. No motion, brief in support of motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material.

(Source: Amended at 29 Ill. Reg. 8743, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section 101.628 Statements from Participants

a) Oral Statements. The hearing officer may permit a participant to make oral statements on the record when time, facilities, and concerns for a clear and concise hearing record so allow. The oral statements must be made under oath and are subject to cross-examination. (See Sections 101.110 and 101.114 of this Part.)

b) Written Statements. Any participant may submit written statements relevant to the subject matter at any time prior to hearing or at hearing. Participants submitting such a statement will be subject to cross-examination by any party. Written statements submitted without the availability of cross-examination will be treated as public comment in accordance with subsection (c) of this Section and will be afforded lesser weight than evidence subject to cross-examination.

c) Public Comments or Amicus Curiae Briefs. Participants may file public comments subject to the requirements of this Section and the hearing officer's schedule for completion of the record. The Board also allows for the filing of amicus curiae briefs by non-party participants. Amicus curiae briefs will be allowed in accordance with Section 101.110 of this Part.

1) Public comments must be filed within 14 days after the close of the last hearing unless the hearing officer specifies a different date for submission of post-hearing comments. However, all public comments must be filed with the Board no later than 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. Consistent with the burden of proof in a proceeding, the hearing officer may provide for differing filing deadlines with respect to post-hearing comments by different persons. Pursuant to hearing officer order, rebuttal public comments may be submitted.

2) All public comments must present arguments or comments based on evidence contained in the record. The comments may also present legal argument citing legal authorities.

3) Comments must be filed with the Board. Comments will be distributed to parties and the hearing officer by the Clerk's office.

(Source: Amended at 29 Ill. Reg. 8743, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 101.APPENDIX F Notice of Withdrawal (Repealed)

~~BEFORE THE ILLINOIS POLLUTION CONTROL BOARD~~

	~~)~~	
~~Applicable Caption~~	~~)~~	
~~(see Appendix A)~~	~~)~~	~~docket numbe~~r
	~~)~~	
	~~)~~	

~~NOTICE OF WITHDRAWAL~~

~~NOW COMES [Petitioner's or Complainant's name], by one of its attorneys, [Attorney's name] pursuant to 35 Ill. Adm. Code 101.302(l) hereby gives notice of withdrawal of this case.~~

_____

~~Attorney's Name~~

~~Name of Attorney and Firm~~
~~Address~~
~~Telephone Number~~

(Source: Repealed at 29 Ill. Reg. 8743, effective June 8, 2005)

Section 101.APPENDIX G Comparison of Former and Current Rules (Repealed)

~~The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 101~~	~~CURRENT SECTION~~
~~101.100~~	~~101.100~~
~~101.101~~	~~101.200~~ ~~101.202~~
~~101.102~~	~~101.302~~
~~101.103~~	~~101.302~~
~~101.104~~	~~101.302~~
~~101.105~~	~~101.308~~
~~101.106~~	~~101.306~~
~~101.107~~	~~101.400~~
~~101.108~~	~~101.400~~
~~101.109~~	~~101.300~~
~~101.120~~	~~101.302~~
~~101.121~~	~~2 Ill. Adm. Code 2175.210 (current)~~
~~101.122~~	~~2 Ill. Adm. Code 2175.215 (current)~~
~~101.140~~	~~101.304(a)~~
~~101.141~~	~~101.304~~
~~101.142~~	~~101.304(c)~~
~~101.143~~	~~101.304(d)~~
~~101.144~~	~~101.300~~
~~101.160~~	~~2 Ill. Adm. Code 2175.300 (current)~~
~~101.161~~	~~130.Subpart A~~ ~~130.Subpart D~~
~~101.162~~	~~2 Ill. Adm. Code 2175.305 (current)~~
~~101.180~~	~~101.700~~ ~~2 Ill. Adm. Code 2175.210 (current)~~
~~101.181~~	~~2 Ill. Adm. Code 2175.130 (current)~~
~~101.200~~	~~101.114~~

	~~101.612~~
~~101.220~~	~~101.610~~
~~101.221~~	~~101.606~~
~~101.241~~	~~101.500~~
~~101.242~~	~~101.504~~
~~101.243~~	~~101.506~~
~~101.244~~	~~101.516~~
~~101.245~~	~~101.508~~ ~~101.510~~
~~101.246~~	~~101.520~~ ~~101.902~~
~~101.247~~	~~101.502~~ ~~101.518~~ ~~101.522~~
~~101.260~~	~~101.622~~
~~101.261~~	~~101.614~~
~~101.280~~	~~101.608~~ ~~101.800~~
~~101.281~~	~~101.802~~
~~101.300~~	~~101.520~~
~~101.301~~	~~101.904~~
~~101.302~~	~~101.906~~
~~101.304~~	~~101.908~~
~~101.Appendix A Illustration A~~	~~101.Appendix A Illustration J~~
~~101.Appendix A Illustration B~~	~~101.Appendix A Illustration K~~
~~101.Appendix A Illustration C~~	~~101.Appendix A Illustration D~~
~~101.Appendix A Illustration D~~	~~101.Appendix A Illustration C~~ ~~101.Appendix A Illustration F~~
~~101.Appendix A Illustration E~~	~~101.Appendix A Illustration A~~
~~101.Appendix A Illustration F~~	~~101.Appendix A Illustration I~~
~~101.Appendix B~~	~~101.Appendix B~~
~~101.Appendix C~~	~~101.Appendix C~~
~~101.Appendix D~~	~~101.Appendix D~~
~~101.Appendix E Illustration A~~	~~101.Appendix E Illustration A~~
~~101.Appendix E Illustration B~~	~~101.Appendix E Illustration B~~

(Source: Repealed at 29 Ill. Reg. 8743, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Regulatory and Informational Hearings and Proceedings

2) Code Citation: 35 Ill. Adm. Code 102

3)

Section Numbers:	Adopted Action:
102.106	Amend
102.202	Amend
102.210	Amend
102.211	Add
102.302	Amend
102.304	Amend
102.414	Amend
102.820	Amend
102.Appendix A	Repeal

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

5) Effective Date of Amendments: June 8, 2005

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

7) Do these amendments contain incorporations by reference? No

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

10) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 6805; May 7, 2004

10) Has JCAR issued a Statement of Objection to these amendments? 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 letter issued by JCAR? The Board did not make any changes to the proposal it published for First Notice.

13) Will these amendments replace any emergency amendments currently in effect? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 102 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 103, 104, 105, 106, 107, 108, 125, and 130 of Title 35 of the *Illinois Administrative Code*. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Illinois Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

The amendments to Part 102 reflect changes to the Illinois Administrative Procedure Act by requiring rulemaking proposals to describe studies and research reports used in developing the proposal. Additionally, P.A. 93-152 authorized the Board to update incorporations by reference in Board rules through a new rulemaking procedure that does not require a public hearing or a request that the Department of Commerce and Economic Opportunity, formerly the Department of Commerce and Community Affairs, conduct an economic impact study on the proposed rules.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500 312-814-6983
Chicago IL 60601

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 102
REGULATORY AND INFORMATIONAL HEARINGS AND PROCEEDINGS

SUBPART A: GENERAL PROVISIONS

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

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

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

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

Section
102.300 Applicability
102.302 Agency Proposal
102.304 Hearings
102.306 Prefiled Testimony

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

SUBPART E: CERTIFICATION OF REQUIRED RULES

Section
102.500 Agency Certification
102.502 Challenge to Agency Certification
102.504 Board Determination

SUBPART F: BOARD ACTION

Section
102.600 Revision of Proposed Regulations
102.602 Adoption of Regulations
102.604 First Notice of Proposed Regulations
102.606 Second Notice of Proposed Regulations
102.608 Notice of Board Final Action
102.610 Adoption of Identical-in-Substance Regulation
102.612 Adoption of Emergency Regulations

102.614 Adoption of Peremptory Regulations

SUBPART G: MOTIONS FOR RECONSIDERATION AND APPEAL

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

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

Section
102.800 Applicability
102.810 Petition
102.820 Petition Contents
102.830 Board Action

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

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

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

SUBPART A: GENERAL PROVISIONS

Section 102.106 Types of Regulatory Proposals

a) The Act provides for 54 types of regulatory proposals:

1) Identical-in-substance rulemakings, as defined in Sections 7.2, 13.3, 28.2

and 28.4 of the Act [415 ILCS 5/7.2, 13.3~~.~~, 28.2, and 28.4];

2) Federally required rules, as defined in Section 28.2 of the Act [415 ILCS 5/28.2];

3) Other regulatory proposals, both of general applicability and not of general applicability as allowed by Sections 26, 27 and 28 of the Act [415 ILCS 5/26, 27, and 28]; ~~and~~

4) Clean Air Act fast track rulemakings as defined by Section 28.5 of the Act [415 ILCS 5/28.5]; and~~.~~

5) Rulemakings to update incorporations by reference, as allowed by Section 28.6 of the Act [415 ILCS 5/28.6].

b) The IAPA provides for three types of rulemakings:

1) General rulemaking pursuant to Section 5-40 of the IAPA [5 ILCS 100/5-40];

2) Emergency rulemaking pursuant to Section 5-45 of the IAPA [5 ILCS 100/5-45]; and

3) Peremptory rulemaking pursuant to Section 5-50 of the IAPA [5 ILCS 100/5-50].

(Source: Amended at 29 Ill. Reg. 8776, effective June 8, 2005)

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

Section 102.202 Proposal Contents for Regulations of General Applicability

Each proponent must set forth the following in its proposal:

a) The language of the proposed rule, including any existing regulatory language proposed to be amended or repealed. Language being added must be indicated by underscoring, and language being deleted must be indicated by strike-outs. The proposed rule must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart

C;

b) A statement of the reasons supporting the proposal, including a statement of the facts that support the proposal, and a statement of the purpose and effect of the proposal, including environmental, technical, and economic justification. The statement must discuss the applicable factors listed in Section 27(a) of the Act. The statement must include, to the extent reasonably practicable, all affected sources and facilities and the economic impact of the proposed rule;

c) A synopsis of all testimony to be presented by the proponent at hearing;

d) Copies of any material to be incorporated by reference within the proposed rule pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75];

e) *A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act* [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];

f~~e~~) Proof of service upon all persons required to be served pursuant to Section 102.422 of this Part;

g~~f~~) Unless the proponent is the Agency or DNR, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.410(b) of this Part;

h~~g~~) When the Agency proposes a rule it believes is federally required, a certification in accordance with Section 102.500 of this Part;

i~~h~~) For a proposed rule that amends an existing Board rule, a written statement or certification that the proposal amends the most recent version of the rule as published on the Board's Web site or as obtained from the Clerk;

j~~i~~) When the proponent is a State agency, an electronic version of the information required under subsection (a) of this Section; and

k~~j~~) When any information required under this Section is inapplicable or unavailable,

a complete justification for the inapplicability or unavailability.

(Source: Amended at 29 Ill. Reg. 8776, effective June 8, 2005)

Section 102.210 Proposal Contents for Site-Specific Regulations

Proponents of site-specific regulations other than those relating to RCRA must comply with the requirements of Section 102.202 of this Part in addition to the following requirements:

a) The proposal must set forth the language of the proposed site-specific rule, including any existing regulatory language proposed to be amended or repealed. Language being added must be indicated by underscoring and language being deleted must be indicated by strike-outs. If the proposed site-specific rule seeks an exemption from or modification of a rule of general applicability, the proposed site-specific rule may not be proposed as an amendment to the general rule. Instead, the site-specific rule must be proposed as its own Section;

b) In the event that the proposed rule would replace the applicability of a general rule to the pollution source, the proposal must specify, with supporting documentation, the reasons why the general rule is not technically feasible or economically reasonable for the person or site. The documentation must include relevant information on other similar persons' or sites' ability to comply with the general rule. Where relevant to the Board's consideration, the proposal must also include information pertaining to *existing physical conditions, the character of the area involved, including the character of surrounding land uses, zoning classifications*, and *the nature of the existing air quality or receiving body of water* [415 ILCS 5/27(a)];

c) *A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act* [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];

d) The proposal must describe the person or site for which regulatory change is sought and the area affected by the proposed change. The proposal must also include a detailed assessment of the environmental impact of the proposed

change, and include a description of available treatment or control options;

e~~d~~) The proposal must demonstrate that the Board may grant the requested relief consistent with federal law governing the subject of the proposal (e.g., Underground Injection Control program, Resource Conservation and Recovery Act, etc.);

f~~e~~) When the proponent is a State agency, the proponent also must provide an electronic version of the information required under subsection (a) of this Section; and

g~~f~~) When any information required under this Section is inapplicable or unavailable, the proposal must provide a complete justification for the inapplicability or unavailability.

(Source: Amended at 29 Ill. Reg. 8776, effective June 8, 2005)

Section 102.211 Proposal to Update Incorporations by Reference

a) *Any person may file a proposal with the Board to update an incorporation by reference included in a Board rule. The Board or the Agency may also make such a proposal on its own initiative.* [415 ILCS 5/28.6(a)] The proposal must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) and served on the Agency, DNR, and the Attorney General in accordance with 35 Ill. Adm. Code 101.304(c).

b) *A rulemaking to update an incorporation by reference under this Section must*:

1) *Be for the sole purpose of replacing a reference to an older or obsolete version of a document with a reference to the current version of that document or its successor document*; and

2) *Comply with Sections 5-40 and 5-75 of the IAPA* [5 ILCS 100/5-40, 5-75]. [415 ILCS 5/28.6(b), (c)]

c) *Sections 27 and 28 of the Act* [415 ILCS 5/27, 28] *do not apply to rulemaking under this Section.* [415 ILCS 5/28.6(c)] Accordingly, for rulemaking under this Section, the Board will not hold any public hearings nor request that the Department of Commerce and Economic Opportunity conduct a study of the economic impact of the proposed amendment.

d) A proposal to update an incorporation by reference under this Section must:

1) Include a statement of the reasons supporting the proposal, including a statement of the facts that support the proposal, and a statement of the purpose and effect of the proposal;

2) Comply with subsections (a), (d), (e), (f), (i), and (j) of Section 102.202 of this Part; and

3) When any information required under this subsection (d) is inapplicable or unavailable, the proposal must provide a complete justification for the inapplicability or unavailability.

e) *If an objection to the proposed amendment is filed during the public comment period required under Section 5-40 of the IAPA* [5 ILCS 100/5-40], *then the proposed amendment cannot be adopted pursuant to this Section.* [415 ILCS 5/28.6(d)]

f) *Nothing in this Section precludes the adoption of a change to an incorporation by reference through other lawful rulemaking procedures.* [415 ILCS 5/28.6(d)]

(Source: Added at 29 Ill. Reg. 8776, effective June 8, 2005)

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

Section 102.302 Agency Proposal

a) When proposing a regulation required by the CAAA, the Agency must meet the following requirements:

1) The proposal must set forth the proposed rule, which must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;

2) The proposal must have a cover sheet that prominently states that the Agency proposes the rule under Section 28.5 of the Act, *unless another provision of the Act specifies the method for adopting a specific rule* [415 ILCS 5/28.5(c)];

3) The proposal must *clearly identify the provisions and portions of the federal statute, regulations, guidance, policy statement, or other documents upon which the rule is based* [415 ILCS 5/28.5(e)(3)];

4) The proposal must include *supporting documentation for the rule that summarizes the basis of the rule* [415 ILCS 5/28.5(e)(4)];

5) The proposal must *describe in general the alternative selected and the basis for the alternative* [415 ILCS 5/28.5(e)(5)];

6) The proposal must summarize the economic and technical data that the Agency relied upon in drafting the proposed rule;

7) The proposal must include a list of any documents that the Agency directly relied upon in drafting the proposed rule or that the Agency intends to rely upon at hearing, and copies of the documents;

8) The proposal must set forth *a description of the geographical area to which the rule is intended to apply, a description of the process or processes affected, and identification by classes of the entities expected to be affected, and a list of sources expected to be affected by the rule to the extent known to the Agency* [415 ILCS 5/28.5(e)(8)]; ~~and~~

9) *A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act* [5 ILCS 140]. [5 ILCS 100/5-40(3.5)]; and

10~~9~~) The proposal must include a diskette containing the information required under subsection (a)(1) of this Section.

b) If the proposal fails to meet any of the requirements of subsection (a) of this Section, the Board may decide not to accept the proposal for filing.

(Source: Amended at 29 Ill. Reg. 8776, effective June 8, 2005)

Section 102.304 Hearings

a) Within 14 days after the receipt of a rule the Board will file the proposed rule for first notice and schedule all hearings. Additionally, the Board will send notice to the appropriate newspaper of the scheduled hearing. The notice will be published by the newspaper at least 30 days prior to the date of the hearing.

b) The first hearing will be held within 55 days after receipt of the rule and is reserved for the Agency's testimony and questions of the Agency's witnesses.

c) Within 7 days after the first hearing, any person may request a second hearing. The request may be made on the record at the first hearing or in writing. If done in writing it must be filed with the Board and served upon the service list.

d) A second hearing will be held to hear comments on Department of Commerce and Economic Opportunity's~~Community Affairs'~~ economic impact study of the proposed rules. *At least 20 days before the hearing, the Board shall notify the public of the hearing and make the economic impact study, or the Department of Commerce and* Economic Opportunity's~~*Community Affair's*~~ *explanation for not producing an economic impact study, available to the public. Such public hearing may be held simultaneously or as part of any Board hearing considering such new rules* [415 ILCS 5/27(b)]. See also Section 102.414 of this Part. The second hearing must also permit the *presentation of testimony, documents, and comments by affected entities and all other interested persons*. [415 ILCS 5/28.5(g)]

e) *The third hearing shall be scheduled to commence within 14 days after the first day of the second hearing and shall be devoted solely to any Agency response to the material submitted at the second hearing and to any response by other parties* [415 ILCS 5/28.5(g)]. In order to cancel the third hearing, the Agency must state on the record at hearing that it and the affected entities are in agreement or notify the Board and the service list in writing.

f) In order to meet statutory deadlines, hearing dates may be chosen by the assigned Board member and hearing officer without consultation with the participants. CAAA hearings need only be held in one affected area of the State.

(Source: Amended at 29 Ill. Reg. 8776, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

Section 102.414 Hearings on the Economic Impact of New Proposals

a) In accordance with Section 27(b) of the Act, except as otherwise provided by applicable law, before the adoption of any proposed rules, *the Board shall request that the Department of Commerce and* Economic Opportunity~~*Community Affairs*~~ *conduct a study of the economic impact of the proposed rules. The Board shall conduct at least one public hearing on the economic impact of those new rules. At least 20 days before the hearing, the Board shall notify the public of the hearing and make the economic impact study, or the Department of Commerce and* Economic Opportunity's~~*Community Affair's*~~ *explanation for not producing an economic impact study, available to the public. Such public hearing may be held simultaneously or as a part of any Board hearing considering such new rules. In adopting any such new rule, the Board shall, in its written opinion, make a determination, based upon the evidence in the public hearing record, including, but not limited to, the economic impact study, as to whether the proposed rule has any adverse economic impact on the people of the State of Illinois*. [415 ILCS 5/27(b)]~~.~~

b) If information of the economic impact of a proposed regulation is given at a general hearing on the proposal, the Board need not hold a special hearing on only the economic impact.

(Source: Amended at 29 Ill. Reg. 8776, effective June 8, 2005)

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

Section 102.820 Petition Contents

Each proponent must set forth the following information in its proposal:

a) The language of the proposed rule, amendment, or repealer identifying the surface water body or water body segment being proposed for designation, amendment, or repeal as an ORW. Language being added must be indicated by underscoring, and language being deleted must be indicated by strike-outs. The proposed rule must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;

b) A statement describing the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested and the present designation of the surface water body or water body segment;

c) A statement describing the area in which the specific surface water body or water body segment exists, including:

1) The existence of wetlands or natural areas;

2) The living organisms in that area, including endangered or threatened species of plants, aquatic life or wildlife listed pursuant to the Endangered Species Act 16 USC 1531 et seq. or the Illinois Endangered Species Protection Act [41 ILCS 10];

d) A statement supporting the designation, the amendment, or the repeal, including the health, environmental, recreational, aesthetic or economic benefits of the designation, the amendment, or the repeal thereof;

e) A statement identifying the anticipated impact on economic and social development of the ORW designation, amendment, or repeal. This statement should include:

1) Impacts on the regional economy;

2) Impacts on regional employment;

3) Impacts on the community;

4) A comparison of the health and environmental impacts to the economic impact of an ORW designation;

f) A statement describing the existing and anticipated uses of the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested;

g) A statement describing the existing water quality of the specific surface water body or water body segment warranting the ORW designation, amendment, or repeal;

h) A synopsis of all testimony to be presented by the proponent at hearing;

i) Copies of any material to be incorporated by reference within the proposed designation pursuant to Section 5-75 of the Administrative Procedure Act [5 ILCS 100/5-75];

j) *A descriptive title or other description of any published study or research report used in developing the rule, the identify of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act* [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];

k~~j~~) Proof of service upon all persons required to be served pursuant to Section 102.810 of this Part;

l~~k~~) Unless the proponent is the Agency or Illinois Department of Natural Resources or receives a waiver by the Board, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.160(a); and

m~~l~~) Where any information required by this Section is inapplicable or unavailable, a complete justification for such inapplicability or unavailability.

(Source: Amended at 29 Ill. Reg. 8776, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

~~The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 102~~	~~CURRENT SECTION~~
~~102.100~~	~~102.100~~
~~102.101~~	~~102.104~~
~~102.102~~	~~102.106~~
~~102.103~~	~~102.110~~
~~102.104~~	~~102.112~~
~~102.120~~	~~102.200~~
~~102.121~~	~~102.202~~
~~102.122~~	~~102.212~~
~~102.123~~	~~102.204~~
~~102.124~~	~~102.206~~
~~102.140~~	~~102.208~~
~~102.141~~	~~102.210~~
~~102.142~~	~~102.212~~
~~102.160~~	~~102.410~~
~~102.161~~	~~102.412~~
~~102.162~~	~~102.416~~
~~102.163~~	~~102.206~~
~~102.164~~	~~102.418~~
~~102.180~~	~~102.414~~
~~102.200~~	~~102.500~~
~~102.201~~	~~102.502~~
~~102.202~~	~~102.504~~
~~102.220~~	~~102.420~~
~~102.221~~	~~102.422~~
~~102.240~~	~~102.404~~
~~102.241~~	~~102.406~~
~~102.242~~	~~102.408~~
~~102.260~~	~~102.402~~
~~102.261~~	~~102.402~~
~~102.262~~	~~102.402~~
~~102.280~~	~~102.424~~
~~102.281~~	~~102.418~~
~~102.282~~	~~102.426~~
~~102.283~~	~~102.428~~

~~102.284~~	~~102.430~~
~~102.285~~	~~102.418~~
~~102.320~~	~~102.108~~
~~102.341~~	~~102.602~~
~~102.342~~	~~102.604~~
~~102.343~~	~~102.606~~
~~102.344~~	~~102.608~~
~~102.345~~	~~102.610~~
~~102.346~~	~~102.612~~
~~102.347~~	~~102.614~~
~~102.360~~	~~102.700~~
~~102.361~~	~~102.702~~
~~102.362~~	~~102.704~~
~~102.363~~	~~102.706~~

(Source: Repealed at 29 Ill. Reg. 8776, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Enforcement

2) Code Citation: 35 Ill. Adm. Code 103

3)

Section Numbers:	Adopted Action:
103.106	Amend
103.212	Amend
103.301	Add
103.302	Amend
103.304	Amend
103.306	Amend
103.600	Add
103.Appendix A	Repeal

4) Statutory Authority: 415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, and 41 of the Environmental Protection Act [415 ILCS 5]

5) Effective Date of Amendments: June 8, 2005

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

7) Do these amendments contain incorporations by reference? No

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

11) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 6823; May 7, 2004

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

11) Differences between proposal and final version: The Board made only minor, nonsubstantive changes to the proposal it adopted for first notice.

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

13) Will these amendments replace any emergency amendments currently in effect? No

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 103 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 102, 104, 105, 106, 107, 108, 125, and 130 of Title 35 of the Illinois Administrative Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

The amendments to Part 103 reflect recent statutory changes to the Environmental Protection Act by updating statutory language in the rules. P.A. 93-152 (eff. July 10, 2003) amended the Environmental Protection Act, allowing the Board to adopt settlements in citizen enforcement actions without a public hearing and by authorizing prevailing citizen complainants before the Board to go to circuit court to enforce a final Board order by injunction or other relief. The Board is also repealing Appendix A, which provided a cross-reference for the Board's prior procedural regulations and the regulations adopted in January 2001, because, as the current rules have been effective for three years now, the Appendix is no longer necessary.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board's opinions and orders are also available from the Board's Web site (www.ipcb.state.il.us)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 103
ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section
103.100 Applicability
103.102 Severability
103.104 Definitions
103.106 General

SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING

Section
103.200 Who May File
103.202 Parties
103.204 Notice, Complaint, and Answer
103.206 Adding Parties
103.208 Request for Informal Agency Investigation
103.210 Notice of Complaint
103.212 Hearing on Complaint

SUBPART C: SETTLEMENT PROCEDURE

Section
103.300 Request for Relief from Hearing Requirement in State Enforcement Proceeding
103.301 Request for Relief from Hearing Requirement in Citizen's Enforcement Proceeding

103.302 Contents of Proposed Stipulation and Settlement Agreement
103.304 Hearing on Proposed Stipulation and Settlement Agreement
103.306 Board Order on Proposed Stipulation and Settlement Agreement

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section
103.400 Purpose, Scope, and Applicability
103.402 Interim Order
103.404 Joinder of the Agency
103.406 Draft Permit or Statement
103.408 Stipulated Draft Remedy
103.410 Contents of Public Notice
103.412 Public Comment
103.414 Hearing
103.416 Contents of Board Order

SUBPART E: IMPOSITION OF PENALTIES

Section
103.500 Default
103.502 Civil Penalties
103.504 Civil Penalties Method of Payment

SUBPART F: ENFORCING BOARD ORDERS

Section
103.600 Civil Action

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

AUTHORITY: Implementing Sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part III, Enforcement Proceedings, in R70-4, at 1 PCB 43, October 8, 1970; amended in R80-2, at 39 PCB 456, at 4 Ill. Reg. 39, p. 285, effective September 12, 1980; amended in R80-18, at 44 PCB 125, at 5 Ill. Reg. 14146, effective December 3, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1383, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 425, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8793, effective June 8, 2005.

SUBPART A: GENERAL PROVISIONS

Section 103.106 General

Enforcement proceedings may be initiated *against any person allegedly violating the~~this~~ Act, ~~or~~ any rule or regulation adopted under the Act, ~~thereunder or~~ any permit or term or condition of a permit, or* any *Board* order ~~*thereof*~~ [415 ILCS 5/31(d)(1)]. Complaints filed by persons other than the Attorney General or a State's Attorney will be known as citizen's complaints.

(Source: Amended at 29 Ill. Reg. 8793, effective June 8, 2005)

SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING

Section 103.212 Hearing on Complaint

a) *Any person may file with the Board a complaint against any person allegedly violating the Act, ~~or~~ any rule or regulation adopted under the Act,~~thereunder or~~ any permit or term or condition of a permit, or any Board order~~thereof~~*. When the Board receives a citizen's complaint, *unless the Board determines that such complaint is duplicative~~duplicitous~~ or frivolous, it shall schedule a hearing*. [415 ILCS 5/31(d)(1)] The definition for duplicative~~duplicitous~~ and frivolous can be found at 35 Ill. Adm. Code 101.Subpart B.

b) Motions made by respondents alleging that a citizen's complaint is duplicative~~duplicitous~~ or frivolous must be filed no later than 30 days following the date of service of the complaint upon the respondent. Motions under this subsection may be made only with respect to citizen's enforcement proceedings. Timely filing the motion will, pursuant to Section 103.204(e) of this Subpart, stay the 60 day period for filing an answer to the complaint.

c) The Board will automatically set for hearing all complaints filed by the Attorney General or a State's Attorney on behalf of the People of the State of Illinois.

d) The Board in its discretion may hold a hearing on the violation and a separate hearing on the remedy.

(Source: Amended at 29 Ill. Reg. 8793, effective June 8, 2005)

SUBPART C: SETTLEMENT PROCEDURE

Section 103.301 Request for Relief from Hearing Requirement in Citizen's Enforcement Proceeding

a) *Whenever a complaint has been filed by a person other than the Attorney General or State's Attorney, the parties may file with the Board a stipulation and proposed settlement accompanied by a request for relief from the hearing requirement of* Section 31(c)(1) of the Act [415 ILCS 5/31(c)(1)]. [415 ILCS 5/31(d)(2)] The stipulation and proposed settlement agreement must conform to the statement required for settlement submissions at hearing in Section 103.302 of this Part.

b) *Unless the Board, in its discretion, concludes that a hearing should be held, no hearing on the stipulation and proposal for settlement is required.* [415 ILCS 5/31(d)(2)]

(Source: Added at 29 Ill. Reg. 8793, effective June 8, 2005)

Section 103.302 Contents of Proposed Stipulation and Settlement Agreement

No proceeding pending before the Board will be disposed of or modified without an order of the Board. A proposed stipulation and settlement agreement must contain a written statement, signed by the parties or their authorized representatives, outlining the nature of, the reasons for, and the purpose to be accomplished by the settlement. The written statement must include:

a) A full stipulation of all material facts pertaining to the nature, extent, and causes of the alleged violations proposed to be settled;

b) The nature of the relevant parties' operations and control equipment;

c) *Facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved, including:*

1) *the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people*;

2) *the social and economic value of the pollution source;*

3) *the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved*;

4) *the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such*

pollution source; and

5) *any subsequent compliance*. [415 ILCS 5/33(c)]

d) Details as to future plans for compliance, including a description of additional control measures and the dates for their implementation, if any; and

e) The proposed penalty, if any, supported by factors in mitigation or aggravation of penalty, including the factors set forth in Section 42(h) of the Act [415 ILCS 5/42(h)].

(Source: Amended at 29 Ill. Reg. 8793, effective June 8, 2005)

Section 103.304 Hearing on Proposed Stipulation and Settlement Agreement

When the parties submit a proposed stipulation and settlement agreement to the hearing officer at hearing, or when the Board orders that a hearing be held in accordance with Section 103.300(c) or 103.301(b) of this Part, the hearing officer will conduct a hearing in which interested persons may make statements with respect to the nature of the alleged violation and its impact on the environment, together with their views on the proposed stipulation and settlement agreement. The statements must be in accordance with 35 Ill. Adm. Code 101.628.

(Source: Amended at 29 Ill. Reg. 8793, effective June 8, 2005)

Section 103.306 Board Order on Proposed Stipulation and Settlement Agreement

a) The Board will consider the proposed settlement and stipulation agreement and the hearing record, if any. The Board may accept, suggest revisions in, or reject the proposed settlement and stipulation agreement, or direct initial or further hearings as it deems appropriate. Where a National Pollutant Discharge Elimination System (NPDES) permit is involved in the settlement, notice of settlement must be published in the Environmental Register at least 30 days prior to the settlement.

b) If the Board determines that a settlement involves or may involve the issuance or modification of a Resource Conservation Recovery Act (RCRA) permit, it will enter an interim order pursuant to Section 103.402 of this Part.

(Source: Amended at 29 Ill. Reg. 8793, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: ENFORCING BOARD ORDERS

Section 103.600 Civil Action

a) *All orders issued and entered by the Board pursuant to Section 33 of the Act* [415 ILCS 5/33] in a State enforcement proceeding *are enforceable by injunction, mandamus, or other appropriate remedy, in accordance with Section 42 of the Act* [415 ILCS 5/42]. [415 ILCS 5/33(d)]

b) *A final order issued by the Board pursuant to Section 33 of the Act* [415 ILCS 5/33] in a citizen's enforcement proceeding *may be enforced through a civil action for injunctive or other relief instituted by a person who was a party to the Board enforcement proceeding in which the Board issued the final order.* [415 ILCS 5/45(e)]

(Source: Added at 29 Ill. Reg. 8793, effective June 8, 2005)

Section 103.APPENDIX A Comparison of Former and Current Rules (Repealed)

~~The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 103~~	~~CURRENT SECTION~~
~~103.101~~	~~102.100~~
~~103.120~~	~~103.200~~
~~103.121~~	~~103.202~~
~~103.122~~	~~103.204~~
~~103.123~~	~~101.204~~
~~103.124~~	~~103.212~~
~~103.125~~	~~101.600~~ ~~101.602~~
~~103.140~~	~~101.Subpart E~~
~~103.141~~	~~101.406~~ ~~101.408~~ ~~103.206~~
~~103.142~~	~~101.502~~ ~~101.510~~
~~103.161~~	~~101.616~~
~~103.162~~	~~101.618~~
~~103.163~~	~~101.622~~
~~103.180~~	~~103.Subpart C~~
~~103.200~~	~~101.610~~
~~103.204~~	~~101.626~~
~~103.206~~	~~101.630~~
~~103.207~~	~~101.632~~
~~103.208~~	~~101.626~~
~~103.209~~	~~101.624~~
~~103.220~~	~~103.500~~ ~~101.608~~
~~103.221~~	~~101.604~~
~~103.224~~	~~103.416~~
~~103.Subpart H~~	~~101.Subpart I~~
~~103.Subpart I~~	~~103.Subpart D~~

(Source: Repealed at 29 Ill. Reg. 8793, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Regulatory Relief Mechanisms

2) Code Citation: 35 Ill. Adm. Code 104

3)

Section Numbers:	Adopted Action:
104.100	Amend
104.300	Amend
104.302	Amend
104.304	Amend
104.306	Amend
104.308	Amend
104.310	Repeal
104.Appendix A	Repeal

4) Statutory Authority: 415 ILCS 5/5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, and 39.5 of the Environmental Protection Act [415 ILCS 5]

5) Effective Date of Amendments: June 8, 2005

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

12) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 6833; May 7, 2004

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

11) Differences between proposal and final version: The Board made only minor, nonsubstantive changes to the proposal it adopted for first notice.

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

13) Will these amendments replace any emergency amendments currently in effect? No

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 104 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 102, 103, 105, 106, 107, 108, 125, and 130 of Title 35 of the Illinois Administrative Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

The amendments to Part 104 reflect changes in P.A. 93-152, which amended the Environmental Protection Act, having the Illinois Environmental Protection Agency rather than the Board issue provisional variances. The Board is also repealing Appendix A, which provided a cross-reference for the Board's prior procedural regulations and the regulations adopted in January 2001, because, as the current rules have been effective for three years now, the Appendix is no longer necessary.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 104
REGULATORY RELIEF MECHANISMS

SUBPART A: GENERAL PROVISIONS

Section
104.100 Applicability
104.102 Severability
104.104 Definitions

SUBPART B: VARIANCES

Section
104.200 General
104.202 Filing Requirements
104.204 Petition Content Requirements
104.206 Resource Conservation and Recovery Act (RCRA) Variance Petition Contents
104.208 Consistency with Federal Law
104.210 Petition for Extension of Variance
104.212 Motion for Modification of Internal Variance Compliance Dates
104.214 Agency's Notice of Petition
104.216 Agency Investigation and Recommendation
104.218 Agency Recommendation to RCRA Variance
104.220 Response to Agency Recommendation
104.222 Stipulations
104.224 Objections to Petition, Written Comments and Request for Hearing
104.226 Amended Petition and Amended Recommendation
104.228 Insufficient Petition
104.230 Dismissal of Petition
104.232 Calculation of Decision Deadline
104.234 Hearing
104.236 Hearing Procedures
104.238 Standard of Review
104.240 Certificate of Acceptance
104.242 Term of Variance
104.244 Variance Conditions

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

104.246 Performance Bonds
104.248 Objection to Conditions

SUBPART C: PROVISIONAL VARIANCES

Section
104.300 Applicability
104.302 Agency~~Board~~ Action
104.304 Initiating a Request
104.306 Filing and Notice
104.308 Term
104.310 Simultaneous Variance Prohibition (Repealed)

SUBPART D: ADJUSTED STANDARDS

Section
104.400 General
104.402 Initiation of Proceeding
104.404 Request to Agency to Join as Co-Petitioner
104.406 Petition Content Requirements
104.408 Petition Notice Requirements
104.410 Proof of Petition Notice Requirements
104.412 Effect of Filing a Petition: Stay
104.414 Dismissal of Petition
104.416 Agency Recommendation and Petitioner Response
104.418 Amended Petition, Amended Recommendation, and Amended Response
104.420 Request for Public Hearing
104.422 Public Hearing
104.424 Hearing Notice
104.426 Burden of Proof
104.428 Board Action

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

AUTHORITY: Subparts B and C: Implementing Sections 5, 35, 36, 37 and 38 of the Environmental Protection Act (Act) [415 ILCS 5/5, 35, 36, 37, and 38] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27]. Subpart D: Implementing Sections 5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5 of the Act [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Subpart B: Originally adopted as Chapter I: Procedural Rules, Part IV: Variances, in R70-4, at 1 PCB 43, October 8, 1970; amended in R77-16, 29 PCB 503, at 2 Ill. Reg. 16, p. 3, effective May 1974; amended in R79-9, 35 PCB 433, at 3 Ill. Reg. 51, p. 128, effective December 7, 1979; amended in R80-12, 40 PCB 451, at 5 Ill. Reg. 2763, effective March 2, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10, 62 PCB 87, at 9 Ill. Reg. 1409, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 613, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8803, effective June 8, 2005.

SUBPART A: GENERAL PROVISIONS

Section 104.100 Applicability

a) This Part applies to mechanisms for obtaining~~adjudicatory proceedings before the Board that provide~~ relief from environmental regulations under certain circumstances as set forth in Titles VII and IX of the Act. Specifically, this Part applies to regulatory relief mechanisms, meaning variances, provisional variances and adjusted standards.

b) This Part must be read in conjunction with 35 Ill. Adm. Code 101, which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Part, the provisions of this Part apply.

(Source: Amended at 29 Ill. Reg. 8803, effective June 8, 2005)

SUBPART C: PROVISIONAL VARIANCES

Section 104.300 Applicability

This Subpart applies to any person seeking a provisional variance from the Agency pursuant to Title IX of the Act. This Subpart must be read in conjunction with 35 Ill. Adm. Code 101 and this Part. In the event of conflict between this Subpart and the requirements of 35 Ill. Adm. Code 101, the requirements of this Subpart apply.

(Source: Amended at 29 Ill. Reg. 8803, effective June 8, 2005)

Section 104.302 Agency~~Board~~ Action

The Agency~~Board~~ shall grant provisional variances whenever it is found, upon presentation of adequate proof,~~only upon notification from the Agency~~ that compliance on a short term basis

with any rule or regulation, requirement or order of the Board, or with any permit requirement, would impose an arbitrary or unreasonable hardship. ~~*Such provisional variances shall be issued within 2 working days of notification from the Agency.*~~ [415 ILCS 5/35(b)]

(Source: Amended at 29 Ill. Reg. 8803, effective June 8, 2005)

Section 104.304 Initiating a Request

Any person seeking a provisional variance pursuant to Section 35(b) of the Act and 35 Ill. Adm. Code 180 ~~104.401 of this Part~~ *shall make a request to the Agency. The Agency shall promptly investigate and consider the merits of the request.* ~~*The Agency may notify the Board of its recommendation.*~~ *If the Agency fails to take final action within 30 days after receipt of the request for a provisional variance, or if the Agency denies the request* ~~or if the Agency denies the request~~*, the person may initiate a* variance proceeding with the Board pursuant to Subpart B of this Part. [415 ILCS 5/37(b)]

(Source: Amended at 29 Ill. Reg. 8803, effective June 8, 2005)

Section 104.306 Filing and Notice

If the Agency grants a provisional variance, the Agency must promptly file a copy of its written decision with the Board, and ~~*The Board*~~ *shall give prompt notice of its action* ~~*on provisional variance requests*~~ *to the public by issuing a press release for distribution to newspapers of general circulation in the county.* The Clerk will *maintain for public inspection copies of all provisional variances filed with the Board by the Agency.* [415 ILCS 5/37(b)]

(Source: Amended at 29 Ill. Reg. 8803, effective June 8, 2005)

Section 104.308 Term

Any provisional variance granted by the Agency ~~*Board*~~ *pursuant to subsection (b) of Section 35* of the Act *shall be for a period of time not to exceed 45 days. A provisional variance may be extended* ~~*Upon receipt of a recommendation from the Agency to extend this time period, the Board shall grant*~~ *up to an additional 45 days by written decision of the Agency. The provisional variances granted to any one person shall not exceed a total of 90 days during any calendar year.* [415 ILCS 5/36(c)]

(Source: Amended at 29 Ill. Reg. 8803, effective June 8, 2005)

Section 104.310 Simultaneous Variance Prohibition (Repealed)

~~The Board will not grant a provisional variance to the extent that the petitioner already holds a variance from the same regulation or Board order for the same time period.~~

(Source: Repealed at 29 Ill. Reg. 8803, effective June 8, 2005)

Section 104.APPENDIX A Comparison of Former and Current Rules (Repealed)

~~The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 104~~	~~CURRENT SECTION~~
~~104.102~~	~~104.200~~
~~104.104~~	~~104.206~~
~~104.120~~	~~104.202~~
~~104.121~~	~~104.204~~
~~104.122~~	~~104.208~~
~~104.123~~	~~104.210~~
~~104.124~~	~~104.234~~ ~~104.236~~
~~104.125~~	~~104.228~~ ~~104.230~~
~~104.126~~	~~104.206~~
~~104.140~~	~~104.214~~
~~104.141~~	~~104.224~~
~~104.142~~	~~104.214~~
~~104.160~~	~~104.228~~ ~~104.234~~ ~~104.236~~ ~~104.232~~ ~~104.230~~
~~104.180~~	~~104.216~~
~~104.181~~	~~104.220~~
~~104.182~~	~~104.218~~
~~104.183~~	~~104.224~~
~~104.200~~	~~104.236~~
~~104.201~~	~~104.238~~ ~~101.Subpart F~~
~~104.221~~	~~104.238~~

(Source: Repealed at 29 Ill. Reg. 8803, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Appeals of Final Decisions of State Agencies

2) Code Citation: 35 Ill. Adm. Code 105

3)

Section Numbers:	Adopted Action:
105.214	Amend
105.Appendix B	Repeal

4) Statutory Authority: 415 ILCS 5/5, 26, 27, 39, 39.5, 40, 40.1, 40.2, and 57 of the Environmental Protection Act [415 ILCS 5].

5) Effective Date of Amendments: June 8, 2005

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

9) Notice of Proposal Published in Illinois Register: 28 Ill. Reg. 6842; May 7, 2004

10) Has JCAR issued a Statement of Objection to these amendments? 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 letter issued by JCAR? The Board did not make any changes to the proposal it adopted for first notice.

13) Will these amendments replace any emergency amendments currently in effect? No

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

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 105 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 103, 104, 106, 107, 108, 125, and 130 of Title 35 of the Illinois Administrative

Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

These adopted amendments reflect recent statutory changes to the Environmental Protection Act, replacing the word "duplicitous" with "duplicative" in referring to third-party appeals of decisions to grant hazardous waste disposal site permits. The Board also repealed Appendix B, which provided a cross-reference for the Board's prior procedural regulations and the regulations adopted in January 2001, because, as the current rules have been effective for three years now, the Appendix is no longer necessary.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 105
APPEALS OF FINAL DECISIONS OF STATE AGENCIES

SUBPART A: GENERAL PROVISIONS

Section
105.100 Applicability
105.102 Severability
105.104 Definitions
105.106 Computation of Time, Filing and Service Requirements
105.108 Dismissal of Petition
105.110 Hearing Process
105.112 Burden of Proof
105.114 Calculation of Decision Deadline
105.116 Record Filing
105.118 Sanctions for Untimely Filing of the Record

SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND
OTHER FINAL DECISIONS OF THE AGENCY

Section
105.200 Applicability
105.202 Parties
105.204 Who May File a Petition for Review
105.206 Time to File the Petition or Request for Extension
105.208 Extension of Time to File a Petition for Review
105.210 Petition Content Requirements
105.212 Agency Record
105.214 Board Hearing

SUBPART C: CAAPP PERMIT APPEALS

Section
105.300 Applicability
105.302 General Requirements
105.304 Petition Content Requirements

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: APPEAL OF AGENCY LEAKING UNDERGROUND STORAGE TANK (LUST) DECISIONS

Section
105.400 Parties
105.402 Who May File a Petition for Review
105.404 Time for Filing the Petition
105.406 Extension of Time to File a Petition for Review
105.408 Petition Content Requirements
105.410 Agency Record
105.412 Board Hearing

SUBPART E: APPEAL OF OSFM LUST DECISIONS

Section
105.500 Applicability
105.502 General Overview
105.504 General Requirements
105.506 Petition Content Requirements
105.508 OSFM Record and Appearance
105.510 Location of Hearing

105.APPENDIX A Agency LUST Final Decisions that are Reviewable
105.APPENDIX B Comparison of Former and Current Rules (Repealed)

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 5, 39, 39.5, 40, 40.1, 40.2, and 57 of the Act [415 ILCS 5/5, 39, 39.5, 40, 40.1, 40.2 and 57].

SOURCE: Filed with Secretary of State January 1, 1978; amended 4 Ill. Reg. 52, page 41, effective December 11, 1980; codified 6 Ill. Reg. 8357; amended in R93-24 at 18 Ill. Reg. 4244, effective March 8, 1994; amended in R94-11 at 18 Ill. Reg. 16594, effective November 1, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 406, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8811, effective June 8, 2005.

SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND OTHER FINAL DECISIONS OF THE AGENCY

Section 105.214 Board Hearing

a) Except as provided in subsections (b), (c) and (d) of this Section, the Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101.Subpart F, upon an appropriately filed petition for review under this Subpart. The hearing will be based exclusively on the record before the Agency at the time the permit or decision was issued, unless the parties agree to supplement the record pursuant to Section 40(d) of the Act. If any party desires to introduce evidence before the Board with respect to any disputed issue of fact, the Board will conduct a separate hearing and receive evidence with respect to the issue of fact.

b) The Board will not hold a hearing on a petition for review under this Subpart if the Board disposes of the petition on a motion for summary judgment brought pursuant to 35 Ill. Adm. Code 101.516.

c) The Board will not hold a hearing on a petition for review under Section 105.204(c) of this Subpart if the Board determines that:

1) The petition is duplicative~~duplicitous~~ or frivolous; or

2) The petitioner is so located as to not be affected by the permitted facility.

d) The Board will not hold a hearing on a petition for review under Section 105.204(b) or (d) of this Subpart if the Board determines that the petition is duplicative~~duplicitous~~ or frivolous.

e) If the Board determines to hold a hearing, the Clerk will give notice of the hearing pursuant to 35 Ill. Adm. Code 101.602.

(Source: Amended at 29 Ill. Reg. 8811, effective June 8, 2005)

Section 105.APPENDIX B Comparison of Former and Current Rules (Repealed)

~~The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 105~~	~~CURRENT SECTION~~
~~105.102~~	~~105.202~~ ~~105.204~~ ~~105.206~~ ~~105.212~~ ~~105.Subpart C~~
~~105.103~~	~~105.204~~

(Source: Repealed at 29 Ill. Reg. 8811, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions

2) Code Citation: 35 Ill. Adm. Code 106

3)

Section Numbers:	Adopted Action:
106.702	Amend
106.704	Amend
106.Appendix A	Repeal

4) Statutory Authority: 415 ILCS 5/5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5, and 52.3 of the Environmental Protection Act [415 ILCS 5].

5) Effective Date of Amendments: June 8, 2005

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

7) Do these amendments contain incorporations by reference? No

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

13) Notice(s) of Proposal Published in Illinois Register: 28 Ill. Reg. 6848; May 7, 2004

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

11) Differences between proposal and final version: The Board made only minor, nonsubstantive changes to the proposal it adopted for first notice.

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

13) Will these amendments replace any emergency amendments currently in effect? No

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

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 106 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts

101, 102, 103, 104, 105, 107, 108, 125, and 130 of Title 35 of the Illinois Administrative Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

P.A. 93-171 (eff. July 10, 2003) amends Environmental Protection Act provisions addressing Environmental Management Systems Agreements or "EMSAs." EMSAs are agreements between the Illinois Environmental Protection Agency (Agency) and a "sponsor" designed to implement innovative environmental measures not otherwise allowed under the law.

The P.A. 93-171 amendments specify that EMSAs may be executed with participants in the United States Environmental Protection Agency's (USEPA) "Federal Performance Track Program," which is the successor to USEPA's "Federal XL Program." USEPA operates the Federal Performance Track Program to "recognize and reward businesses and public facilities that demonstrate strong environmental performance beyond current regulatory requirements." Section 52.3-1(a)(6). P.A. 93-171 states that the Agency may terminate an EMSA if the sponsor ceases to participate in the Federal Performance Track Program.

EMSA terminations are addressed in the Board's procedural rules. The Board adopted amendments at Section 106.704 to specify this additional ground for Agency termination of EMSAs and the sponsor's right to appeal that termination to the Board.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312-814-6983

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 106
PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section
106.100 Applicability
106.102 Severability
106.104 Definitions

SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE, AND SULFUR DIOXIDE DEMONSTRATIONS

Section
106.200 General
106.202 Petition Requirements
106.204 Additional Petition Requirements in Sulfur Dioxide Demonstrations
106.206 Notice
106.208 Recommendation and Response
106.210 Burden of Proof

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section
106.300 General
106.302 Initiation of Proceeding
106.304 Petition Content Requirements
106.306 Response and Reply
106.308 Hearing
106.310 Burden of Proof

SUBPART D: REVOCATION AND REOPENING OF CLEAN AIR ACT PERMIT PROGRAM (CAAPP) PERMITS

Section
106.400 General

106.402 Definitions
106.404 Initiation of Proceedings
106.406 Petition Content Requirements
106.408 Response and Reply
106.410 Hearing
106.412 Burden of Proof
106.414 Opinion and Order
106.416 USEPA Review of Proposed Determination

SUBPART E: MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY DETERMINATIONS

Section
106.500 General
106.502 Definitions
106.504 Initiation of Proceedings
106.506 Petition Content Requirements
106.508 Response and Reply
106.510 Hearing
106.512 Burden of Proof
106.514 Board Action

SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER LESS THAN OR EQUAL TO 10 MICRONS (PM-10)

Section
106.600 General
106.602 Initiation of Proceedings
106.604 Petition Content Requirements
106.606 Response and Reply
106.608 Hearing
106.610 Burden of Proof

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

Section
106.700 Purpose
106.702 Applicability
106.704 Termination Under Section 52.3-4(b) or (b-5) of the Act

106.706 Who May Initiate, Parties
106.707 Notice, Statement of Deficiency, Answer
106.708 Service
106.710 Notice of Hearing
106.712 Deficient Performance
106.714 Board Decision
106.716 Burden of Proof
106.718 Motions, Responses
106.720 Intervention
106.722 Continuances
106.724 Discovery, Admissions
106.726 Subpoenas
106.728 Settlement Procedure
106.730 Authority of Hearing Officer, Board Members, and Board Assistants
106.732 Order and Conduct of Hearing
106.734 Evidentiary Matters
106.736 Post-Hearing Procedures
106.738 Motion After Entry of Final Order
106.740 Relief from Final Orders

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

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005.

SUBPART G: INVOLUNTARY TERMINATION OF ENVIRONMENTAL MANAGEMENT SYSTEM AGREEMENTS (EMSAs)

Section 106.702 Applicability

a) When the Agency terminates an EMSA under Section 52.3-4(b) or (b-5) of the Act, only Section 106.704 of this Subpart applies.

b) This Subpart, except for Section 106.704, applies to proceedings in which the Board will determine whether to terminate an EMSA.

(Source: Amended at 29 Ill. Reg. 8817, effective June 8, 2005)

Section 106.704 Termination Under Section 52.3-4(b) or (b-5) of the Act

a) To terminate an EMSA under Section 52.3-4(b) of the Act, the Agency must determine that the sponsor's performance under the EMSA has failed to:

1) *Achieve emissions reductions or reductions in discharges of wastes beyond the otherwise applicable statutory and regulatory requirements through pollution prevention or other suitable means; or*

2) *Achieve real environmental risk reduction or foster environmental compliance by other persons regulated under the Act in a manner that is clearly superior to the existing regulatory system.* [415 ILCS 5/52.3-1(b)]

b) To terminate an EMSA under Section 52.3-4(b-5) of the Act, the Agency must determine that the sponsor's *participation in the Federal Performance Track Program has ceased*. [415 ILCS 5/52.3-4(b-5)]

c~~b~~) If the Agency terminates an EMSA under Section 52.3-4(b) or (b-5) of the Act, the sponsor may file an appeal with the Board. Appeals to the Board will be pursuant to 35 Ill. Adm. Code 105.Subparts A and B.

(Source: Amended at 29 Ill. Reg. 8817, effective June 8, 2005)

Section 106.APPENDIX A Comparison of Former and Current Rules (Repealed)

~~The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 106~~	~~CURRENT SECTION~~
~~106.101~~	~~106.200~~
~~106.102~~	~~106.202~~
~~106.103~~	~~106.200~~
~~106.104~~	~~106.208~~
~~106.201~~	~~106.202~~
~~106.202~~	~~101.602~~ ~~106.200~~ ~~106.210~~
~~106.301~~	~~106.202~~ ~~106.204~~
~~106.302~~	~~106.202~~
~~106.303~~	~~106.200~~
~~106.304~~	~~106.208~~
~~106.305~~	~~101.602~~ ~~106.200~~ ~~106.210~~
~~106.411~~	~~104.402~~
~~106.412~~	~~104.404~~
~~106.413~~	~~104.406~~
~~106.414~~	~~104.416~~
~~106.415~~	~~104.422~~ ~~104.424~~
~~106.416~~	~~104.428~~
~~106.501~~	~~104.400~~
~~106.502~~	~~104.402~~
~~106.503~~	~~104.404~~
~~106.504~~	~~104.406~~
~~106.505~~	~~104.416~~
~~106.506~~	~~104.422~~ ~~104.424~~
~~106.507~~	~~104.428~~
~~106.601~~	~~106.300~~

~~106.602~~	~~106.302~~ ~~106.304~~
~~106.603~~	~~106.306~~
~~106.604~~	~~106.308~~
~~106.701~~	~~104.400~~
~~106.702~~	~~104.104~~
~~106.703~~	~~104.402~~
~~106.704~~	~~104.404~~
~~106.705~~	~~104.406~~
~~106.708~~	~~106.100~~ ~~106.306~~
~~106.709~~	~~106.100~~ ~~101.Subpart E~~
~~106.710~~	~~106.100~~ ~~101.304~~
~~106.711~~	~~104.408~~
~~106.712~~	~~104.410~~
~~106.713~~	~~104.420~~
~~106.714~~	~~104.416~~
~~106.715~~	~~104.418~~
~~106.801~~	~~104.422~~
~~106.802~~	~~104.424~~
~~106.803~~	~~104.400~~
~~106.804~~	~~101.616~~ ~~104.100~~
~~106.805~~	~~101.626~~ ~~104.100~~ ~~104.400~~
~~106.807~~	~~104.400~~
~~106.808~~	~~104.426~~
~~106.902~~	~~104.414~~
~~106.903~~	~~104.426~~ ~~104.428~~
~~106.904~~	~~104.428~~
~~106.906~~	~~104.428~~
~~106.907~~	~~104.412~~
~~106.910~~	~~106.400~~
~~106.911~~	~~104.104~~

~~106.912~~	~~106.400~~ ~~106.404~~ ~~106.406~~
~~106.913~~	~~106.408~~
~~106.914~~	~~106.410~~ ~~106.412~~
~~106.915~~	~~106.414~~
~~106.916~~	~~106.416~~
~~160.920~~	~~106.500~~
~~106.921~~	~~106.502~~
~~106.922~~	~~106.504~~ ~~106.506~~
~~106.923~~	~~106.508~~
~~106.924~~	~~106.510~~ ~~106.512~~
~~106.925~~	~~106.514~~
~~106.930~~	~~106.600~~
~~106.931~~	~~106.600~~ ~~106.602~~ ~~106.604~~
~~106.932~~	~~106.606~~
~~106.933~~	~~106.608~~ ~~106.610~~
~~106.940~~	~~106.700~~ ~~106.702~~
~~106.942~~	~~101.202~~
~~106.944~~	~~106.102~~
~~106.945~~	~~106.704~~
~~106.946~~	~~106.706~~
~~106.948~~	~~106.707~~
~~106.950~~	~~106.708~~
~~106.952~~	~~106.710~~
~~106.954~~	~~106.712~~
~~106.956~~	~~106.714~~
~~106.958~~	~~106.716~~
~~106.960~~	~~106.718~~
~~106.962~~	~~106.720~~
~~106.964~~	~~106.722~~

~~106.966~~	~~106.724~~
~~106.968~~	~~106.726~~
~~106.970~~	~~106.728~~
~~106.972~~	~~106.730~~
~~106.974~~	~~106.732~~
~~106.976~~	~~106.734~~
~~106.978~~	~~106.736~~
~~106.980~~	~~106.738~~
~~106.982~~	~~106.740~~

(Source: Repealed at 29 Ill. Reg. 8817, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Petition to Review Pollution Control Facility Siting Decisions

2) Code Citation: 35 Ill. Adm. Code 107

3)

Section Numbers:	Adopted Action:
107.500	Amend
107.Appendix A	Repeal

4) Statutory Authority: 415 ILCS 5/26, 27, 39.2, and 40.1 of the Illinois Environmental Protection Act [415 ILCS 5].

5) Effective Date of Amendments: June 8, 2005

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

7) Does this rulemaking contain any incorporations by reference? No

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

14) Notice(s) of Proposal Published in Illinois Register: 28 Ill. Reg. 6859; May 7, 2004

10) Has JCAR issued a Statement of Objection to these amendments? 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 letter issued by JCAR? The Board made no changes to the proposal it adopted for first notice.

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

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

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 107 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 102, 103, 104, 105, 106, 108, 125, and 130 of Title 35 of the Illinois Administrative

Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

These adopted amendments reflect recent statutory changes to the Environmental Protection Act, replacing the word "duplicitous" with "duplicative" in referring to third-party appeals of decisions to grant pollution control facility siting approval. The Board also repealed Appendix A, which provides a cross-reference for the Board's prior procedural regulations and the regulations adopted in January 2001, because, as the current rules have been effective for three years now, the Appendix is no longer necessary.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER 1: POLLUTION CONTROL BOARD

PART 107
PETITION TO REVIEW POLLUTION CONTROL FACILITY SITING DECISIONS

SUBPART A: GENERAL PROVISIONS

Section
107.100 Applicability
107.102 Severability
107.104 Definitions
107.106 Description

SUBPART B: PETITION FOR REVIEW

Section
107.200 Who May File Petition
107.202 Parties
107.204 Time for Filing Petition
107.206 Filing and Service Requirements
107.208 Petition Content Requirements

SUBPART C: FILING OF LOCAL RECORD

Section
107.300 Record
107.302 Filing of the Record
107.304 Record Contents
107.306 Preparing of the Record
107.308 Certification of Record

SUBPART D: HEARING

Section
107.400 General
107.402 Authority and Duties of Hearing Officer
107.404 Public Participation

SUBPART E: BOARD REVIEW AND DECISION

Section
107.500 Preliminary Board Determination/Set for Hearing
107.502 Dismissal of Petition

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

107.504 Decision Deadline
107.506 Burden of Proof

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

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 39.2, and 40.1 of the Act [415 ILCS 5/39.2 and 40.1].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 539, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8828, effective June 8, 2005.

SUBPART E: BOARD REVIEW AND DECISION

Section 107.500 Preliminary Board Determination/Set for Hearing

Upon proper filing of the petition, the Board will set the matter for hearing unless it determines that the matter is frivolous or duplicative~~duplicitous~~ as required by Section 40.1(b) of the Act.

(Source: Amended at 29 Ill. Reg. 8828, effective June 8, 2005)

Section 107.APPENDIX A Comparison of Former and Current Rules (Repealed)

~~The following table compare the former procedural rules (in effect on December 31,2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 107~~	~~CURRENT SECTION~~
~~107.100~~	~~105.500~~
~~107.101~~	~~105.102~~
~~107.102~~	~~105.502~~
~~107.103~~	~~105.104~~
~~107.120~~	~~105.504(a)~~
~~107.121~~	~~105.504(b)~~
~~107.122~~	~~105.506~~
~~107.123~~	~~105.504(c)~~
~~107.124~~	~~105.508~~
~~107.Subpart C~~	~~105.108~~
~~107.Subpart D~~	~~105.510~~
~~107.Subpart E~~	~~105.100(b)~~ ~~101.Subpart F~~
~~107.Subpart F~~	~~105.100(b)~~ ~~101.Subpart F~~
~~107.Subpart G~~	~~105.100~~ ~~101.Subpart E~~
~~107.Subpart H~~	~~105.100~~ ~~101.Subpart F~~
~~107.Subpart I~~	~~105.100~~ ~~101.Subpart F~~
~~107.Subpart K~~	~~105.100~~ ~~101.Subpart F~~
~~107.320~~	~~105.100~~ ~~101.Subpart H~~
~~107.Subpart M~~	~~105.100~~ ~~101.Subpart I~~
~~107.Subpart N~~	~~105.100~~ ~~101.Subpart I~~

(Source: Repealed at 29 Ill. Reg. 8828, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Administrative Citations

2) Code Citation: 35 Ill. Adm. Code 108

3) Section Number: 108.500 Adopted Action: Amend

4) Statutory Authority: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 21(o), 21(p), 31.1, and 42(b)(4) of the Act [415 ILCS 5/21(o), 21(p), 31.1, and 42(b)(4)].

5) Effective Date of Amendment: June 8, 2005

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

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendment, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

9) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 6864; May 7, 2004

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 letter issued by JCAR? The Board made no changes to the proposal it adopted for first notice.

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

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

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 108 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 102, 103, 104, 105, 106, 107, 125, and 130 of Title 35 of the Illinois Administrative

Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

The Board adopted amendments to Section 108.500 of this Part to conform with changes resulting from P.A. 93-152, which amended the Environmental Protection Act by clarifying that the administrative citation civil penalty amount of $1,500 (or $3,000 for a subsequent violation) is to be imposed for each violation of each provision of Section 21(p) of the Environmental Protection Act (415 ILCS 5/21(p) (2002)).

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

PART 108
ADMINISTRATIVE CITATIONS

SUBPART A: GENERAL PROVISIONS

Section
108.100 Applicability
108.102 Severability
108.104 Definitions

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

Section
108.200 Administrative Citation Issuance
108.202 Service of Citation/Filing of Citation with the Board
108.204 Filing Requirements for Petition to Contest
108.206 Petition Contents
108.208 AC Recipient's Voluntary Withdrawal

SUBPART C: HEARINGS

Section
108.300 Authorization of Hearing

SUBPART D: BOARD DECISIONS

Section
108.400 Burden of Proof
108.402 Dismissal
108.404 Default
108.406 Non-Contested Citations

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

Section
108.500 Penalties and Costs

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

108.502 Claimed Costs of Agency or Delegated Unit
108.504 Board Costs
108.506 Response to Claimed Costs and Reply

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 21(o), 21(p), 31.1, and 42(b)(4) of the Act [415 ILCS 5/21(o), 21(p), 31.1, and 42(b)(4)].

SOURCE: Adopted in R00-20 at 25 Ill. Reg. 397, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8833, effective June 8, 2005.

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

Section 108.500 Penalties and Costs

The Board will impose penalties and assess costs as follows:

a) If the AC is defaulted or non-contested as set forth in Section 108.404 or 108.406 of this Part, respectively, the Board will do the following:

1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a $500 penalty for each violation of each such provision; and

2) Impose on the AC Recipient found to have violated any provision of Section 21(p) of the Act a $1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be ~~a first offense and a~~ $3,000 ~~penalty~~ for each violation of any provision of Section 21(p) of the Act that is the AC recipient's~~a~~ second or subsequent adjudicated violation of that provision~~offense~~.

b) If the AC Recipient contests the AC and the Board finds, based on the record, that the violation occurred and that the AC Recipient has not shown that the violation resulted from uncontrollable circumstances, the Board will do the following:

1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a $500 penalty for each violation of each such provision;

2) Impose on the AC Recipient found to have violated any provision of

Section 21(p) of the Act a $1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be ~~a first offense and a~~ $3,000 ~~penalty~~ for each violation of any provision of Section 21(p) of the Act that is the AC recipient's~~a~~ second or subsequent adjudicated violation of that provision~~offense~~; and

3) Assess the AC Recipient found to have violated any provision of Section 21(o) or (p) of the Act associated hearing costs pursuant to Sections 108.502 and 108.504 of this Subpart.

c) If the AC Recipient contests the AC but voluntarily withdraws the petition for review pursuant to Section 108.208 of this Part after the hearing starts, the Board will do the following:

1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a $500 penalty for each violation of each such provision;

2) Impose on the AC Recipient found to have violated any provision of Section 21(p) of the Act a $1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be ~~a first offense and a~~ $3,000 ~~penalty~~ for each violation of any provision of Section 21(p) of the Act that is the AC recipient's~~a~~ second or subsequent adjudicated violation of that provision~~offense~~; and

3) Assess the AC Recipient found to have violated any provision of Section 21(o) or (p) of the Act associated hearing costs pursuant to Sections 108.502 and 108.504 of this Subpart.

(Source: Amended at 29 Ill. Reg. 8833, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Tax Certifications

2) Code Citation: 35 Ill. Adm. Code 125

3) Section Number: 125.216 — Adopted Action: Amend

4) Statutory Authority: Implementing and authorized by Sections 11-5, 11-10, 11-20, 11-25, 11-30, 11-35, 11-40, 11-50, and 11-55 of the Property Tax Code [35 ILCS 200], and Sections 26 and 27 of the Environmental Protection Act [415 ILCS 5].

5) Effective Date of Amendment: June 8, 2005

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

7) Do this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

15) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 6869; May 7, 2004

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

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? The Board did not make any changes to the proposal it adopted for first notice.

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

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

15) Summary and Purpose of Amendment: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 125 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 102, 103, 104, 105, 106, 107, 108, and 130 of Title 35 of the Illinois Administrative

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

In Part 125, the Board made a minor amendment (replacing the term "petition" with "application") to ensure that terminology in this Part is used consistently.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

PART 125
TAX CERTIFICATIONS

SUBPART A: GENERAL PROVISIONS

Section
125.100 Applicability
125.102 Severability
125.104 Definitions

SUBPART B: TAX CERTIFICATION OF POLLUTION CONTROL FACILITIES AND LOW SULFUR DIOXIDE EMISSION COAL FUELED DEVICES

Section
125.200 General
125.202 Tax Certification Application
125.204 Agency Recommendation
125.206 Petition to Contest
125.208 Agency Record
125.210 Public Hearing
125.212 Hearing Notice
125.214 Burden of Proof
125.216 Board Action

AUTHORITY: Implementing and authorized by Sections 11-5, 11-10, 11-20, 11-25, 11-30, 11-35, 11-40, 11-50, and 11-55 of the Property Tax Code [35 ILCS 200/11-5, 11-10, 11-20, 11-25, 11-30, 11-35, 11-40, 11-50, and 11-55] and Sections 26 and 27 of the Environmental Protection Act (the Act) [415 ILCS 5/26 and 27].

SOURCE: Adopted in R00-20 at 25 Ill. Reg. 642, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8838, effective June 8, 2005.

SUBPART B: TAX CERTIFICATION OF POLLUTION CONTROL FACILITIES AND LOW SULFUR DIOXIDE EMISSION COAL FUELED DEVICES

Section 125.216 Board Action

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

a) Pollution Control Facilities. *If it is found that the claimed facility or relevant portion thereof is a pollution control facility as defined in* Section 125.200(a)(1) of this Part, *the Board shall enter a finding and issue a certificate to that effect. The certificate shall require tax treatment as a pollution control facility, but only for the portion certified if only a portion is certified. The effective date of a certificate shall be the date of* the application~~petition~~ *for the certificate or the date of the construction of the facility, whichever is later.* [35 ILCS 200/11-25]

b) Low Sulfur Dioxide Emission Coal Fueled Devices. *If it is found that the claimed device meets the definition* of low sulfur dioxide emission coal fueled device as set forth in Section 125.200(b)(1) of this Part, *the Board shall enter a finding and issue a certificate that requires tax treatment as a low sulfur dioxide emission coal fueled device. The effective date of a certificate shall be on January 1 preceding the date of certification or preceding the date construction or installation of the device commences, whichever is later.* [35 ILCS 200/11-55]

c) After notice to the holder of the certificate and an opportunity for a hearing pursuant to this Subpart, *the Board may on its own initiative revoke or modify a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate whenever any of the following appears:*

1) *The certificate was obtained by fraud or misrepresentation;*

2) *The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of pollution control facilities or a low sulfur dioxide emission coal fueled device; or*

3) *The pollution control facility to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose.* [35 ILCS 200/11-30]

d) The Clerk will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any* [35 ILCS 200/11-30].

(Source: Amended at 29 Ill. Reg. 8838, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Identification and Protection of Trade Secrets and Other Non-Disclosable Information

2) Code Citation: 35 Ill. Adm. Code 130

3)

Section Numbers:	Adopted Action:
130.110	Amend
130.Appendix A	Repeal

4) Statutory Authority: 415 ILCS 5/7, 7.1, 26, and 27 of the Environmental Protection Act [415 ILCS 5].

5) Effective Date of Amendments: June 8, 2005

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

7) Does this rulemaking contain incorporations by reference? No

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

16) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 6873; May 7, 2004

10) Has JCAR issued a Statement of Objection to these amendments? 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 letter issued by JCAR? Yes

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

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

15) Summary and Purpose of Amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 19, 2005 in Board docket R04-24. The amendments to Part 130 are part of a larger rulemaking in which the Board also adopted amendments to each of the other Parts of its procedural rules: Parts 101, 102, 103, 104, 105, 106, 107, 108, and 125 of Title 35 of the Illinois Administrative

Code. This larger rulemaking, to which the Board has devoted docket R04-24, is designed to ensure that the Board's procedural rules are consistent with the following recently enacted legislation: (a) amending the Environmental Protection Act (415 ILCS 5 (2002)) in P.A. 93-171 (eff. July 10, 2003), P.A. 93-152 (eff. July 10, 2003), P.A. 93-509 (eff. Aug. 11, 2002), and P.A. 92-574 (eff. June 26, 2002); (b) amending the Administrative Procedure Act (5 ILCS 100 (2002)) in P.A. 92-330 (eff. Aug. 9, 2001); and (c) creating the new State Officials and Employees Ethics Act (5 ILCS 430) in P.A. 93-615 (eff. Nov. 19, 2003) and amending it in P.A. 93-617 (eff. Dec. 9, 2003).

In addition to the conforming changes to Part 130, the Board has also repealed Appendix A, which provides a cross-reference for the Board's prior procedural regulations and the regulations adopted in January 2001, because, as the current rules have been effective for three years now, the Appendix is no longer necessary.

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

Richard McGill
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-6983

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R04-24 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 130
IDENTIFICATION AND PROTECTION OF TRADE SECRETS AND OTHER NON-DISCLOSABLE INFORMATION

SUBPART A: GENERAL PROVISIONS

Section
130.100 Purpose and Applicability
130.102 Additional Procedures
130.104 Definitions and Severability
130.106 Segregation of Articles
130.108 Disposal of Articles
130.110 Articles Containing Emission Data

SUBPART B: PROCEDURES FOR IDENTIFYING ARTICLES THAT REPRESENT TRADE SECRETS

Section
130.200 Initiation of a Claim that an Article Represents a Trade Secret
130.201 State Agency Request for Justification of Claims
130.202 Time Limit for Delayed Submission of Justification
130.203 Contents of Statement of Justification
130.204 Waiver of Statutory Deadlines
130.206 Deadline for State Agency Trade Secret Determination
130.208 Standards for State Agency Determination
130.210 State Agency Actions Following a Negative Determination
130.212 State Agency Actions Following a Positive Determination
130.214 Review of State Agency Trade Secret Determination
130.216 Effect of a Determination of Trade Secret Status on Other State Agencies
130.218 Status of Article Determined or Claimed to Represent a Trade Secret Before January 1, 2001
130.220 Extension of Deadlines to Participate in Proceedings

SUBPART C: PROCEDURES FOR PROTECTING ARTICLES THAT REPRESENT TRADE SECRETS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section
130.300 Applicability
130.302 Owner's Responsibility to Mark Article
130.304 State Agency's Responsibility to Mark Article
130.306 Transmission of Article Between State Agencies
130.308 Public Access to Information Related to Article
130.310 Access to Claimed or Determined Article
130.312 Unauthorized Disclosure or Use of Article
130.314 Limitation on Copying Article

SUBPART D: NON-DISCLOSABLE INFORMATION
OTHER THAN TRADE SECRETS

Section
130.400 General
130.402 Who May View Non-Disclosable Information
130.404 Application for Non-Disclosure
130.406 Public Inspection
130.408 Board Order

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

AUTHORITY: Implementing Sections 7 and 7.1 of the Environmental Protection Act (Act) [415 ILCS 5/7 and 7.1] and authorized by Sections 7, 7.1, 26, and 27 of the Act [415 ILCS 5/7, 7.1, 26, 27].

SOURCE: Subparts A, B, and C originally adopted in R81-30 at 7 Ill. Reg. 16149, effective November 23, 1983. Subpart D originally adopted in R88-5(A) at 13 Ill. Reg. 12055, effective July 10, 1989; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 516, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8842, effective June 8, 2005.

SUBPART A: GENERAL PROVISIONS

Section 130.110 Articles Containing Emission Data

a) *All emission data reported to or otherwise obtained by the Illinois Environmental Protection Agency, the Board, or DNR in connection with any examination, inspection or proceeding under the Act shall be available to the public to the extent required by the federal Clean Air Act* ~~*Amendments of 1977 (P.L. 95-95)*~~ *as amended* [415 ILCS 5/7(c)].

b) For purposes of this Section, "emission data" means:

1) The identity, amount, frequency, concentration, or other characteristics (related to air quality) of any contaminant that:

A) Has been emitted from an emission unit;

B) Results from any emission by the emission unit;

C) Under an applicable standard or limitation, the emission unit was authorized to emit; or

D) Is a combination of any of the items described in subsection (b)(1)(A), (B), or (C) of this Section.

2) The name, address (or description of the location), and the nature of the emission unit necessary to identify the emission unit, including a description of the device, equipment, or operation constituting the emission unit.

c) In addition to subsection (b) of this Section, information necessary to determine or calculate emission data, including rate of operation, rate of production, rate of raw material usage, or material balance, will be deemed to represent emission data for the purposes of this Section if the information is contained in a permit to ensure that the permit is practically enforceable.

(Source: Amended at 29 Ill. Reg. 8842, effective June 8, 2005)

Section 130.APPENDIX A Comparison of Former and Current Rules (Repealed)

~~The following table compares the former procedural rules (in effect on December 31, 2000) with the current procedural rules (effective January 1, 2001).~~

~~FORMER PART 120~~	~~CURRENT SECTION~~
~~120.101~~	~~130.100~~
~~120.102~~	~~130.100~~
~~120.103~~	~~101.200~~ ~~101.202~~ ~~130.104~~
~~120.201~~	~~130.200~~
~~120.202~~	~~130.203~~
~~120.203~~	~~130.204~~
~~120.215~~	~~130.201~~
~~120.220~~	~~130.202~~
~~120.225~~	~~130.206~~
~~120.230~~	~~130.208~~
~~120.240~~	~~130.210~~
~~120.245~~	~~130.212~~
~~120.250~~	~~130.214~~
~~120.260~~	~~130.216~~
~~120.265~~	~~130.218~~
~~120.270~~	~~130.220~~
~~120.301~~	~~130.300~~
~~120.305~~	~~130.302~~
~~120.310~~	~~130.304~~
~~120.315~~	~~130.306~~
~~120.320~~	~~130.106~~
~~120.325~~	~~130.308~~
~~120.330~~	~~130.310~~
~~120.340~~	~~130.310~~
~~120.350~~	~~130.312~~
~~120.360~~	~~130.108~~
~~120.401~~	~~130.102~~

(Source: Repealed at 29 Ill. Reg. 8842, effective June 8, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Emissions Reduction Market System

2) Code Citation: 35 Ill. Adm. Code 205

3)

Section Numbers:	Adopted Action:
205.120	Amend
205.130	Amend
205.150	Amend
205.200	Amend
205.205	Amend
205.210	Amend
205.220	Amend
205.300	Amend
205.310	Amend
205.315	Amend
205.316	Add
205.318	Amend
205.320	Amend
205.330	Amend
205.335	Amend
205.337	Amend
205.400	Amend
205.405	Amend
205.410	Amend
205.500	Amend
205.510	Amend
205.610	Amend
205.700	Amend
205.730	Amend
205.750	Amend
205.760	Amend

4) Statutory Authority: Implementing Section 9.8 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.8, 27 and 28]

5) Effective Date of Amendments: June 13, 2005

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

7) Does this rulemaking contain incorporations by reference? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

17) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 16137; December 17, 2004

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

11) Differences between proposal and final version: In response to comments filed by the Illinois Environmental Protection Agency, the Board made nonsubstantive changes to the proposal to clarify the proposed language.

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

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

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

15) Summary and Purpose of Amendments: A more complete description of this proposal may be found in the Board's opinion and order of June 2, 2005, in Board docket R05-11. This rulemaking, based on a proposal filed by the Illinois Environmental Protection Agency on November 19, 2004, amends the Board's Emission reduction market system regulations (ERMS). The ERMS system is a cap and trade program that involves volatile organic material (VOM) emissions in the Chicago area. The program is designed to reduce VOM emission in the Chicago non-attainment area below the levels required by reasonably available control technology and other emission standards. The amendments adopted in this rulemaking affect sources in the Chicago ozone non-attainment area.

The adopted amendments reflect recent changes in federal regulations. The United States Environmental Protection Agency is revoking the 1-hour ozone national ambient air quality standard (NAAQS) effective on June 15, 2005. The revocation of the 1-hour NAAQS affects applicability thresholds. Currently sources subject to the Clean Air Act Permit Program (CAAPP) are those with potential to emit 25 tons of VOM, but once the 1-hour ozone NAAQS is revoked, the applicability threshold rises to 100 tons. To ensure that the ERMS program remains in place in its current form so as to maintain the required volatile organic material emissions reductions in the Chicago area, these adopted amendments modify the applicability provisions and clarify other related provisions as a

result of the implementation of the 8-Hour Ozone National Ambient Air Quality Standard and the revocation of the 1-Hour Ozone National Ambient Air Quality Standard.

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

John Knittle
Illinois Pollution Control Board
2125 South First St.
Champaign IL 61820

(217) 278-3111

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R05-11 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: ALTERNATIVE REDUCTION PROGRAM

PART 205
EMISSIONS REDUCTION MARKET SYSTEM

SUBPART A: GENERAL PROVISIONS

Section
205.100 Severability
205.110 Purpose
205.120 Abbreviations and Acronyms
205.130 Definitions
205.150 Emissions Management Periods

SUBPART B: APPLICABILITY

Section
205.200 Participating Source
205.205 Exempt Source
205.210 New Participating Source
205.220 Insignificant Emission Units
205.225 Startup, Malfunction or Breakdown

SUBPART C: OPERATIONAL IMPLEMENTATION

Section
205.300 Seasonal Emissions Component of the Annual Emissions Report
205.310 ERMS Applications
205.315 CAAPP Permits for ERMS Sources
205.316 Federally Enforceable State Operating Permits for ERMS Sources
205.318 Certification for Exempt CAAPP Sources
205.320 Baseline Emissions
205.330 Emissions Determination Methods
205.335 Sampling, Testing, Monitoring and Recordkeeping Practices
205.337 Changes in Emissions Determination Methods and Sampling, Testing, Monitoring and Recordkeeping Practices

SUBPART D: SEASONAL EMISSIONS MANAGEMENT

Section

205.400 Seasonal Emissions Allotment
205.405 Exclusions from Further Reductions
205.410 Participating Source Shutdowns

SUBPART E: ALTERNATIVE ATU GENERATION

Section
205.500 Emissions Reduction Generator
205.510 Inter-Sector Transaction

SUBPART F: MARKET TRANSACTIONS

Section
205.600 ERMS Database
205.610 Application for Transaction Account
205.620 Account Officer
205.630 ATU Transaction Procedures

SUBPART G: PERFORMANCE ACCOUNTABILITY

Section
205.700 Compliance Accounting
205.710 Alternative Compliance Market Account (ACMA)
205.720 Emissions Excursion Compensation
205.730 Excursion Reporting
205.740 Enforcement Authority
205.750 Emergency Conditions
205.760 Market System Review Procedures

AUTHORITY: Implementing Section 9.8 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.8, 27 and 28].

SOURCE: Adopted at 21 Ill. Reg. 15777, effective November 25, 1997; amended at 29 Ill. Reg. 8848, effective June 13, 2005.

SUBPART A: GENERAL PROVISIONS

Section 205.120 Abbreviations and Acronyms

Unless otherwise specified within this Part, the abbreviations used in this Part shall be the same

as those found in 35 Ill. Adm. Code 211. The following abbreviations and acronyms are used in this Part:

ACMA	Alternative Compliance Market Account
Act	Environmental Protection Act [415 ILCS 5]
ATU	Allotment Trading Unit
BAT	Best Available Technology
CAA	Clean Air Act as amended in 1990 [42 U.S.C. 7401 through 7671q]
CAAPP	Clean Air Act Permit Program
ERMS	Emissions Reduction Market System
FESOP	Federally Enforceable State Operating Permit
LAER	Lowest Achievable Emission Rate
MACT	Maximum Achievable Control Technology
NAAQS	National Ambient Air Quality Standard
NESHAP	National Emission Standards for Hazardous Air Pollutants
RFP	Reasonable Further Progress
ROP	Rate of Progress
USEPA	United Stated Environmental Protection Agency
VOM	Volatile Organic Material

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.130 Definitions

Unless otherwise specified within this Part, the definitions for the terms used in this Part shall be the same as those found in Section 39.5 of the Act [415 ILCS 5/39.5] and in 35 Ill. Adm. Code 211.

"Account officer" means a natural person who has been approved by the Agency, as specified in Section 205.620 of this Part, and is subsequently responsible for one or more Transaction Accounts to which he or she is designated.

"Allotment" means the number of allotment trading units (ATUs) allotted to a source by the Agency, as established in the source's CAAPP permit or FESOP.

"Allotment Trading Unit (ATU)" means a tradable unit that represents 200 lbs of VOM emissions and is a limited authorization to emit 200 lbs of VOM emissions during the seasonal allotment period.

"Annual Emissions Report" means the report submitted to the Agency annually

pursuant to 35 Ill. Adm. Code 254.

"Baseline emissions" means a participating source's VOM emissions for the seasonal allotment period based on historical operations as determined under Subpart C of this Part. Baseline emissions shall be the basis of the allotment for each participating source.

"Best Available Technology (BAT)" means an emission level based on the maximum degree of reduction of VOM emitted from or which results from any emission unit, which the Agency, on a case-by-case basis, taking into account energy, environmental and economic impacts, determines is achievable for such unit through application of production processes and available methods, systems, and techniques for control of VOM, considering the features and production process and control methods, systems and techniques already used for the unit. BAT for an emission unit shall not be more stringent than Best Available Control Technology (BACT) as would be determined contemporaneously for such unit under the federal rules for Prevention of Significant Deterioration of Air Quality (PSD), 40 CFR 52.21 (1996). In no event shall application of "best available technology" result in emissions of VOM which exceed the emissions allowed by any standard established pursuant to Section 111 of the Clean Air Act, if such a standard is applicable to the category of emission unit.

"CAAPP" means the Clean Air Act Permit Program, pursuant to Section 39.5 of the Act [415 ILCS 5/39.5].

"Chicago ~~ozone nonattainment~~ area" means the area composed of Cook, DuPage, Kane, Lake, McHenry, and Will Counties and Aux Sable Township and Goose Lake Township in Grundy County and Oswego Township in Kendall County.

"Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, such as an act of God, that requires immediate corrective action to restore normal operation.

"Emissions excursion" refers to the event that occurs when a participating source or new participating source does not hold sufficient ATUs at the end of a reconciliation period to account for its VOM emissions from the preceding seasonal allotment period, in accordance with Section 205.150(c) or (d) of this Subpart.

"Excursion Compensation Notice" means an administrative notice issued by the

Agency, pursuant to Section 205.720 of this Part, that notifies the owner or operator of a participating source or new participating source that the Agency has determined that the source has had an emissions excursion.

"General participant" means any person, other than a participating source or new participating source, that obtains a Transaction Account and is allowed to buy and sell ATUs.

"New participating source" means a source not operating prior to May 1, 1999, located in the Chicago ~~ozone nonattainment~~ area, that emits or has the potential to emit 25 tons per year or more of VOM or is required to obtain a CAAPP permit and has or will have seasonal emissions of at least 10 tons of VOM.

"Participating source" means a source operating prior to May 1, 1999, located in the Chicago ~~ozone nonattainment~~ area, that emits or has the potential to emit 25 tons per year or more of VOM or is required to obtain a CAAPP permit; and has baseline emissions of at least 10 tons, as specified in Section 205.320(a) of this Part, or seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999.

"Reconciliation period" means the period from October 1 through December 31 of each year during which the owner or operator of a participating source or new participating source must compile actual VOM emissions for the previous seasonal allotment period and may also buy or sell ATUs so that sufficient ATUs are held by the source by the conclusion of the reconciliation period.

"Seasonal allotment period" means the period from May 1 through September 30 of each year.

"Seasonal emissions" means actual VOM emissions at a source that occur during a seasonal allotment period.

"Sell" means to transfer ATUs to another person through sale, lease, trade or other means of transfer.

"Special participant" means any person that registers with the Agency and may purchase and retire ATUs but not sell ATUs, as specified in Section 205.610 of this Part.

"Throughput" means the activity of an emission unit during a particular period

relevant to its generation of VOM emissions, including, but not limited to, the amount of material transferred for a liquid storage operation, the amount of material processed through or produced by the emission unit, fuel usage, or the weight or volume of coatings or inks.

"Transaction Account" means an account authorized by the Agency or its designee that allows an account officer to buy or sell ATUs.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.150 Emissions Management Periods

a) The VOM emissions control period is the seasonal allotment period, which is from May 1 through September 30, annually.

b) The reconciliation period is from October 1 to December 31, annually. During each reconciliation period, participating sources and new participating sources shall:

1) Compile data of actual VOM emissions during the immediately preceding seasonal allotment period; and

2) Submit its seasonal emissions component of its Annual Emissions Report, in accordance with Section 205.300 of this Part.

c) At the end of each reconciliation period, on and after the dates specified in Section 205.200 of this Part, each participating source shall:

1) Hold ATUs in an amount not less than its VOM emissions during the preceding seasonal allotment period, except as provided in Sections 205.220, 205.225, 205.315, 205.316, 205.320(e)(3) or (f) and 205.750 of this Part; or

2) Except as provided in subsection (f) of this Section, hold~~Hold~~ ATUs in an amount not less than 1.3 times its ~~seasonal~~ emissions during the preceding seasonal allotment period that are attributable to a major modification ~~during the preceding seasonal allotment period~~, if a participating source commences operation of a major modification pursuant to 35 Ill. Adm. Code 203 on or after May 1, 1999. Additionally, such source must hold ATUs in accordance with subsection (c)(1) of this Section for VOM

emissions ~~not attributable to this major modification~~ during the preceding seasonal allotment period that are not attributable to this major modification.

d) At the end of each reconciliation period, beginning with the reconciliation period immediately following the seasonal allotment period in which the source first becomes a new participating source~~on and after the date on which the source commences operation~~, as specified in Section 205.210 of this Part, each new participating source shall:

1) Except as provided in subsection (f) of this Section, if ~~If~~ the new participating source is a new major source pursuant to 35 Ill. Adm. Code 203, hold ATUs in an amount not less than 1.3 times its VOM emissions during the preceding seasonal allotment period; or

2) If the new participating source is not a new major source pursuant to 35 Ill. Adm. 203, hold ATUs in an amount not less than its VOM emissions during the preceding seasonal allotment period, except as provided in Sections 205.220, 205.225 and 205.750 of this Part.

e) Except as provided in subsection (f) of this Section, any~~Any~~ participating source that commences operation of a major modification on or after May 1, 1999, or any new participating source that is a new major source, which, at the end of each reconciliation period, holds ATUs in an amount not less than 1.3 times the VOM emissions during the preceding seasonal allotment period, in accordance with subsection (c)(2) or (d)(1) of this Section, as applicable, shall be deemed to have satisfied the VOM offset requirements of 35 Ill. Adm. Code 203.302(a), 203.602 and 203.701.

f) Chicago area classification

1) If the nonattainment classification of the Chicago area for ozone is changed such that the required offset ratio is no longer 1.3 to 1 and a new offset ratio applies, as specified in 35 Ill. Adm. Code 203.302, that ratio shall then apply in lieu of the 1.3 to 1 ratio set forth in subsections (c)(2), (d)(1), and (e) of this Section. Such new ratio shall not apply to any part of a source or any modification already subject to the 1.3 to 1 ratio or other previously-effective offset ratio prior to the effective date of the new ratio.

2) If the Chicago area is designated as attainment for ozone, the 1.3 to 1 ratio set forth in subsections (c)(2), (d)(1), and (e) of this Section or any new ratio established pursuant to subsection (f)(1) of this Section shall cease to apply. However, such ratio shall continue to apply to any part of a source or any modification that is already subject to the ratio prior to such designation.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

SUBPART B: APPLICABILITY

Section 205.200 Participating Source

a) The requirements of this Part shall apply to any source operating prior to May 1, 1999, located in the Chicago ~~ozone nonattainment~~ area, that:

1) emits or has the potential to emit 25 tons per year or more of VOM or is required to obtain a CAAPP permit; and

2) has baseline emissions of at least 10 tons, as specified in Section 205.320(a) of this Part, or seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999.

b) Each participating source shall hold ATUs, as specified in Section 205.150(c) of this Part, in accordance with the following schedule:

1)~~a)~~ For any participating source that has baseline emissions of at least 10 tons of VOM, as determined in accordance with Section 205.320(a) of this Part, beginning with the 1999 seasonal allotment period;

2)~~b)~~ For any source that first becomes a participating source because its VOM emissions increase to 10 tons per season or more in any seasonal allotment period beginning with 1999 and this emissions increase is not a major modification pursuant to 35 Ill. Adm. Code 203, beginning with the first seasonal allotment period after such increased emissions occurred; or

3)~~c)~~ For any source that will first be subject to the requirements of this Part because of a VOM emissions increase at any time on or after May 1, 1999 that constitutes a major modification pursuant to 35 Ill. Adm. Code 203, upon commencing operation of this modification.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.205 Exempt Source

a) Any source that otherwise meets the criteria for participating sources shall be exempt from the requirements of this Part, except that any such source shall be required to obtain a CAAPP permit or FESOP and submit the seasonal emissions component of the Annual Emissions Report as specified in Section 205.300 of this Part, if the source accepts a 15 tons per seasonal allotment period limit on its VOM emissions in its CAAPP permit or FESOP for each seasonal allotment period in which the source would be required to participate in the ERMS in accordance with the following:

1) If the source would be required to participate in the ERMS beginning with the 1999 seasonal allotment period in accordance with Section 205.200(b)(1)~~(a)~~ of this Subpart, such source shall apply for the applicable permit limitation by March 1, 1998; or

2) If the source is required to participate in the ERMS in any seasonal allotment period after 1999 because its VOM emissions increase to 10 tons or more in any seasonal allotment period beginning with 1999 in accordance with Section 205.200(b)(2) of this Subpart, such source shall apply for the applicable permit limitation by December 1 of the first year in which its seasonal emissions are at least 10 tons.

b) Any source that otherwise meets the criteria for participating sources shall be exempt from the requirements of this Part, except that any such source shall be required to submit the seasonal emissions component of the Annual Emissions Report and an ERMS application as specified in Sections 205.300 and 205.310(d) of this Part, respectively, if such source reduces its seasonal emissions by at least 18 percent beginning in 1999. Any such source shall accept conditions in its CAAPP permit or FESOP limiting its seasonal emissions to at least 18 percent less than its baseline emissions, as determined in accordance with Section 205.320 of this Part. Any such source shall apply for the applicable permit limitation(s) by March 1, 1998. ATUs equivalent to any amount of VOM emissions reductions achieved by the source beyond 12 percent (at least six percent) shall be issued by the Agency to the ACMA.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.210 New Participating Source

a) The requirements of this Part shall apply to any new participating source, a source not operating prior to May 1, 1999, located in the Chicago ~~ozone nonattainment~~ area, that:

1) emits or has the potential to emit 25 tons per year or more of VOM or is required to obtain a CAAPP permit; and

2) has or will have seasonal emissions of at least 10 tons of VOM.

b) Each new participating source shall hold ATUs, as specified in Section 205.150(d) of this Part~~, upon commencing operation~~.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.220 Insignificant Emission Units

a) Emission units identified as insignificant activities pursuant to the CAAPP permit for a~~each~~ participating or new participating source are exempt from the requirements of this Part.

b) Emission units that the Agency determines would qualify as insignificant activities under 35 Ill. Adm. Code 201.Subpart F if the source were a CAAPP source and for which a statement to this effect is contained in the FESOP for a participating or new participating source are exempt from the requirements of this Part.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

SUBPART C: OPERATIONAL IMPLEMENTATION

Section 205.300 Seasonal Emissions Component of the Annual Emissions Report

a) For each year in which the source is operational, the owner or operator of each participating source and new participating source shall submit, as a component of its Annual Emissions Report, seasonal emissions information to the Agency for each seasonal allotment period after the effective date of this Part in accordance with the following schedule:

1) For each participating source or new participating source that generates VOM emissions from less than 10 emission units, by October 31 of each year; and

2) For each participating source or new participating source that generates VOM emissions from 10 or more emission units, by November 30 of each year.

b) In addition to any information required pursuant to 35 Ill. Adm. Code 254, the seasonal emissions component of the Annual Emissions Report shall contain the following information for the preceding seasonal allotment period for each emission unit emitting or capable of emitting VOM, except that such information is not required for emission units excluded pursuant to Section 205.220 of this Part or for VOM emissions attributable to startup, malfunction or breakdown, as specified in Section 205.225 of this Part:

1) Actual seasonal emissions of VOM from the source;

2) A description of the methods and practices used to determine VOM emissions, as required by the source's CAAPP permit or FESOP, including any supporting documentation and calculations;

3) A detailed description of any monitoring methods that differ from the methods specified in the CAAPP permit or FESOP for the source, as provided in Section 205.337 of this Subpart;

4) If a source has experienced an emergency, as provided in Section 205.750 of this Part, it shall reference the associated emergency conditions report that has been approved by the Agency;

5) If a source's baseline emissions have been adjusted because of a variance, consent order or CAAPP permit compliance schedule, as provided for in Section 205.320(e)(3) of this Subpart, it shall provide documentation quantifying the adjusted VOM emissions amount; and

6) If a source is operating a new or modified emission unit for which three years of operational data is not yet available, as specified in Section 205.320(f) of this Subpart, it shall specify seasonal emissions attributable to the new emission unit or the modification of the emission unit.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.310 ERMS Applications

a) The owner or operator of each participating source or new participating source shall submit to the Agency an ERMS application in accordance with the following schedule:

1) For a participating source with baseline emissions of at least 10 tons of VOM, as determined in accordance with Section 205.320(a) of this Subpart, by March 1, 1998;

2) For any source that first becomes a participating source or new participating source because its VOM emissions increase to 10 tons or greater during any seasonal allotment period beginning with 1999, on or before December 1 of the year of the first seasonal allotment period in which its VOM emissions are at least 10 tons, provided that this emissions increase is not a major modification pursuant to 35 Ill. Adm. Code 203; or

3) For ~~a new participating source or for a major modification of~~ any source existing prior to May 1, 1999, that first becomes a participating source or new participating source due to a major modification ~~is~~ subject to 35 Ill. Adm. Code 203 based on VOM emissions, at the time a construction permit application is submitted or due for the source or modification, whichever occurs first.

4) For a source that will be a new participating source when it commences construction and that is also a major new source under 35 Ill. Adm. Code 203 based on VOM emissions, at the time a construction permit application is submitted or due for the source, whichever occurs first.

b) Except as provided in subsection (d) of this Section, each ERMS application for participating sources shall contain all information required by the Agency pursuant to Section 39.5 of the Act [415 ILCS 5/39.5] or reference such information if previously submitted to the Agency, including the following information:

1) Data sufficient to establish the appropriate baseline emissions for the source in accordance with Section 205.320 of this Subpart, including but

not limited to the following:

A) VOM emissions data and production types and levels from the baseline emissions year(s), as specified in Section 205.320(a)(1), (b) or (c) of this Subpart, as appropriate;

B) If the source is proposing a substitute baseline emissions year(s), as provided in Section 205.320(a)(2) of this Subpart, a justification that the year is more representative than 1994, 1995 or 1996, including data on production types and levels from the proposed substitute year(s) and historical production data, as needed to justify that the proposed substitute year(s) is representative; and

C) If the source is proposing a baseline emissions adjustment based on voluntary over-compliance, as provided in Section 205.320(d) of this Subpart, sufficient information for the Agency to determine the appropriate adjustment;

2) A description of methods and practices used to determine baseline emissions and that will be used to determine seasonal emissions for purposes of demonstrating compliance with this Part, in accordance with Sections 205.330 and 205.335 of this Subpart;

3) Identification of any emission unit for which exclusion from further reductions is sought pursuant to Section 205.405(b) of this Part and including all of the information required pursuant to Section 205.405(b) of this Part;

4) Identification of any emission unit excluded from further reductions pursuant to Section 205.405(a) of this Part; and

5) Identification of any new or modified emission unit for which a construction permit was issued prior to January 1, 1998, but for which three years of operational data is not available, and the permitted VOM emissions or the permitted increase in VOM emissions from such emission unit(s), adjusted for the seasonal allotment period.

c) Except as provided in subsection (h) of this Section, the ERMS application submitted by each participating source shall also be an application for a significant modification of its CAAPP permit or a revision to its FESOP, or a

revision to its CAAPP or FESOP application if a CAAPP permit or FESOP has not yet been issued for the source.

d) The ERMS application for any source that elects to reduce its seasonal emissions by at least 18 percent from its baseline emissions, as provided in Section 205.205(b) of this Part, shall include:

1) VOM emissions data sufficient to establish the appropriate baseline emissions for the source in accordance with Section 205.320 of this Subpart; and

2) A description of methods and practices used to determine baseline emissions and that will be used to demonstrate that its seasonal emissions will be at least 18 percent less than its baseline emissions, in accordance with Sections 205.330 and 205.335 of this Subpart.

e) Within 120 days after receipt of an ERMS application, the Agency shall provide written notification to the source of a preliminary baseline emissions determination. Public notice of a draft CAAPP permit or FESOP~~in accordance with Section 39.5(8) of the Act [415 ILCS 5/39.5(8)]~~ shall fulfill this requirement for a preliminary baseline emissions determination if issued within 120 days.

f) The ERMS application for each source applying for a major modification, as provided in subsection (a)(3) of this Section, shall include the information specified in subsection (b) of this Section and a certification by the owner or operator recognizing that the source will be required to hold ATUs by the end of each reconciliation period in accordance with Section 205.150(c)(2) of this Part, and provide a plan explaining the means by which it will obtain ATUs for the VOM emissions attributable to the major modification for the first three seasonal allotment periods in which this major modification is operational.

g) The ERMS application for each new participating source shall include:

1) A description of methods and practices that will be used to determine seasonal emissions for purposes of demonstrating compliance with this Part, in accordance with Sections 205.330 and 205.335 of this Subpart;

2) A certification by the owner or operator recognizing that the source will be required to hold ATUs by the end of each reconciliation period in accordance with Section 205.150(d) of this Part for each seasonal

allotment period in which it is operational; and

3) If the source is a new major source subject to 35 Ill. Adm. Code 203, a plan explaining means by which it will obtain such ATUs for the first three seasonal allotment periods in which it is operational.

h) The owner or operator of any participating source that has identified a new or modified emission unit, as specified in subsection (b)(5) of this Section, shall submit a written request for, or an application for, a revised emissions baseline and allotment. Such written request or application shall be submitted by December 1 of the year of the third complete seasonal allotment period in which such newly constructed emission unit is operational, which submittal shall include information on the seasonal emissions for these first three seasonal allotment periods.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.315 CAAPP Permits for ERMS Sources

a) Except as provided in Section 205.316(c) of this Subpart, the~~The~~ Agency shall determine the baseline emissions for each participating source in accordance with Section 205.320 of this Subpart, through its final permit action on a new or modified CAAPP permit for the~~each such~~ source. The Agency's baseline emissions determination may be appealed in accordance with the CAAPP appeal procedures specified in Section 40.2 of the Act [415 ILCS 5/40.2]. If the permit conditions establishing a source's baseline emissions are appealed, the baseline emissions for the source shall be as proposed in the source's ERMS application during the pendency of the appeal. During the pendency of the appeal, ATUs shall be allotted to the source pursuant to the part of the source's proposed baseline emissions that is not disputed in the appeal. If such source's seasonal VOM emissions exceed the ATUs it holds at the end of reconciliation periods during the pendency of the appeal, the source will not be deemed to have had an emissions excursion to the extent that such seasonal VOM emissions do not exceed the amount it proposed as its baseline in its ERMS application, less reductions required pursuant to Section 205.400(c) or (e) of this Part, if applicable. Such source shall not be allowed to sell ATUs during the pendency of the appeal.

b) Except as provided in Section 205.316(c) of this Subpart, the~~The~~ Agency shall determine, in accordance with Sections 205.330 and 205.335 of this Subpart, the

methods and practices applicable to each participating source and new participating source to determine seasonal emissions through its final permit action on a new or modified CAAPP permit for the ~~each such~~ source. The Agency's determination of the methods and practices applicable may be appealed in accordance with the CAAPP appeal procedures specified in Section 40.2 of the Act [415 ILCS 5/40.2].

c) Except as provided in Section 205.316(c) of this Subpart, the~~The~~ Agency shall determine, in accordance with Section 205.405(b) of this Part, if an emission unit qualifies for exclusion from further reductions in its final permit action on a new or modified CAAPP permit for each such source. The Agency's determination may be appealed in accordance with the CAAPP appeal procedures specified in Section 40.2 of the Act [415 ILCS 5/40.2]. If the permit conditions establishing the Agency's BAT determination are appealed, ATUs shall be allotted to the source for any emission unit for which the Agency's BAT determination is being appealed with the emissions reduction required by Section 205.400(c) or (e) of this Part during the pendency of the appeal. If the seasonal VOM emissions for the subject emission unit(s) exceed the ATUs that are attributed to the unit(s) during the pendency of the appeal, the source will not be deemed to have an emissions excursion to the extent that such seasonal VOM emissions do not exceed the amount of ATUs that would be attributed to this unit if the BAT exclusion was accepted. Such source shall not be allowed to sell ATUs during the pendency of the appeal.

d) The CAAPP permit for a~~allotment for each~~ participating source shall specify the allotment for each seasonal allotment period ~~shall be specified in its CAAPP permit~~.

e) To the extent possible, the Agency shall initiate the procedures of 35 Ill. Adm. Code 252, as required by Section 39.5 of the Act [415 ILCS 5/39.5], by grouping the draft CAAPP permits and supporting documents for participating sources. Specifically, to the extent possible, the Agency shall issue a joint public notice and hold a joint hearing, as appropriate, addressing participating sources for which a hearing is requested.

f) When a CAAPP permit for a participating source or new participating source is transferred from the current permittee to another person:

1) In the case of a name change of the participating source or new participating source where ownership is not altered, appropriate

documentation shall be submitted to revise the Transaction Account to reflect the name change; or

2) In the case of an ownership change of the participating source or new participating source, the allotment shall also be transferred by the owner or operator of the permitted source to the new owner or operator, or the new owner or operator shall submit a statement to the Agency certifying that such transfer is not occurring and demonstrating that necessary ATUs are or will be available by other means for the intended operation of the source.

g) Upon reopening or renewal of the CAAPP permit for any participating source or new participating source, any multiple season transfer agreement, as provided in Section 205.630(a)(2)(B) of this Part, that has three or more years of transfers remaining shall be identified in the renewed or reissued CAAPP permit for each such source.

h) Upon reopening or renewal of the CAAPP permit for any participating source or new participating source, any ATUs that will be issued by the Agency for three years or more to any such source pursuant to Section 205.410, 205.500 or 205.510 of this Part shall be identified in the renewed or reissued CAAPP permit for each such source.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.316 Federally Enforceable State Operating Permits for ERMS Sources

a) Any participating or new participating source shall not operate without a CAAPP permit or FESOP.

1) If a source has a CAAPP permit containing ERMS provisions and the source elects to obtain a different permit in lieu of the CAAPP permit, the source shall apply for and obtain a FESOP that contains ERMS provisions, including, but not limited to, emissions calculation methodologies, baseline emissions, and allotment for each seasonal allotment period, all of which are identical to those provisions contained in its CAAPP permit.

2) If a participating or new participating source does not have a CAAPP permit containing ERMS provisions and the source elects to obtain a permit other than a CAAPP permit, the source shall apply for and obtain a

FESOP that contains, in addition to other necessary provisions, federally enforceable ERMS provisions, including baseline emissions, allotment for each seasonal allotment period, identification of any units deemed to be insignificant activities for the purposes of the ERMS, emissions calculation methodologies, and provisions addressing all other applicable requirements of this Part.

b) When determining the baseline emissions and allotment for a participating source as required under subsection (a)(2) of this Section:

1) The Agency shall determine baseline emissions in accordance with Section 205.320 of this Subpart, through its final permit action on the new or modified FESOP for the source. The Agency's baseline emissions determination may be appealed in accordance with the appeal procedures specified in Section 40 of the Act [415 ILCS 5/40]. If the permit conditions establishing a source's baseline emissions are appealed, the baseline emissions for the source shall be as proposed in the source's ERMS application during the pendency of the appeal. During the pendency of the appeal, ATUs shall be allotted to the source pursuant to the part of the source's proposed baseline emissions that is not disputed in the appeal. If such source's seasonal VOM emissions exceed the ATUs it holds at the end of reconciliation periods during the pendency of the appeal, the source will not be deemed to have had an emissions excursion to the extent that such seasonal VOM emissions do not exceed the amount it proposed as its baseline in its ERMS application, less reductions required pursuant to Section 205.400(c) or (e) of this Part, if applicable. Such source shall not be allowed to sell ATUs during the pendency of the appeal.

2) The Agency shall determine, in accordance with Section 205.405(b) of this Part, if an emission unit qualifies for exclusion from further reductions in its final permit action on a new or modified FESOP for the source. The Agency's determination may be appealed in accordance with the appeal procedures specified in Section 40 of the Act [415 ILCS 5/40]. If the permit conditions establishing the Agency's BAT determination are appealed, ATUs shall be allotted to the source for any emission unit for which the Agency's BAT determination is being appealed with the emissions reduction required by Section 205.400(c) or (e) of this Part during the pendency of the appeal. If the seasonal VOM emissions for the subject emission unit(s) exceed the ATUs that are attributed to the unit(s)

during the pendency of the appeal, the source will not be deemed to have an emissions excursion to the extent that such seasonal VOM emissions do not exceed the amount of ATUs that would be attributed to this unit if the BAT exclusion was accepted. Such source shall not be allowed to sell ATUs during the pendency of the appeal.

c) The Agency shall determine, in accordance with Sections 205.330 and 205.335 of this Subpart, the methods and practices applicable to the participating source or new participating source to determine seasonal emissions through its final permit action on the new or modified FESOP for such source. The Agency's determination of the methods and practices applicable may be appealed in accordance with the appeal procedures specified in Section 40 of the Act [415 ILCS 5/40].

d) When a FESOP for a participating source or new participating source is transferred from the current permittee to another person:

1) In the case of a name change of the participating source or new participating source where ownership is not altered, appropriate documentation shall be submitted to revise the Transaction Account to reflect the name change; or

2) In the case of an ownership change of the participating source or new participating source, the allotment shall also be transferred by the owner or operator of the permitted source to the new owner or operator, or the new owner or operator shall submit a statement to the Agency certifying that such transfer is not occurring and demonstrating that necessary ATUs are or will be available by other means for the intended operation of the source.

e) Upon reopening or renewal of the FESOP for any participating source or new participating source, any multiple season transfer agreement, as provided in Section 205.630(a)(2)(B) of this Part, that has three or more years of transfers remaining shall be identified in the renewed or reissued FESOP for such source.

f) Upon reopening or renewal of the FESOP for any participating source or new participating source, any ATUs that will be issued by the Agency for three years or more to any such source pursuant to Section 205.410, 205.500 or 205.510 of this Part shall be identified in the renewed or reissued FESOP for such source.

(Source: Added at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.318 Certification for Exempt CAAPP Sources

The owner or operator of any source that is located in the Chicago ~~ozone nonattainment~~ area that is required to obtain a CAAPP permit, and has seasonal emissions, as determined in accordance with Section 205.320(a) of this Subpart, of less than 10 tons shall submit a written certification to the Agency by March 1, 1998, certifying that its VOM emissions are below 10 tons per season as specified in Section 205.320(a) of this Subpart. Such certification shall include the amount of VOM emissions at the source during the 1994, 1995, 1996 and 1997 seasonal allotment periods, and supporting calculations.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.320 Baseline Emissions

a) Except as provided in subsection (b) or (c) of this Section, baseline emissions shall be determined by the Agency in accordance with the following, adjusted as specified in subsections (d), (e) and (f) of this Section:

1) Baseline emissions shall be calculated using the average of the two seasonal allotment periods with the highest VOM emissions during 1994, 1995 or 1996.

2) Any source may propose to substitute seasonal emissions on a year-for-year basis due to non-representative conditions in 1994, 1995 or 1996, but must stay within the period from 1990 through 1997, and must have accurate seasonal emissions data for the substitute year(s). When considering whether to substitute a seasonal baseline emission year(s), the Agency must consider the information submitted by the source pursuant to Section 205.310(b)(1)(B) of this Subpart, as well as the accuracy of that data. For the purposes of this subsection (a)(2) "non-representative conditions" include, but are not limited to, events such as strikes, fires, floods and market conditions.

b) Except as provided in subsection (c) of this Section, for~~For~~ any source that has seasonal emissions of less than 10 tons, as determined in accordance with subsection (a) of this Section, but becomes a participating source because its seasonal emissions increase to 10 tons or more in any seasonal allotment period beginning with 1999, baseline emissions shall be determined by the Agency based

on actual VOM emissions from the first seasonal allotment period in which the source's~~sources~~ emissions equaled or exceeded 10 tons, adjusted as specified in subsections (d), (e) and (f) of this Section, provided such emissions increase is not a major modification pursuant to 35 Ill. Adm. Code 203.

c) For any source that has seasonal emissions of less than 10 tons, as determined in accordance with subsection (a) of this Section, but becomes a participating source because its seasonal emissions increase to 10 tons or more in any seasonal allotment period beginning with 1999 and this emissions increase constitutes a major modification pursuant to 35 Ill. Adm. Code 203, baseline emissions shall be determined by the Agency based on the average of the actual seasonal emissions from the two seasonal periods prior to a timely submittal of its application for the major modification, adjusted as specified in subsections (d) and (e) of this Section. Any such source may substitute seasonal emissions on a year-for-year basis due to non-representative conditions in either of the two seasonal allotment periods prior to submittal of its application for the major modification but must stay within the five year period prior to submittal of such application. For the purposes of this subsection, "non-representative conditions" include, but are not limited to, conditions such as strikes, fires, floods and market conditions.

d) The baseline emissions of any participating source shall be increased for voluntary over-compliance that occurred after October 31, 1990 and results in a VOM emissions level that is lower than the level required by applicable requirements effective in 1996, including limitations in the source's permit(s) based on such applicable requirements. Voluntary over-compliance shall be determined in accordance with the following:

1) Determine the actual activity or production types and levels from the seasonal allotment period(s) selected for baseline emissions pursuant to subsection (a), (b) or (c) of this Section;

2) Determine seasonal emissions for each emission unit as the product of the amount of activity or production, as determined in accordance with subsection (d)(1) of this Section, and the actual emissions level;

3) Determine seasonal emissions for each emission unit as the product of the amount of activity or production, as determined in accordance with subsection (d)(1) of this Section, and the allowable emissions level pursuant to all applicable requirements effective through 1996, including limitations in the source's permit(s) based on such applicable

requirements; and

4) Determine the appropriate adjustment to baseline emissions by subtracting the seasonal emissions determined pursuant to subsection (d)(2) of this Section from the seasonal emissions determined pursuant to subsection (d)(3) of this Section.

e) The baseline emissions of any participating source shall be decreased if any of the following circumstances exist:

1) If a source is out of compliance with any applicable requirements, including limitations in the source's permit(s) based on such applicable requirements, in any of the seasonal allotment periods used for baseline emissions, its baseline emissions shall be lowered to reflect the amount of VOM emissions that would be achieved if in compliance with such requirements.

2) If any of the seasonal allotment periods selected for baseline emissions do not reflect compliance with requirements effective through 1996 that became applicable after any of the years selected as baseline years, the source's baseline emissions shall be lowered to reflect the amount of VOM emissions that would be achieved if in compliance with such requirements.

3) If, in any of the years selected for baseline emissions, a source's VOM emissions are in excess of the amount of VOM emissions allowed by applicable rules because it has been granted a variance, has entered into a consent order, or is operating pursuant to a CAAPP permit compliance schedule, the baseline emissions for such source shall be lowered to reflect the VOM emissions amount that would be achieved if in compliance with such requirements, subject to the following:

A) Each such source shall be allowed to emit VOM emissions in excess of the ATUs it holds at the end of the reconciliation period each year until compliance with the applicable regulation is achieved, or upon expiration of the relief allowed for in the variance, consent order or CAAPP permit compliance schedule, whichever occurs first;

B) Such excess VOM emissions shall be allowed to the extent allowed

in the variance, consent order or CAAPP permit compliance schedule; and

C) The seasonal component of the Annual Emissions Report for each such source shall be adjusted each year until compliance with the applicable requirement(s) is achieved, or upon expiration of the relief allowed for in the variance, consent order or CAAPP permit compliance schedule, whichever occurs first, as specified in subsection (e)(3)(B) of this Section.

4) For any participating source that operated with excess emissions during startup, malfunction or breakdown during any year used to determine its baseline emissions, whether or not such operation was authorized pursuant to the source's permit, excess VOM emissions attributable to startup, malfunction or breakdown shall be excluded from the baseline emissions.

f) For new or modified emission units at a source for which a construction permit was issued prior to January 1, 1998, but for which three years of operational data is not available, the baseline emissions determination for the source shall include VOM emissions from such new emission unit or the increase in emissions from the modification of such emission unit based on the two seasonal allotment periods with the highest VOM emissions from the first three complete seasonal allotment periods in which any such new or modified emission unit is operational. ATUs shall only be issued in accordance with this subsection after the baseline emissions has been determined. Any such source shall not be required to hold ATUs for VOM emissions attributable to the new emission unit or the modification of the existing emission unit for the first three complete seasonal allotment periods in which it is operational.

g) For any source which acquired emission reduction credits pursuant to a written agreement, entered into prior to January 1, 1998, and such emission reduction credits were acquired for use as emissions offsets, in accordance with 35 Ill. Adm. Code 203, such emission reduction credits, adjusted for the seasonal allotment period, and reduced by 24 percent, shall be included in the baseline emissions determination for the source, only to the extent that:

1) The Agency has issued a federally enforceable permit, prior to January 1, 1998, to the source from which the emission reduction credits were acquired, and such federally enforceable permit recognized the creation of the VOM emission reduction credits by the cessation of all VOM-emitting

activities and the withdrawal of the operating permits for VOM-emitting activities at such other sources; and

2) The Agency has not relied upon the emission reduction credits to demonstrate attainment or reasonable further progress.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.330 Emissions Determination Methods

The owner or operator of a participating source or new participating source shall determine VOM emissions from the source during the seasonal allotment period using methods as necessary to demonstrate compliance with this Part. Such methods shall be, at a minimum, as stringent as those required by any applicable requirement and any permit condition. The Agency shall establish the emissions determination methods applicable to each such source in the source's CAAPP permit or FESOP. The following methods, in conjunction with relevant source-specific throughput and operating data, are acceptable methods a source may use to determine seasonal emissions, depending on the type of emission unit:

a) Material balance calculation, based on the VOM content of raw materials and recovered materials, as is typically used for degreasers, coating lines, and printing lines equipped with a carbon adsorption system (recovery-type control device) or without any control device;

b) A standard engineering formula for estimation of emissions, as is typically used for storage and transfer of volatile organic liquids;

c) A source-specific emission factor(s), based on representative testing and sampling data and appropriate analysis, as typically used for petroleum refining processes;

d) A published USEPA emission factor(s), as is typically used for component leaks;

e) A source-specific emission rate or VOM control efficiency, based on representative testing, as is typically used for chemical processes and afterburners (destruction-type control device), respectively;

f) A method not listed above that is sufficient to demonstrate compliance with this Section; or

g) An appropriate combination of the above methods, as typically used for a coating

or printing line equipped with a control device, where the available emissions are determined by material balance and the control efficiency is determined by representative testing.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.335 Sampling, Testing, Monitoring and Recordkeeping Practices

The owner or operator of a participating source or new participating source shall conduct sampling, perform testing, conduct monitoring and maintain records as needed to support its method for determining seasonal emissions in accordance with Section 205.330 of this Subpart and to demonstrate compliance with this Part. Such sampling, testing, monitoring and recordkeeping shall be, at a minimum, as stringent as that required by any applicable requirement and any permit condition. The Agency shall establish the practices applicable to each such source in the source's CAAPP permit or FESOP.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.337 Changes in Emission Determination Methods and Sampling, Testing, Monitoring and Recordkeeping Practices

a) The methods used for determining seasonal emissions from a source shall generally be consistent with the methods used to determine its baseline emissions unless the source's permit accommodates the use of alternate methods to determine VOM emissions.

b) Modification of Methods and Practices

1) If a source proposes new or revised methods to determine VOM emissions or new or revised supporting practices for sampling, testing, monitoring or recordkeeping that differ significantly from the methods and practices specified by its current permit, the source shall obtain a revised CAAPP permit in accordance with the procedures specified in Section 39.5 of the Act [415 ILCS 5/39.5], or a revised FESOP, prior to relying on such methods and practices.

2) The Agency shall issue a revised permit if it finds, based upon submission of an appropriate permit application, that the proposed methods or practices are needed or appropriate to address changes in the operation of the source or emission units that were not considered when the current

permit was issued, that the proposed methods and procedures will not significantly affect the determination of actual seasonal emissions, or that the proposed methods and procedures incorporate new or improved analytical techniques or estimation methods that will increase the accuracy with which actual seasonal emissions are determined, and other applicable requirements for issuance of a revised permit are met.

3) If the Agency approves the use of a modified method or practice, the Agency is authorized to determine a corrected baseline and thereafter issue ATUs in accordance with Section 205.400(c) of this Part pursuant to this corrected baseline.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

SUBPART D: SEASONAL EMISSIONS MANAGEMENT

Section 205.400 Seasonal Emissions Allotment

a) Each participating source shall receive an allotment which shall be issued by the Agency and distributed in ATUs.

b) Except for ATUs issued pursuant to Sections 205.500 and 205.510 of this Part, ATUs issued for any seasonal allotment period are valid for use during the seasonal allotment period following issuance and the next succeeding seasonal allotment period. All ATUs shall be valid until such ATUs expire or are retired.

c) The initial allotment for each participating source shall be based on the baseline emissions for such source, as determined in accordance with Section 205.320 of this Part, and shall be reduced by 12 percent in 1999 or in such other year that a source is issued its initial allotment, except as provided in Section 205.405 of this Subpart.

d) Except as provided in Section 205.337(b)(3) of this Part and subsections (c) and (e) of this Section, allotments shall remain at 1999 or initial levels unless the Agency makes a demonstration to the Board, in accordance with the rulemaking provisions of Sections 9.8, 27 and 28 of the Act [415 ILCS 5/9.8, 27 and 28], that further reductions are needed. An allotment or a baseline under this Part does not constitute a property right. Nothing in this Part shall be construed to limit the authority of the Board to terminate or limit such allotment or baseline pursuant to its rulemaking authority under Sections 9.8, 27 and 28 of the Act [415 ILCS 5/9.8,

27 and 28].

e) If the baseline emissions for any participating source are increased in accordance with Section 205.320(f) of this Part, the allotment shall be increased by the modified portion of the baseline emissions amount, reduced by 12 percent, except as provided in Section 205.405 of this Subpart.

f) Except as provided in subsection (h) of this Section, any new participating source shall not be issued ATUs by the Agency, but shall be required to hold ATUs at the end of the reconciliation period as specified in Section 205.150(d) of this Part ~~for each seasonal allotment period in which it is operational~~.

g) Any source existing as of May 1, 1999, which first becomes subject to the requirements of this Part because its seasonal emissions increase to 10 tons or more as a result of a major modification pursuant to 35 Ill. Adm. Code 203, in any seasonal allotment period beginning with 1999, shall not be allotted ATUs by the Agency for the VOM emissions attributable to this modification, except as provided in subsection (h) of this Section, but shall be allotted ATUs by the Agency based on its baseline emissions, as determined in accordance with Section 205.320 of this Part. Any such participating source shall be required to hold ATUs at the end of the reconciliation period as specified in Section 205.150(c) of this Part, for each seasonal allotment period in which it is subject to this Part.

h) If a participating source or new participating source submits an ATU transfer agreement authorizing the transfer of ATUs for more than one year, as provided in Section 205.630(a)(2)(B) of this Part, the ATUs shall be automatically transferred by the Agency from the transferor's Transaction Account to the transferee's Transaction Account. Upon reopening or renewal of the CAAPP permit or FESOP for any such source, any multiple season transfer agreement that has three or more years of transfers remaining shall be identified in the renewed or reissued CAAPP permit or FESOP for each such source.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.405 Exclusions from Further Reductions

a) VOM emissions from the following emission units, if satisfying subsection(a)(1), (a)(2) or (a)(3) of this Section prior to May 1, 1999, shall be excluded from the VOM emissions reductions requirements specified in Section 205.400(c) and (e) of this Subpart as long as such emission units continue to satisfy subsection (a)(1),

(a)(2) or (a)(3) of this Section:

1) Emission units that comply with any NESHAP or MACT standard promulgated pursuant to the CAA;

2) Direct combustion emission units designed and used for comfort heating purposes, fuel combustion emission units and internal combustion engines; and

3) An emission unit for which a LAER demonstration has been approved by the Agency on or after November 15, 1990.

b) When it is determined that an emission unit is using, prior to May 1, 1999, BAT for controlling VOM emissions, VOM emissions from such emission unit shall not be subject to the VOM emissions reductions requirement specified in Section 205.400(c) or (e) of this Subpart as long as such emission unit continues to use such BAT. The owner or operator of a source may request such exclusion from further reductions by providing the following information, in addition to the information required in Section 205.310 of this Part, in its ERMS application:

1) Identification of each emission unit for which exclusion is requested, including the year of initial operation of such emission unit;

2) Identification of all requirements applicable to the emission unit;

3) A demonstration that the emission unit is using BAT for controlling VOM emissions;

4) Identification of the permitted VOM emissions from the emission unit;

5) VOM emissions from the emission unit for each seasonal allotment period used in the baseline emissions determination for the source; and

6) A description and quantification of any reductions in VOM emissions that were achieved at the emission unit or source based on its use of BAT.

c) As part of its review of an ERMS application or application for a modified allotment, the Agency may determine that any such emission unit qualifies for exclusion from further reductions under subsection (a) or (b) of this Section. The Agency shall make its proposed determination in a draft CAAPP permit or

FESOP subject to public notice and participation, accompanied by an explanation of its proposed action.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.410 Participating Source Shutdowns

a) If a participating source shuts down all operations at the source, and withdraws its permit or its permit is revoked or terminates, allotments issued to such a source for each seasonal allotment period after the shutdown occurred shall be subject to the following:

1) 80 percent of all such ATUs shall continue to be allotted to the owner or operator of such source or its duly authorized recipient; and

2) 20 percent of all such ATUs shall be issued to the ACMA.

b) Except as provided in subsection (c) of this Section, the owner or operator of any participating source that shuts down all operations, in accordance with subsection (a) of this Section, shall submit a written request to have its status changed to a general participant, upon withdrawal, revocation or termination of its permit.

c) The owner or operator of any participating source that shuts down all operations, in accordance with subsection (a) of this Section, may authorize the issuance of future ATUs to the Transaction Account of another participating source, new participating source or general participant by submitting a transfer agreement authorizing a permanent transfer of all future ATUs. The CAAPP permit or FESOP of any participating source or new participating source designated to receive future allotments of ATUs pursuant to such a transfer agreement shall be modified to reflect this transfer upon reopening or renewal. Any ATUs issued pursuant to a transfer agreement entered into under this subsection before shut down of all operations of the participating source shall not be subject to subsection (a) of this Section.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

SUBPART E: ALTERNATIVE ATU GENERATION

Section 205.500 Emissions Reduction Generator

Any participating source, new participating source or general participant may submit a proposal for issuance of ATUs to it based on VOM emissions reductions, as specified in subsection (a) of this Section, achieved by any source or group of sources located in the Chicago ~~ozone non-attainment~~ area with an operating permit(s) other than a participating source or new participating source. The owner or operator of each source from which the VOM emissions reductions have been or will be achieved shall certify its acceptance of the terms of the proposal and that it has achieved or will achieve the emissions reductions specified in the proposal. An emissions reduction generator may apply for a modification to its operating permit to incorporate limitations that make the VOM emissions reductions specified in the relevant proposal enforceable.

a) ATUs will only be issued pursuant to this Section if based on actual VOM emissions reductions that meet one or more of the following:

1) If, based on the same actual production rate, VOM emissions at the source for any seasonal allotment period beginning in 1999 are or will be lower due to the use of technology or materials at the source than if operating at the same production rate at the emissions level allowed by applicable requirements effective in 1996 or any requirements included in the State Implementation Plan, provided such reductions occurred after 1990;

2) The source shuts down a portion or all of its operation(s) after 1996 and withdraws the relevant operating permit(s), provided the VOM emissions from the shut down activity or activities will not be distributed elsewhere within the Chicago ~~ozone nonattainment~~ area;

3) The source(s) curtails its seasonal production activity resulting in an actual reduction in VOM emissions during any seasonal allotment period beginning in 1999, provided the VOM emissions from the curtailment will not be distributed elsewhere within the Chicago ~~nonattainment~~ area. Such emissions reduction shall be based on the difference between the average production level for the two seasonal allotment periods prior to the year of curtailment and the curtailed production level, calculated at the VOM emission rate allowed by applicable requirements effective in 1996; or

4) The source shuts down operations or curtails seasonal production activity as described in subsections (a)(2) and (a)(3) of this Section, respectively, and the VOM emissions from the shut down activity or activities or curtailment will be distributed to a participating or new participating source or sources within the Chicago ~~ozone nonattainment~~ area, and the

proposal provides that all ATUs issued pursuant to this Section on account of such shut down or curtailment are to be issued to the corresponding participating or new participating source or sources.

b) If any proposal is based on a shut down of operations, as specified in subsection (a)(2) of this Section, that results in seasonal emissions reductions of 10 tons or more, 20 percent of ATUs issued based on such an emissions reduction generator proposal shall be allocated to the ACMA.

c) Any proposal based on seasonal emissions reductions of 10 tons or more and the Agency's approval thereof shall be subject to the public notice requirements in accordance with the regulations governing CAAPP permit or FESOP issuance~~of Section 39.5 of the Act [415 ILCS 5/39.5]~~.

d) Any proposal submitted shall include the following:

1) Information identifying the source(s) from which the VOM emissions reductions has been or will be achieved and its owner or operator;

2) An explanation of the method used to achieve the VOM emissions reductions;

3) Relevant information describing the nature of the underlying activity that generated the VOM emissions and the relationship of the units at which the VOM emissions reduction occurred to other units or sources performing the same or related activity in the Chicago ~~ozone nonattainment~~ area, if the VOM emissions reduction is attributable to a partial or complete source shutdown or a production curtailment, as specified in subsection (a)(2), (a)(3) or (a)(4) of this Section;

4) The amount of VOM emissions for the two seasonal allotment periods prior to the year(s) of curtailment, including supporting calculations, if the VOM emissions reduction is attributable to a production curtailment as specified in subsection (a)(3) or (a)(4) of this Section;

5) The amount of the VOM emissions reduction, including supporting calculations and documentation, such as material usage information;

6) The name and address of the participating source(s), new participating source(s) or general participant(s) to which ATUs will be issued, including

the name and telephone number of the account officer for such source or participant; and

7) The owner or operator of each proposed emission reduction generator shall certify its acceptance of the terms of the proposal and certify that it has achieved or will achieve the emissions reductions specified in the proposal.

e) The owner or operator of any emissions reduction generator may modify its operating permit to incorporate limitations that make the VOM emissions reductions specified in the relevant proposal enforceable.

f) If the emissions reduction generator does not modify its permit, as specified in subsection (e) of this Section, or experiences a shutdown, as specified in subsection (a)(2) or (a)(4) of this Section, and the proposal is submitted prior to the availability of actual VOM emissions data from the relevant seasonal allotment period, the Agency shall determine if the proposal is acceptable on a preliminary basis and provide notification of this determination. The Agency shall not issue final approval, in accordance with subsection (g) of this Section, of any such proposal until the actual VOM emissions data is submitted.

g) The Agency shall notify the participating source, new participating source or general participant in writing of its final decision with respect to the proposal within 45 days after receipt of such proposal or receipt of VOM emissions data to verify that the specified reductions occurred, whichever occurs later. If the Agency denies or conditionally approves a proposal, this written notice shall include a statement of the specific reasons for denying or modifying the proposal. The Agency's determination as to the approvability of any proposal submitted pursuant to this Section is subject to review by the Board as provided at 35 Ill. Adm. Code 105.102, provided the proposed emissions reduction generator is not requesting a permit revision. If such a permit revision is requested, the applicable permit review and appeal procedures shall apply.

h) If the Agency deems that the proposal is sufficient to receive final approval, the Agency shall issue ATUs in accordance with the following:

1) Any ATUs issued pursuant to this subsection shall be issued to the participating source(s), new participating source(s) or general participant identified in the proposal;

2) If the emissions reduction generator modifies its operating permit as specified in subsection (e) of this Section, to incorporate limitations that make the VOM emissions reductions specified in the relevant proposal enforceable, ATUs shall be issued on the date such source is required to comply with the limitations in the permit and for each seasonal allotment period thereafter in which the VOM emissions reductions are required by the source's permit;

3) If the proposal is based on a partial or complete shut down, as specified in subsection (a)(2) or (a)(4) of this Section, ATUs shall be issued before the seasonal allotment period for each year specified in the proposal;

4) If the emissions reduction generator does not modify its permit and the proposal is submitted prior to the availability of actual VOM emissions data from the relevant seasonal allotment period(s), the Agency shall issue ATUs upon final approval which shall occur after actual VOM emissions data is evaluated for the relevant seasonal allotment period;

5) If the emissions reduction generator includes information on actual VOM emissions reductions during the seasonal allotment period for which ATUs are sought, ATUs will be issued by the Agency upon final approval of the proposal;

6) Except as provided in subsection (h)(7) of this Section, ATUs issued pursuant to this subsection shall only be valid for the seasonal allotment period in which the emissions reductions were achieved;

7) If the VOM emissions reductions specified in a proposal are incorporated into the emissions reduction generator's permit or, if the emissions reduction generator shuts down all or a portion of its operations and withdraws all relevant operating permits, ATUs issued pursuant to this subsection shall be valid for the seasonal allotment period following issuance and for the next seasonal allotment period; and

8) The number of ATUs issued pursuant to subsection (h)(2) or (h)(3) of this Section based on a proposal under subsection (a)(4) of this Section shall be equal to the number of ATUs otherwise issuable under this Section reduced by 12 percent.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.510 Inter-Sector Transaction

Any person may submit a proposal to the Agency to have ATUs issued to the Transaction Account of a participating source, new participating source or general participant equivalent to VOM emissions reductions from mobile sources or area sources in the Chicago area. Any such proposal for the VOM emissions reduction project is subject to Agency review and approval, shall be consistent with laws and regulations and shall include all supporting documentation. The Agency shall review all such proposals in accordance with the following:

a) Regulatory Based Proposal
If the VOM emission reductions that have been generated or will be generated are pursuant to a regulation that provides the procedure to determine VOM emissions reductions and allows for such reductions to be converted to ATUs, the Agency shall approve the proposal if based on the provisions of the applicable regulation. The Agency shall approve, conditionally approve or deny any complete and adequately supported proposal within 45 days after the Agency's receipt thereof by sending written notification of its decision. If the Agency denies or conditionally approves a proposal, this written notice shall include a statement of the specific reasons for denying or modifying the proposal.

b) Other Proposals
If the proposal is based on VOM emissions reductions that have been generated or will be generated which are beyond VOM emissions reductions required by any mandatory applicable rules, the proposal shall include an explanation of the method(s) used to achieve the VOM emissions reductions and the method(s) used to quantify the VOM emissions reductions, including supporting documentation and calculations. The Agency shall evaluate the validity of VOM emission reductions that allegedly were generated or will be generated and approve, conditionally approve or deny any complete proposal within 90 days after the Agency's receipt by sending written notification of its decision to the source. If the Agency denies or conditionally approves a proposal, this written notice shall include a statement of the specific reasons for denying or modifying the proposal.

c) No ATUs shall be issued based on mobile or area source VOM emissions reductions unless a proposal, in accordance with this Section, has been approved by the Agency.

d) All ATUs issued pursuant to a proposal approved pursuant to this Section shall be issued to the Transaction Account identified in the proposal. Such ATUs shall

only be valid for the seasonal allotment period in which the emissions reductions were achieved, unless the Agency specifies in its approval that such ATUs shall be valid for the seasonal allotment period following issuance and for the next seasonal allotment period.

e) The Agency's determination that a proposal submitted pursuant to this Section is denied or conditionally approved is subject to review by the Board as provided at 35 Ill. Adm. Code 105.102.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

SUBPART F: MARKET TRANSACTIONS

Section 205.610 Application for Transaction Account

a) Each participating source, new participating source and general participant shall apply for and obtain authorization for a Transaction Account from the Agency prior to conducting any market transactions. Each participating source shall submit to the Agency its completed application for a Transaction Account no later than 30 days prior to the beginning of the first seasonal allotment period in which the source is required to participate. Each new participating source shall submit to the Agency its completed application for a Transaction Account no later than 30 days prior to the beginning of the first seasonal allotment period in which it is operational.

b) Each Transaction Account application shall include the following information:

1) The name and address of the participating source, new participating source or general participant, and the name and address of its owner or operator;

2) The names and addresses of all designated account officers;

3) The certification specified in Section 205.620(a)(5) of this Subpart signed by each account officer; and

4) For a participating source or new participating source, identification of the CAAPP permit or FESOP number for the source.

c) Special Participants
Any person may purchase ATUs to retire for air quality benefit only. Such person

shall be a special participant and shall register with the Agency prior to its first ATU purchase. Special participants will not have Transaction Accounts in the Transaction Account database. All ATUs purchased by special participants will be retired effective on the date of purchase and will be listed as retired in the appropriate database.

d) Special participants will be given a registration number by the Agency so that their purchases of ATUs can be recorded.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

SUBPART G: PERFORMANCE ACCOUNTABILITY

Section 205.700 Compliance Accounting

a) The owner or operator of each participating source or new participating source shall maintain and retain for five years at the source or at another location agreed to by the Agency, in conjunction with the records it maintains to demonstrate compliance with its CAAPP permit or FESOP, all of the following documents as its compliance master file:

1) A copy of its seasonal component of its Annual Emissions Report;

2) Information on actual VOM emissions, as recorded in accordance with Section 205.335 of this Part, and as required by the CAAPP permit or FESOP for the source; and

3) Copies of any transfer agreements for the purchase or sale of ATUs and other documentation associated with the transfer of ATUs.

b) Compliance Master File Review

1) The owner or operator of each participating source or new participating source shall allow the Agency or an authorized representative to enter and inspect the premises as described by~~in accordance with~~ Section 39.5(7)(p)(ii) of the Act [415 ILCS 5/39.5(7)(p)(ii)] and to review its compliance master file.

2) After the conclusion of each compliance master file review, a report shall be prepared by the Agency and issued to the inspected source that includes

the following information:

A) An identification of any noncompliance with the requirements of this Part; and

B) An evaluation of increases and decreases in seasonal emissions of VOMs that are also hazardous air pollutants, as related to ATU transactions.

3) Nothing in this Part shall affect any other obligations of a source to allow inspection(s) under State or federal laws or regulations.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.730 Excursion Reporting

Upon issuance of each Excursion Compensation Notice to any source that has already had one previous admitted or adjudicated emissions excursion, the source shall submit to the Agency any additional reports required by the source's CAAPP permit or FESOP~~pursuant to Section 39.5(7)(f) of the Act [415 ILCS 5/39.5(7)(f)]~~.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.750 Emergency Conditions

VOM emissions that are a consequence of an emergency, and are in excess of the technology-based emission rates which are achieved during normal operating conditions, to the extent that such excess emissions are not caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operation error, shall be deducted from the calculation of actual VOM emissions during the seasonal allotment period in which the emergency occurred, subject to the following:

a) The owner or operator of the participating source or new participating source shall submit an initial emergency conditions report to the Agency within two days after the time when such excess emissions occurred due to the emergency. The submittal of this initial emergency conditions report shall be sufficient to fulfill the notice requirements of Section 39.5(7)(k) of the Act [415 ILCS 5/39.5(7)(k)] as it relates to VOM emissions at the source if the report provides a detailed description of the emergency, any steps taken to mitigate emissions and corrective actions taken, to the extent practicable. The final report shall contain the

following information:

1) A description of the cause(s) of the emergency and the duration of the episode;

2) Verification that the source was being operated properly at the time of the emergency;

3) A demonstration that the source took all reasonable steps to minimize excess VOM emissions during the emergency period, including but not limited to the following actions, if technically and economically feasible:

   A) The level of operation of the affected emission unit(s) was minimized;

   B) The level of emissions from the affected emission units(s) was minimized by use of alternative raw materials or alternative control measures;

   C) The duration of the excess emissions was minimized; and

   D) The amount of VOM emissions from other emission units at the source or other sources located in the Chicago ~~ozone nonattainment~~ area owned or operated by the person or entity were reduced;

4) A demonstration that appropriate corrective action(s) were taken promptly;

5) A demonstration that the affected emission units were:

   A) Being carefully and properly operated at the time of the emergency, including copies of appropriate records and other relevant evidence;

   B) Properly designed; and

   C) Properly maintained with appropriate preventative maintenance; and

6) An estimate of the amount of VOM emissions that occurred during the emergency in excess of the technology-based emission factor achieved during normal operating conditions, including supporting data, the relevant emissions factor, and calculations.

b) The owner or operator of any such source may supplement its initial emergency conditions report within 10 days after the conclusion of the emergency situation. If an initial emergency conditions report is not supplemented, such report is deemed the final emergency conditions report. If, however, an initial emergency conditions report is supplemented, the combination of such initial report plus the supplemental information is deemed the final emergency conditions report.

c) The Agency must approve, conditionally approve or reject the findings in the final emergency conditions report, submitted by the source, in writing within 45~~30~~ days after receipt of the initial emergency conditions~~a complete~~ report, subject to the following:

1) If the Agency concurs with the emergency conditions report, the source is not required to hold ATUs for the excess VOM emissions attributable to the emergency;

2) If the Agency approves with conditions or rejects the emergency conditions report, the source shall be required to hold ATUs by the end of the reconciliation period in an amount not less than the emissions identified as excess in the emergency conditions report or provide emissions excursion compensation in accordance with Section 205.720 of this Subpart, if an emissions excursion occurred;

3) If the Agency approves with conditions an emergency conditions report, the Agency must identify in its written notice the amount of VOM emissions that are not attributable to an emergency; and

4) If the Agency approves with conditions or rejects a source's emergency conditions report, the source may raise the emergency as an affirmative defense pursuant to Section 39.5(7)(k) of the Act [415 ILCS 5/39.5(7)(k)] in any action brought for noncompliance with this Part or an action brought to review the Agency's issuance of an Excursion Compensation Notice, as provided in Section 205.720(d) of this Subpart.

d) Nothing in this Section relieves any source of any obligation to comply with other

applicable requirements, permit conditions, or other provisions addressing emergency situations.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

Section 205.760 Market System Review Procedures

Beginning in 2000, the Agency shall prepare an Annual Performance Review Report that addresses the effect of VOM emissions reductions in the Chicago ~~ozone nonattainment~~ area on progress toward meeting the RFP requirements and achieving attainment of the NAAQS for ozone by 2007.

a) The Annual Performance Review Report will review trends and patterns which may have emerged in the operation of the ERMS, and shall include, but not be limited to, the following:

1) Total aggregate VOM emissions during the previous seasonal allotment period;

2) The number of ATUs retired for compliance purposes or for air quality benefit, currently being banked, or used by new participating sources for the previous seasonal allotment period;

3) An evaluation of trading activities, including sources with no trading activity, sources that are net purchasers of ATUs and sources that are net sellers of ATUs;

4) ACMA transactions since the preparation of the previous report and the account balance;

5) A summary of emissions reduction generator and inter-sector proposals;

6) Distribution of transactions by geographic area or character of source;

7) Availability of ATUs for purchase;

8) The average market price for ATU transactions from the previous seasonal allotment period; and

9) Trends and spatial distributions of hazardous air pollutants.

b) The Agency shall prepare the Report by June 30~~May 15~~ of the year following the seasonal allotment period addressed by the Report. The Agency will make copies of its Report available to interested parties upon request.

(Source: Amended at 29 Ill. Reg. 8848, effective June 13, 2005)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Definitions and General Provisions

2) Code Citation: 35 Ill. Adm. Code 211

3)

Section Number:	Adopted Action:
211.3695	Amend

4) Statutory Authority: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28.5].

5) Effective Date of Amendment: June 13, 2005

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

18) Notices of Proposal Published in Illinois Register: 28 Ill. Reg. 16180; December 17, 2004

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

11) Differences between proposal and final version: The Board made only minor, non-substantive changes to the proposal it adopted for first notice.

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

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

14) Are there any amendments pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* publication:
211.953	Add	29 Ill. Reg. 7418, May 27, 2005
211.5880	Add	29 Ill. Reg. 7418, May 27, 2005

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of Amendment: A more complete description of these adopted amendments may be found in the Board's opinion and order of June 2, 2005 in Board docket R05-11. This rulemaking, based on a proposal filed by the Illinois Environmental Protection Agency (Agency) on November 19, 2004, amends the Board's Emission reduction market system regulations (ERMS). The ERMS system is a cap and trade program that involves volatile organic material (VOM) emissions in the Chicago area. The program is designed to reduce VOM emission in the Chicago non-attainment area below the levels required by reasonably available control technology and other emission standards. The amendments adopted in this rulemaking affect sources in the Chicago ozone non-attainment area.

Specifically, the amendments to Part 211 change the phrase "Chicago nonattainment area" to "Chicago area" in order to make the language usage consistent with other Board regulations.

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

John Knittle
2125 South First Street
Champaign Il 61820
217/278-3111
knittlej@ipcb.state.il.us

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R05-11 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section
211.101 Incorporations by Reference
211.102 Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section
211.121 Other Definitions
211.122 Definitions (Repealed)
211.130 Accelacota
211.150 Accumulator
211.170 Acid Gases
211.210 Actual Heat Input
211.230 Adhesive
211.240 Adhesion Promoter
211.250 Aeration
211.270 Aerosol Can Filling Line
211.290 Afterburner
211.310 Air Contaminant
211.330 Air Dried Coatings
211.350 Air Oxidation Process
211.370 Air Pollutant
211.390 Air Pollution
211.410 Air Pollution Control Equipment
211.430 Air Suspension Coater/Dryer
211.450 Airless Spray
211.470 Air Assisted Airless Spray
211.474 Alcohol
211.479 Allowance

211.484 Animal
211.485 Animal Pathological Waste
211.490 Annual Grain Through-Put
211.495 Anti-Glare/Safety Coating
211.510 Application Area
211.530 Architectural Coating
211.550 As Applied
211.560 As-Applied Fountain Solution
211.570 Asphalt
211.590 Asphalt Prime Coat
211.610 Automobile
211.630 Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650 Automobile or Light-Duty Truck Refinishing
211.660 Automotive/Transportation Plastic Parts
211.670 Baked Coatings
211.680 Bakery Oven
211.685 Basecoat/Clearcoat System
211.690 Batch Loading
211.695 Batch Operation
211.696 Batch Process Train
211.710 Bead-Dipping
211.730 Binders
211.750 British Thermal Unit
211.770 Brush or Wipe Coating
211.790 Bulk Gasoline Plant
211.810 Bulk Gasoline Terminal
211.820 Business Machine Plastic Parts
211.830 Can
211.850 Can Coating
211.870 Can Coating Line
211.890 Capture
211.910 Capture Device
211.930 Capture Efficiency
211.950 Capture System
211.955 Cement
211.960 Cement Kiln
211.970 Certified Investigation
211.980 Chemical Manufacturing Process Unit
211.990 Choke Loading

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1312	Combined Cycle System
211.1316	Combustion Turbine
211.1320	Commence Commercial Operation
211.1324	Commence Operation
211.1328	Common Stack
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensible PM-10
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process
211.1490	Control Device
211.1510	Control Device Efficiency
211.1515	Control Period
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer

211.1650 Cutback Asphalt
211.1670 Daily-Weighted Average VOM Content
211.1690 Day
211.1710 Degreaser
211.1730 Delivery Vessel
211.1750 Dip Coating
211.1770 Distillate Fuel Oil
211.1780 Distillation Unit
211.1790 Drum
211.1810 Dry Cleaning Operation or Dry Cleaning Facility
211.1830 Dump-Pit Area
211.1850 Effective Grate Area
211.1870 Effluent Water Separator
211.1875 Elastomeric Materials
211.1880 Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1885 Electronic Component
211.1890 Electrostatic Bell or Disc Spray
211.1900 Electrostatic Prep Coat
211.1910 Electrostatic Spray
211.1920 Emergency or Standby Unit
211.1930 Emission Rate
211.1950 Emission Unit
211.1970 Enamel
211.1990 Enclose
211.2010 End Sealing Compound Coat
211.2030 Enhanced Under-the-Cup Fill
211.2050 Ethanol Blend Gasoline
211.2070 Excess Air
211.2080 Excess Emissions
211.2090 Excessive Release
211.2110 Existing Grain-Drying Operation (Repealed)
211.2130 Existing Grain-Handling Operation (Repealed)
211.2150 Exterior Base Coat
211.2170 Exterior End Coat
211.2190 External Floating Roof
211.2210 Extreme Performance Coating
211.2230 Fabric Coating
211.2250 Fabric Coating Line
211.2270 Federally Enforceable Limitations and Conditions

211.2285 Feed Mill
211.2290 Fermentation Time
211.2300 Fill
211.2310 Final Repair Coat
211.2330 Firebox
211.2350 Fixed-Roof Tank
211.2360 Flexible Coating
211.2365 Flexible Operation Unit
211.2370 Flexographic Printing
211.2390 Flexographic Printing Line
211.2410 Floating Roof
211.2420 Fossil Fuel
211.2425 Fossil Fuel-Fired
211.2430 Fountain Solution
211.2450 Freeboard Height
211.2470 Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490 Fugitive Particulate Matter
211.2510 Full Operating Flowrate
211.2530 Gas Service
211.2550 Gas/Gas Method
211.2570 Gasoline
211.2590 Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610 Gel Coat
211.2620 Generator
211.2630 Gloss Reducers
211.2650 Grain
211.2670 Grain-Drying Operation
211.2690 Grain-Handling and Conditioning Operation
211.2710 Grain-Handling Operation
211.2730 Green-Tire Spraying
211.2750 Green Tires
211.2770 Gross Heating Value
211.2790 Gross Vehicle Weight Rating
211.2810 Heated Airless Spray
211.2815 Heat Input
211.2820 Heat Input Rate
211.2830 Heatset
211.2850 Heatset Web Offset Lithographic Printing Line
211.2870 Heavy Liquid
211.2890 Heavy Metals

211.2910 Heavy Off-Highway Vehicle Products
211.2930 Heavy Off-Highway Vehicle Products Coating
211.2950 Heavy Off-Highway Vehicle Products Coating Line
211.2970 High Temperature Aluminum Coating
211.2990 High Volume Low Pressure (HVLP) Spray
211.3010 Hood
211.3030 Hot Well
211.3050 Housekeeping Practices
211.3070 Incinerator
211.3090 Indirect Heat Transfer
211.3110 Ink
211.3130 In-Process Tank
211.3150 In-Situ Sampling Systems
211.3170 Interior Body Spray Coat
211.3190 Internal-Floating Roof
211.3210 Internal Transferring Area
211.3230 Lacquers
211.3250 Large Appliance
211.3270 Large Appliance Coating
211.3290 Large Appliance Coating Line
211.3310 Light Liquid
211.3330 Light-Duty Truck
211.3350 Light Oil
211.3370 Liquid/Gas Method
211.3390 Liquid-Mounted Seal
211.3410 Liquid Service
211.3430 Liquids Dripping
211.3450 Lithographic Printing Line
211.3470 Load-Out Area
211.3480 Loading Event
211.3483 Long Dry Kiln
211.3485 Long Wet Kiln
211.3487 Low-NO_x Burner
211.3490 Low Solvent Coating
211.3500 Lubricating Oil
211.3510 Magnet Wire
211.3530 Magnet Wire Coating
211.3550 Magnet Wire Coating Line
211.3570 Major Dump Pit
211.3590 Major Metropolitan Area (MMA)

211.3610 Major Population Area (MPA)
211.3620 Manually Operated Equipment
211.3630 Manufacturing Process
211.3650 Marine Terminal
211.3660 Marine Vessel
211.3670 Material Recovery Section
211.3690 Maximum Theoretical Emissions
211.3695 Maximum True Vapor Pressure
211.3710 Metal Furniture
211.3730 Metal Furniture Coating
211.3750 Metal Furniture Coating Line
211.3770 Metallic Shoe-Type Seal
211.3780 Mid-Kiln Firing
211.3790 Miscellaneous Fabricated Product Manufacturing Process
211.3810 Miscellaneous Formulation Manufacturing Process
211.3830 Miscellaneous Metal Parts and Products
211.3850 Miscellaneous Metal Parts and Products Coating
211.3870 Miscellaneous Metal Parts or Products Coating Line
211.3890 Miscellaneous Organic Chemical Manufacturing Process
211.3910 Mixing Operation
211.3915 Mobile Equipment
211.3930 Monitor
211.3950 Monomer
211.3960 Motor Vehicles
211.3965 Motor Vehicle Refinishing
211.3970 Multiple Package Coating
211.3980 Nameplate Capacity
211.3990 New Grain-Drying Operation (Repealed)
211.4010 New Grain-Handling Operation (Repealed)
211.4030 No Detectable Volatile Organic Material Emissions
211.4050 Non-Contact Process Water Cooling Tower
211.4055 Non-Flexible Coating
211.4065 Non-Heatset
211.4067 NO_x Trading Program
211.4070 Offset
211.4090 One Hundred Percent Acid
211.4110 One-Turn Storage Space
211.4130 Opacity
211.4150 Opaque Stains
211.4170 Open Top Vapor Degreasing

211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5015	Preheater Kiln
211.5020	Preheater/Precalciner Kiln
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat
211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant

211.5510 Reid Vapor Pressure
211.5530 Repair
211.5550 Repair Coat
211.5570 Repaired
211.5580 Repowering
211.5590 Residual Fuel Oil
211.5600 Resist Coat
211.5610 Restricted Area
211.5630 Retail Outlet
211.5650 Ringelmann Chart
211.5670 Roadway
211.5690 Roll Coater
211.5710 Roll Coating
211.5730 Roll Printer
211.5750 Roll Printing
211.5770 Rotogravure Printing
211.5790 Rotogravure Printing Line
211.5810 Safety Relief Valve
211.5830 Sandblasting
211.5850 Sanding Sealers
211.5870 Screening
211.5890 Sealer
211.5910 Semi-Transparent Stains
211.5930 Sensor
211.5950 Set of Safety Relief Valves
211.5970 Sheet Basecoat
211.5980 Sheet-Fed
211.5990 Shotblasting
211.6010 Side-Seam Spray Coat
211.6025 Single Unit Operation
211.6030 Smoke
211.6050 Smokeless Flare
211.6060 Soft Coat
211.6070 Solvent
211.6090 Solvent Cleaning
211.6110 Solvent Recovery System
211.6130 Source
211.6140 Specialty Coatings
211.6145 Specialty Coatings for Motor Vehicles
211.6150 Specialty High Gloss Catalyzed Coating

211.6170 Specialty Leather
211.6190 Specialty Soybean Crushing Source
211.6210 Splash Loading
211.6230 Stack
211.6250 Stain Coating
211.6270 Standard Conditions
211.6290 Standard Cubic Foot (scf)
211.6310 Start-Up
211.6330 Stationary Emission Source
211.6350 Stationary Emission Unit
211.6355 Stationary Gas Turbine
211.6360 Stationary Reciprocating Internal Combustion Engine
211.6370 Stationary Source
211.6390 Stationary Storage Tank
211.6400 Stencil Coat
211.6410 Storage Tank or Storage Vessel
211.6420 Strippable Spray Booth Coating
211.6430 Styrene Devolatilizer Unit
211.6450 Styrene Recovery Unit
211.6470 Submerged Loading Pipe
211.6490 Substrate
211.6510 Sulfuric Acid Mist
211.6530 Surface Condenser
211.6540 Surface Preparation Materials
211.6550 Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570 Tablet Coating Operation
211.6580 Texture Coat
211.6590 Thirty-Day Rolling Average
211.6610 Three-Piece Can
211.6620 Three or Four Stage Coating System
211.6630 Through-the-Valve Fill
211.6650 Tooling Resin
211.6670 Topcoat
211.6690 Topcoat Operation
211.6695 Topcoat System
211.6710 Touch-Up
211.6720 Touch-Up Coating
211.6730 Transfer Efficiency
211.6750 Tread End Cementing
211.6770 True Vapor Pressure

211.6790 Turnaround
211.6810 Two-Piece Can
211.6830 Under-the-Cup Fill
211.6850 Undertread Cementing
211.6860 Uniform Finish Blender
211.6870 Unregulated Safety Relief Valve
211.6880 Vacuum Metallizing
211.6890 Vacuum Producing System
211.6910 Vacuum Service
211.6930 Valves Not Externally Regulated
211.6950 Vapor Balance System
211.6970 Vapor Collection System
211.6990 Vapor Control System
211.7010 Vapor-Mounted Primary Seal
211.7030 Vapor Recovery System
211.7050 Vapor-Suppressed Polyester Resin
211.7070 Vinyl Coating
211.7090 Vinyl Coating Line
211.7110 Volatile Organic Liquid (VOL)
211.7130 Volatile Organic Material Content (VOMC)
211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170 Volatile Petroleum Liquid
211.7190 Wash Coat
211.7200 Washoff Operations
211.7210 Wastewater (Oil/Water) Separator
211.7230 Weak Nitric Acid Manufacturing Process
211.7250 Web
211.7270 Wholesale Purchase – Consumer
211.7290 Wood Furniture
211.7310 Wood Furniture Coating
211.7330 Wood Furniture Coating Line
211.7350 Woodworking
211.7400 Yeast Percentage

211.APPENDIX A Rule into Section Table
211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28.5].

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005.

SUBPART B: DEFINITIONS

Section 211.3695 Maximum True Vapor Pressure

"Maximum true vapor pressure" means the equilibrium partial pressure exerted by stored VOL at the temperature equal to the highest calendar-month average of the VOL storage temperature for

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

VOLs stored above or below the ambient temperature or at the local maximum monthly average temperature of 75°F ~~degrees fahrenheit~~ for the Chicago ~~nonattainment~~ area as defined at 35 Ill. Adm. Code 218.100 or 79°F ~~degrees fahrenheit~~ for the Metro-East ~~nonattainment~~ area as defined at 35 Ill. Adm. Code 219.100 for VOLs stored at the ambient temperature, as determined:

a) In accordance with methods described in American Petroleum Institute bulletin 2517, Evaporation Loss from External Floating Roof Tanks, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or

b) By ASTM Method D2879-83, incorporated by reference at 35 Ill. Adm. Code 218.112(a)(1) and 219.112(a)(1).

(Source: Amended at 29 Ill. Reg. 8892, effective June 13, 2005)

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Statements of Economic Interest

2) Code Citation: 2 Ill. Adm. Code 565

3)

Section Numbers:	Adopted Action:
565.20	Amendment
565.30	Amendment
565.35	New Section
565.Appendix A	New Section

4) Statutory Authority: Implements Article 3A and Sections 30 and 35 of the State Officials and Employees Ethics Act [5 ILCS 420] and authorized by 5 ILCS 420/3A-30(c).

5) Effective Date of Amendments: June 10, 2005

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 Published in the Illinois Register: June 11, 2004; 28 Ill. Reg. 7894

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

11) Differences between proposal and final version: Numerous changes were made to this rulemaking. The entire Appendix A was added. In Section 565.35(a)(3), a sentence was added clarifying what the Secretary will do regarding prior approval by the Secretary of State.

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 made.

13) Will these amendments replace any emergency amendments currently in effect? No

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

15) Summary and Purpose of Amendments: Sections 565.20 and 565.30 are amended to describe the purpose and definitions related to the disclosure of interests in State

contracts by appointees. In addition, Section 565.35 is added to further explain the requirements and procedures for this disclosure.

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

Secretary of State
Nathan Maddox, Assistant General Counsel
298 Howlett Building
Springfield, IL 62701
217-785-3094

17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE C: CONSTITUTIONAL OFFICERS
CHAPTER III: SECRETARY OF STATE

PART 565
STATEMENTS OF ECONOMIC INTERESTS

Section
565.20 Purpose
565.30 Definitions
565.35 Disclosure of Interest in State Contracts by Appointees
565.40 Requests For Extensions
565.50 Reasons For Which Extensions Will Be Granted
565.60 Reasons For Which Extensions Will Not Be Granted
565.70 Failure to File Upon Receipt of Extension
565.APPENDIX A Disclosure of Appointee Interest in State Contracts

AUTHORITY: Implementing and authorized by Section 4A-105 of the Illinois Governmental Ethics Act [5 ILCS 420/4A-105].

SOURCE: Adopted at 20 Ill. Reg. 12485, effective September 1, 1996; amended at 29 Ill. Reg. 8908, effective June 10, 2005.

Section 565.20 Purpose

Pursuant to Section 3A-30 of the Act [5 ILCS 420/3A-30], this Part shall apply to any appointees to a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor, and ~~These rules shall apply only~~ to those persons notified by the Secretary of State of their requirement to file statements of economic interests pursuant to Section 4A-101 of the Act [5 ILCS 420/4A-101]. The purpose of this Part ~~these rules~~ is to extend the filing deadline for statements of economic interests upon a showing of just cause as to why the form cannot be filed in a timely manner. Persons granted filing extensions shall have 30 days from their original filing deadline in which to file forms without penalty, unless a longer extension is granted pursuant to Section 565.50 of this Part. In addition, the disclosure requirements for appointees are set forth in regard to State contracts and financial interests held by appointees and immediate family members of appointees.

(Source: Amended at 29 Ill. Reg. 8908, effective June 10, 2005)

Section 565.30 Definitions

"Act" means the Illinois Governmental Ethics Act [5 ILCS 420/~~4A~~].

"Appointee" means any person appointed to a board, commission, authority, or task force authorized or created by State law.

"Department" means the Secretary of State Index Department.

"Disclosure" means the disclosure of any State contracts as established in Section 3A-30 of the Act.

"Filer" means a person notified by the Department of his or her requirement to file a statement of economic interests pursuant to Section 4A-101 of the Act and appointees to any board, commission, authority, or task force authorized or created by State law or by executive order of the Governor.

"Immediate family" means a spouse, parent, child or sibling or family members living with~~dependent child of~~ the filer.

"Serious illness" means any illness that ~~which~~ can be documented to the Department by a physician's note.

(Source: Amended at 29 Ill. Reg. 8908, effective June 10, 2005)

Section 565.35 Disclosure of Interest in State Contracts by Appointees

a) Every appointee required to disclose contractual interests under Section 565.20 shall file a disclosure report approved by the Secretary of State upon appointment.

1) Copies of official forms may be obtained from the Index Department.

2) Alternative methods of reporting are prohibited unless prior written approval has been received from the Director of the Index Department.

3) Prior written approval will be given based on the compatibility of alternative methods with the Index Department's public disclosure procedures. Approval shall be granted if information reported meets the informational elements within Appendix A of this Part and is compatible with electronic data software used by the Secretary.

b) The appointee shall file a disclosure for all contracts the appointee, his or her spouse, or immediate family members living with the appointee have with the State and all contracts between the State and any entity in which the appointee or his or her immediate family members living with the appointee have a majority financial interest.

(Source: Added at 29 Ill. Reg. 8908, effective June 10, 2005)

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section 565.APPENDIX A Disclosure of Appointee Interest in State Contracts

DISCLOSURE OF APPOINTEE INTEREST IN STATE CONTRACTS

TO BE FILED WITH THE SECRETARY OF STATE

Secretary of State Index Department − Ethics Section
111 East Monroe, Springfield IL 62756

Appointee's Name: _____

Mailing Address: _____

City, State, Zip: _____

Date of Appointment
_____
(This date must be completed)

Name and type of organization for which this disclosure is being filed:

_____

☐ Board ☐ Commission ☐ Authority ☐ Task Force

GENERAL DIRECTIONS
Pursuant to 5 ILCS 420/3A.30, upon appointment to a board, commission, authority, or task force authorized or created by State law, a person must file with the Secretary of State a disclosure of all contracts the person or his or her spouse or immediate family members living with the person have with the State and all contracts between the State and any entity in which the person or his or her spouse or immediate family members living with the person have a majority financial interest.

Below list all contracts with the State of Illinois in effect on or after the date of appointment.

(If additional space is needed, please attach supplemental listing.)

Name of individual or entity contracting with the State of Illinois:	Name of State agency or department the contract is with:

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

VERIFICATION

"I declare that this disclosure statement (including any supplemental listing) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of any contracts that I am required to identify pursuant to the Illinois Governmental Ethics Act. I understand that the penalty for willfully filing a false or incomplete statement shall be a business offense punishable by a fine of $1,001.

It is further understood that an unlawful conflict of interest may arise if, as an appointee, I, my spouse, or immediate family member living in my residence has or acquires a contract or has or acquires a direct pecuniary interest in a contract with the State that relates to the board, commission, authority or task force of which I am an appointee during and for one year following the conclusion of my term of office."

(Signature of Appointee Making the Statement) (Date)

(Source: Added at 29 Ill. Reg. 8908, effective June 10, 2005)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Certificates of Title, Registration of Vehicles

2) Code Citation: 92 Ill. Adm. Code 1010

3)

Section Numbers:	Adopted Action:
1010.240	Amendment
1010.245	New Section
1010.540	Amendment

4) Statutory Authority: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

5) Effective Date of Amendments: June 10, 2005

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 Published in the Illinois Register: January 28, 2005; 29 Ill. Reg. 1534

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

11) Differences between proposal and final version: No substantive changes made between proposal and adoption. All nonsubstantive technical changes recommended by JCAR were made.

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 made.

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

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

15) Summary and Purpose of Amendments: The amendments to 1010.240 address changes to the provisions related to registration plates furnished by the Secretary of State under the Electronic Registration and Titling (ERT) Program which is explained in the new section,

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NOTICE OF ADOPTED AMENDMENTS

1010.245. The amendments to 1010.540 address the fee structure for the ERT program and how it differs from the Over-the-Counter Program, which is already detailed within the same section.

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

Secretary of State
Nathan Maddox, Assistant General Counsel
298 Howlett Building
Springfield, IL 62701

217-785-3094

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

SUBPART A: DEFINITIONS

Section
1010.10 Owner – Application of Term
1010.20 Secretary and Department

SUBPART B: TITLES

Section
1010.110 Salvage Certificate – Additional Information Required to Accompany Application for a Certificate of Title for a Rebuilt or a Restored Vehicle Upon Surrendering Salvage Certificate
1010.120 Salvage Certificate – Assignments and Reassignments
1010.130 Exclusiveness of Lien on Certificate of Title
1010.140 Documents Required to Title and Register Imported Vehicles Not Manufactured in Conformity with Federal Emission or Safety Standards
1010.150 Transferring Certificates of Title Upon the Owner's Death
1010.160 Repossession of Vehicles by Lienholders and Creditors
1010.170 Junking Notification
1010.180 Specially Constructed Vehicles – Defined
1010.185 Specially Constructed Vehicles – Required Documentation for Title and Registration
1010.190 Issuance of Title and Registration Without Standard Ownership Documents~~Document~~ – Bond

SUBPART C: REGISTRATION

Section
1010.210 Application for Registration
1010.220 Vehicles Subject to Registration – Exceptions
1010.230 Refusing Registration or Certificate of Title
1010.240 Registration Plates To Be Furnished By The Secretary of State
1010.245 Electronic Registration and Titling (ERT) Program Provisions
1010.250 Applications For Reassignment

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SUBPART D: REVOCATION, SUSPENSION AND CANCELLATION OF REGISTRATION

Section
1010.300 Operation of Vehicle after Cancellation, Suspension, or Revocation of any Registration
1010.310 Improper Use of Evidences of Registration
1010.320 Suspension, Cancellation or Revocation of Illinois Registration Plates and Cards and Titles
1010.330 Operation of Vehicle Without Proper Illinois Registration
1010.350 Suspension or Revocation
1010.360 Surrender of Plates, Decals or Cards

SUBPART E: SPECIAL PERMITS AND PLATES

Section
1010.410 Temporary Registration – Individual Transactions
1010.420 Temporary Permit Pending Registration In Illinois
1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State
1010.425 Non-Resident Drive-Away Permits
1010.426 Five Day Permits
1010.430 Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks
1010.440 Title and Registration of Vehicles with Permanently Mounted Equipment
1010.450 Special Plates
1010.451 Purple Heart License Plates
1010.452 Special Event License Plates
1010.453 Retired Armed Forces License~~Licenses~~ Plates
1010.454 Gold Star License Plates
1010.455 Collectible License Plates
1010.456 Sample License Plates For Motion Picture and Television Studios
1010.457 Korean War Veteran License Plates
1010.458 Collegiate License Plates
1010.460 Special Plates for Members of the United States Armed Forces Reserves
1010.470 Dealer Plate Records
1010.480 State of Illinois In-Transit Plates

SUBPART F: FEES

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section
1010.510 Determination of Registration Fees
1010.520 When Fees Returnable
1010.530 Circuit Breaker Registration Discount
1010.540 ~~Maximum~~ Fees ~~for Distribution of Motor Vehicle Renewal Plates and/or Stickers~~

SUBPART G: MISCELLANEOUS

Section
1010.610 Unlawful Acts, Fines and Penalties
1010.620 Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

Section
1010.705 Reciprocity
1010.710 Vehicle Proration
1010.715 Proration Fees
1010.720 Vehicle Apportionment
1010.725 Trip Leasing
1010.730 Intrastate Movements, Foreign Vehicles
1010.735 Interline Movements
1010.740 Trip and Short-term Permits
1010.745 Signal 30 Permit for Foreign Registration Vehicles (Repealed)
1010.750 Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
1010.755 Mileage Tax Plates
1010.756 Suspension or Revocation of Illinois Mileage Weight Tax Plates
1010.760 Transfer for "For-Hire" Loads
1010.765 Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
1010.770 Required Documents for Trucks and Buses to detect "intrastate" movements
1010.775 Certificate of Safety

1010.APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement
1010.APPENDIX B International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

OFFICE OF THE SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Filed and effective December 15, 1970; emergency amendment at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendment at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. 6848, effective April 18, 1990; amended at 14 Ill. Reg. 9492, effective June 1, 1990; amended at 14 Ill. Reg. 19066, effective November 15, 1990; amended at 15 Ill. Reg. 12782, effective August 15, 1991; amended at 16 Ill. Reg. 12587, effective August 1, 1992; amended at 19 Ill. Reg. 11947, effective August 1, 1995; amended at 19 Ill. Reg. 16289, effective November 27, 1995; amended at 20 Ill. Reg. 11349, effective August 1, 1996; amended at 21 Ill. Reg. 8408, effective June 23, 1997; amended at 21 Ill. Reg. 13372, effective September 17, 1997; amended at 22 Ill. Reg. 8521, effective April 28, 1998; amended at 22 Ill. Reg. 22059, effective January 1, 1999; amended at 25 Ill. Reg. 7731, effective June 6, 2001; emergency amendment at 25 Ill. Reg. 14201, effective October 22, 2001, for a maximum of 150 days; emergency expired March 20, 2002; amended at 26 Ill. Reg. 14282, effective September 16, 2002; amended at 27 Ill. Reg. 4790, effective February 27, 2003; amended at 29 Ill. Reg. 8915, effective June 10, 2005.

SUBPART C: REGISTRATION

Section 1010.240 Registration Plates To Be Furnished By The Secretary of State

a) General Provisions

1) The Secretary of State may issue registration plates and/or stickers at facilities and offices maintained by him in Springfield, Chicago, or at such other locations as he may establish.

2) In addition, the Secretary of State may, in his discretion, cause registration

plates and/or stickers to be issued by financial institutions, and applications for renewal of registrations for such vehicles as the Secretary of State may designate to be received and processed for transmittal to the Secretary of State. For that purpose, the Secretary of State may deposit Illinois registration plates and/or stickers with such financial institutions. In addition, the Secretary may cause registration plates and stickers to be issued pursuant to Section 1010.245 of this Part.

3) The Secretary may further cause registration and title applications to be serviced and remitted by licensed remittance agents to the Secretary of State, as provided in the Code.

4) The term "financial institution", for the purposes of this Part~~rule~~, shall mean any federal or state chartered bank, savings and loan, credit union, armored carrier, and any currency exchange either directly or indirectly through an armored carrier. The term shall also include insurance companies and licensees under the Sales Finance Agency Act [205 ILCS 660] and the Consumer Installment Loan Act [205 ILCS 670].

5) The Secretary may, in his discretion, cause registration plates and stickers to be issued by motor vehicle dealers. However, motor vehicle dealers shall only issue registration plates and stickers or renew vehicle registrations in the course of transactions involving the sale or lease of vehicles.

b) Application for Participation in the Over-The-Counter Sales Program

1) The Secretary of State shall accept the application of any Financial Institution to participate in the over-the-counter program, if the Secretary of State makes a determination that the establishment of the institution in the program will provide a beneficial service to the general public, be cost effective for the Secretary of State to administer for the People of the State of Illinois, and that the institution can provide sufficient security for both the handling of state fees and taxes collected and the handling and storage of registration plates and/or stickers.

2) In making the above determination, the Secretary of State shall consider, but not in limitation thereof, the following factors in relation to the institution:

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A) Tentative acceptance of the terms contained in the Financial Institution License Plate/Sticker Agreement between the Secretary of State's Office and the institution;

B) Previous participation by the institution in the program and, if any, the circumstances surrounding its leaving the program;

C) Current participation by the institution in the over-the-counter sales program at other~~another~~ locations~~location(s)~~;

D) Submission of by the institution of a current copy of its blanket or fidelity bond, or if no such bond is maintained and the institution is a self-insurer, then a certificate of deposit payable to the Secretary of State, or an irrevocable letter of credit form a third party bank to the Secretary of State in an amount sufficient to protect the Secretary of State in the same manner as he would be protected if the blanket or fidelity bond were in force;

E) Total passenger registration for the county;

F) Total number of over-the-counter passenger sales in the community and county in the previous registration year;

G) Estimated annual registration plate and sticker sales for this location;

H) Estimated volume of walk-in traffic at this location;

I) Population of the community;

J) Population of the county;

K) Number of banks in the community currently participating in the program in relation to the total number of banks in the community;

L) Number of savings and loans in the community currently participating in the program in relation to the total number of savings and loans in the community;

M) Number of currency exchanges in the community currently

participating in the program in relation to the total number of currency exchanges in the community;

N) Number of credit unions in the community currently participating in the program in relation to the total number of credit unions in the community;

O) Locations~~Location(s)~~ of other institutions~~institution(s)~~ in the community currently in the program;

P) Total number of institutions in the community currently in the program;

Q) Financial stability;

R) Total full time and part time employees at proposed selling location;

S) Selling location if different from main location;

T) Selling area within the institution;

U) Business days and hours the institution is open to the public.

3) Miscellaneous Provisions

A) Over-the-counter program, for purposes of this rule, shall mean the program wherein the Secretary of State, by contractual agreement, authorizes a financial institution to sell license plates and/or renewal stickers to the general public, at a particular location.

B) The acceptance of any application shall, in addition to the requirements in subsection~~paragraph~~ (b)(1)~~ above~~, be dependent upon the applicant agreeing to all of the terms of and signing the Financial Institution License Plate/Sticker Agreement, and the institution's being in good standing and licensed by the Department of Financial and Professional Regulation~~Institutions~~ or any other licensing agency, whether State or Federal which regulates the institution.

(Source: Amended at 29 Ill. Reg. 8915, effective June 10, 2005)

Section 1010.245 Electronic Registration and Titling (ERT) Program Provisions

a) The Secretary may, in his discretion, establish a program for the electronic registration and titling (ERT) of motor vehicles. Transactions that may be conducted pursuant to an ERT program may include transmitting applications for titles and registration of motor vehicles, renewal of motor vehicle registrations, creating and removing liens from motor vehicle records, applying for salvage or junking certificates, and issuing registration plates and stickers by motor vehicle dealers and financial institutions, except that licensees under the Sales Finance Agency Act [205 ILCS 660] and the Consumer Installment Loan Act [205 ILCS 670] shall only be authorized to apply for titles and create and remove liens from motor vehicle records and insurance companies shall only be permitted to apply for salvage or junking certificates.

b) Upon the establishment of an ERT program, the Secretary may enter into agreements with ERT service providers to serve as intermediaries between the Secretary of State's office and motor vehicle dealers and financial institutions (collectively referred to in this Section as "vendors"). For the purposes of this Section, the term "financial institution" shall mean any federal or state chartered bank, savings and loan, credit union, and armored carrier, and any currency exchange, either directly or indirectly through an armored carrier. The term shall also include insurance companies and licensees under the Sales Finance Agency Act [205 ILCS 660] and the Consumer Installment Loan Act [205 ILCS 670].

c) The ERT service provider shall be responsible for the following:

1) establishing a computerized communication link between the vendors and the Secretary of State for the transmission of titling, registration, registration renewal and lien information, in compliance with all specifications of the Secretary of State's office;

2) transmitting all fees associated with the title and registration transactions to the Secretary of State, and transmitting all sales taxes due and owing for the sales of motor vehicles to the Illinois Department of Revenue;

3) maintaining an inventory of registration plates and stickers and distributing those plates and stickers to vendors as necessary;

4) complying with all requirements of the Secretary of State and the Department of Revenue concerning the security of the electronic information and funds transmissions, the security of the registration plates and stickers, and maintaining an electronic inventory control system for the registration plates and stickers;

5) providing real-time access to the inventory control system by Secretary of State staff, auditors and Secretary of State Police for review, auditing, and inventory verification to ensure compliance with rules, policies and regulations, and for locating individual registration plates and stickers and determining to which vendor the individual registration plates and stickers were issued;

6) retaining records of all ERT transactions as directed by the Secretary;

7) posting a performance bond in an amount set by the Secretary, not to exceed $1,000,000;

8) registering as a remittance agent pursuant to 625 ILCS 5/Ch. 3, Art. IX; and

9) complying with all other terms and conditions set forth in the agreement between the Secretary of State and the ERT service provider.

d) The ERT service provider shall enter into agreements with vendors for participation in the ERT program. All vendors must be currently licensed and in good standing with their regulatory agencies before being selected to participate in this program. The Secretary shall have the right to review and approve these agreements and shall have the right to approve, deny or revoke the right to participate in the ERT program by individual vendors. Any decision to deny or revoke an individual vendor's right to participate in the ERT program shall be based on the vendor's prior compliance with or violations of applicable statutes, rules and regulations; the vendor's participation in the Secretary's temporary registration permit program and any violations of the rules and regulations of the temporary registration permit program found in Section 1010.421; violations by the vendor of this Section or violations of the terms of agreements entered into by the vendor in the ERT program; the benefit to the public to be derived by the vendor's participation in the program; and the resources of the Secretary of State's office to support the vendor's participation in the program.

e) Except as permitted by the Secretary during a transition period, no vendor may simultaneously participate in the ERT program and the Over-the-Counter Sales Program (see Section 1010.240).

(Source: Added at 29 Ill. Reg. 8915, effective June 10, 2005)

SUBPART F: FEES

Section 1010.540 ~~Maximum~~ Fees ~~for Distribution of Motor Vehicle Renewal Plates and/or Stickers~~

a) Over-the-Counter Sales Program
The maximum fee and service charge to be imposed upon an applicant for motor vehicle renewal license plates and/or stickers by any vendor shall be $5.50~~$4.75~~. The actual fee allowed shall be set out in the agreement between the Secretary of State and the financial institution and/or the agreement between financial institutions. No additional charge shall be imposed upon the applicant by any such person, firm, corporation or private institution, or its authorized agent for distribution of motor vehicle renewal license plates and/or stickers. The term Financial Institution, for the purposes of this rule, shall mean any federal or state chartered bank, savings and loan, credit union, armored carrier, and any currency exchange either directly or indirectly through an armored carrier.

b) Electronic Registration and Titling
Vendors participating in the Electronic Registration and Titling (ERT) program may charge customers a fee for the optional service of electronically processing their vehicle titling and registration or data and for providing registration plates or stickers. The maximum fee to be imposed upon a customer utilizing the ERT services shall be $25, in addition to any other fee permitted by law or rule. However, if the ERT services are used solely for renewing vehicle registrations, the maximum fee imposed shall be that set forth is subsection (a) of this Section. The actual ERT fee allowed to be charged by vendors shall be set out in the agreement between the Secretary of State and the ERT service provider and in the agreements between the ERT service provider and the vendors. One of the two following methods shall be used to identify the fee:

1) the fee shall be identified on the bill of sale, receipt or any other sales documents as "Optional ERT Fee". The "Optional ERT Fee" language shall be distinguished from other language with the use of bold, colored, italic or underscored type or by using a larger font, but in no case may the

font size be smaller than that required by the Illinois Motor Vehicle Retail Installment Sales Act [815 ILCS 375]. If this method is used, not later than July 1, 2006, all pre-printed bills of sale, receipts or other sales documents shall identify the fee as "Optional ERT Fee" in bold type; or

2) the fee shall be identified on a separate document, including the phrase "Optional Electronic Registration Fee", using a font size not smaller than that required by the Illinois Motor Vehicle Retail Installment Sales Act [815 ILCS 375] and with a signature line indicating the customer's acceptance or rejection of the option of paying the fee.

(Source: Amended at 29 Ill. Reg. 8915, effective June 10 2005)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICE RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 7 2005 through June 132005 and have been scheduled for review by the Committee at its July 12, 2005 meeting in Chicago. 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
7/22/05	Capital Development Board, Capital Development Board Energy Code (Repealer) (71 Ill. Adm. Code 600)	4/8/05 29 Ill. Reg. 4760	7/12/05
7/23/05	Department of Revenue – Division of Lottery, Lottery (General) (11 Ill. Adm. Code 1770)	4/1/05 29 Ill. Reg. 4717	7/12/05

ILLINOIS COMMERCE COMMISSION

NOTICE OF WITHDRAWAL OF PROPOSED RULES

1) Heading of the Part: Application of Functional Separation Rules

2) Code Citation 83 Ill. Adm. Code 552

3)

Section Numbers:	Proposed Action:
552.10	New Section
552.20	New Section

4) Date Notice of Proposed Rules published in the *Illinois Register*: January 28, 2005; 29 Ill. Reg. 1497

5) Reason for the withdrawal: Because Section 7-210 of the Public Utilities Act on its face applies only to MidAmerican Energy Company (MEC) and because functional separation provisions applicable to MEC's regulated and unregulated retail sales of natural gas within Illinois have been adopted by the Commission in Docket No. 05-0017, there is no reason to adopt further rules on this subject through Docket No. 05-0016.

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a) Part(s) (Heading and Code Citations): Procedures and Standard, 92 Ill. Adm. Code 1001.10, *et seq*.

1) Rulemaking:

A) Description of Rule(s): The Department is considering some modifications and clarifications to its hearing procedure (Subpart A of 92 IAC Part 1001), and to some substantive rules on hearings (Subpart D). Among others, the following amendments are under consideration:

- Require that a petition to contest an implied consent suspension be filed within a specified number of days after the effective date of the suspension (§1001.70). There are currently a couple of conflicting appellate court opinions which address this issue;

- Remove the rule which allows a petitioner to file a Motion to Correct a Material Misstatement of Fact (§§1001.80 and 1001.110(g);

- Amending the rules of evidence to explicitly allow the admission of an arresting officers narrative investigative report at implied consent hearings conducted by the Department, even when the officer fails to appear in response to a subpoena issued by the Department (§1001.100(d));

- Shorten the period of time within which an out-of-state petitioner must provide the information required by the rules of the Secretary of State in order to obtain driving relief. The time frame currently in effect (90 days) has proven to be too long (§1001.100(n)(6));

- The Department is considering sending notices of hearing and final orders entered after a hearing by electronic mail. This practice would require the amendment of the rule on Orders (§1001.110(d))—to add notification by electronic transmission;

- Revising the definition of "alcohol" in (§1001.410) to include the alcohol used in prescribed and over-the-counter medications. There is some evidence, currently being gathered by the BAIID Unit, that some BAIID permittees may be substituting medications for alcoholic beverages;

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- Remove the rule which requires a petitioner who has been issued a restricted driving permit to drive on the permit for 75% of its length before applying for reinstatement (§1001.430(i));

- Clarify the rule on when a petitioner may take a driver risk education course in a state other than Illinois (§1001.440(a)(1));

- Clarify the rule on composition of updated evaluations by treatment providers. The question has arisen whether a treatment provider can compose an updated evaluation after the transfer of a petitioner's treatment file. We may also expand upon the circumstances under which a transfer will be accepted (§1001.440(a)(6)(A));

- The Department's rule on Uniform Reports or original evaluations was recently amended to require that a chronological alcohol/drug use history be included or attached as part of the evaluation. We intend to extend this requirement to Investigative Evaluations (§1001.440(a)(4) and .440(a)(6)(D));

- We may reconsider the rule which states that participation in internet AA meetings will not be accepted as a substitute for the attendance of such meetings in person (§1001.440(h));

- Clarify/codify the circumstances under which a "Treatment Needs Assessment" is required. A TNA is a statement from the treatment provider which assesses a petitioner's current need for treatment for alcohol/drug abuse. Most likely, this rule would be added to (§1001.440(m));

- Clarify the circumstances under which (and what) sanctions are imposed pursuant to the BAIID multiple offender program in (§1001.443(c) and (d));

- Remove the limitation on applying for a formal hearing once every four (4) months (§1001.50(a)); and

- Add a requirement that one who applies for a restricted driving permit pursuant to (§11-501.8(e)) of the IVC (after a zero tolerance suspension) must submit a copy of the ZT sworn report to the informal hearing officer (§1001.670).

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A) Statutory Authority: 625 ILCS 5/2-104.

B) Scheduled Meeting/Hearing Dates: To be determined.

C) Date Agency Anticipates First Notice: Fall 2005. However, there is no particular urgency to engage in another revision of Part 1001 at this time.

D) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: We do not anticipate any impact on small businesses.

F) Agency Contact Person for Information:

Marc Christopher Loro
Legal Advisor
Illinois Secretary of State
Room 200, Michael J. Howlett Building
Springfield, Illinois 62756
217-785-8245 Fax 217-782-2192
mloro@ilsos.net

G) Related Rulemakings and Other Pertinent Information: The DAH filed a Notice of Proposed Amendments to 92 IAC 1040.35 in May 2005. At this time, the Department is not aware of any further information which may serve the public interest. The public will have an opportunity to comment on any proposed rulemaking during the first notice period.

b) Part(s) (Heading and Code Citations): Illinois State Library, Library Services Divisions, 23 Ill. Adm. Code 3010

1) Rulemaking:

A) Description of Rules: Section 23 Ill. Adm. Code 3010. Exhibit B will be amended to agree with the clarify the method for state agencies to transmit electronic publications to the Illinois State Library for public access through the Internet

B) Statutory Authority: Implementing Section 21 and authorized by Section 2 of the State Library Act [15 ILCS 32/2 and 21].

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C) Scheduled Meeting/Hearing Dates: None

D) Date Agency Anticipates First Notice: January 2006.

E) Impact on Small Business, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield, Illinois 62701-1796
217-558-4185 Fax 217-557-2619
jnatale@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

c) Part(s) (Heading and Code Citation): Illinois State Library, Acquisition Division, Illinois Documents Section, 23 Ill. Adm. Code 3020

1) Rulemaking:

A) Description of Rule(s): Section 23 Ill. Adm. Code 3020.110 will be amended to clarify the method for state agencies to transmit electronic publications to the Illinois State Library for public access through the Internet.

B) Statutory Authority: Implementing Section 21 and authorized by Section 2 of the State Library Act [15 ILCS 320/2 and 21].

C) Scheduled Meeting/Hearing Dates: None

D) Date the Agency Anticipates First Notice: January 2006

E) Impact on Small Business, Small Municipalities or Not For Profit Corporations: None

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F) Agency Contact Person for Information:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield, Illinois 62701-1796
217-558-4186 Fax 217-557-2619
jnatale@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

d) Part(s) (Heading and Code Citation): Illinois State Library System Act, 23 Ill. Adm. Code 3030

1) Rulemaking:

A) Description of Rule(s): This Part will be reviewed in order to renumber and reorganize its content to facilitate use.

B) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10].

C) Schedule Meeting/Hearing Date: January 2006.

D) Date Agency Anticipates First Notice: February 2006.

E) Impact on Small Businesses, Small Municipalities or Not For Profit Corporations: None

F) Agency Contact Person for Information:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield, IL 62701-1796
217-558-4185 Fax 217-557-2619
jnatale@ilsos.net

G) Related Information and Other Pertinent Information: None

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e) Part(s) (Heading and Code Citation): Literacy Grant Program, 23 Ill. Adm. Code 3040

1) Rulemaking:

A) Description of Rule(s): Clarify role of the Literacy Advisory board and granting procedures.

B) Statutory Authority: Implementing and authorized by the State Library Act [15 ILCS 320] and the Illinois Literacy act [15 ILCS 322].

C) Schedule Meeting/Hearing Date: None

D) Date Agency Anticipates First Notice: March 2006.

E) Impact on Small Businesses, Small Municipalities or Not For Profit Corporations: None

F) Agency Contact Person for Information:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield, IL 62701-1796
217-558-4185.1 Fax 217-557-2619
jnatale@ilsos.net

G) Related Information and Other Pertinent Information: None

f) Part(s) (Heading and Code Citation): Public Library Construction Grants, 23 Ill. Adm. Code 3060

1) Rulemaking:

A) Description of Rule(s): Establish the funding priorities and criteria for FY 2007 construction.

B) Statutory Authority: Implementing Section 3 of the Capital Development Bond Act of 1972 [30 ILCS 420/3] and authorized by Sections 3 and 8 of the Illinois Library System Act [75 ILCS 10/3 and 8].

C) Schedule Meeting/Hearing Date: None

D) Date Agency Anticipates First Notice: March 2006.

E) Impact on Small Businesses, Small Municipalities or Not For Profit Corporations: None

F) Agency Contact Person for Information:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield, IL 62701-1796
217-558-4185.2 Fax 217-557-2619
jnatale@ilsos.net

G) Related Information and Other Pertinent Information: None

g) Part(s) (Heading and Code Citation): Public Library Non-Resident Services, 23 Ill. Adm. Code 3050

1) Rulemaking:

A) Description of Rule: In Section 23 Ill. Adm. Code 3050.60 (c)(1), the incorporation by reference of the "Illinois Public Library Statistics" will be updated from the 2001-2002 edition to the 2002-2003 edition.

B) Statutory Authority: Implementing and authorized by Section 4-7 of the Illinois Local Library Act [75 ILCS 5/4-7], and authorized by Section 30-55.60 of the Public Library District Act of 1991 [75 ILCS 16/30-55.60] and Section 8.25 of the State Mandates Act [30 ILCS 805/8.25].

C) Schedule Meeting/Hearing Date: None

D) Date Agency Anticipates First Notice: October 2005.

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

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Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
300 South Second Street
Springfield, Illinois 62701-1796
217-558-4187 Fax 217-557-2619
jnatale@ilsos.net

G) Related Information and Other Pertinent Information: None

h) Part(s) (Heading and Code Citation): Limited Liability Company, Act 14 Ill. Adm. Code 178

1) Rulemaking:

A) Description of Rule(s): Amends 178.165. Acknowledges that the State agency formerly known as the Department of Banks and Trusts has been consolidated into the Department of Financial and Professional Regulation as the Division of Banks and Real Estate.

B) Statutory Authority: Implementing and authorized by Sections 1-10, 1-15, 1-20 and 45-15 of the Illinois Limited Liability company Act (805 ILCS 180/1-10, 1-15, 1-20 and 45-15).

C) Schedule Meeting/Hearing Date: Unknown

D) Date Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not For Profit Corporations: None

F) Agency Contact Person for Information:

Chuck Moles
Illinois Secretary of State
Department of Business Services
Room 351 Howlett Building
Springfield, Illinois 62756
217-782-4875.1 Fax: 217-524-3390
cmoles@ilsos.net

G) Related Information and Other Pertinent Information: None

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i) Part(s) Heading and Code Citation: Part 171 Uniform Limited Partnership Act, 14 Ill. Adm. Code 171

1) Rulemaking:

A) Description of Rule(s): New Rule 171.10. Provides that no limited partnership name shall contain the terms "Corporation", "Corp.", "Incorporated", "Inc.", "Company", or "Co."

B) Statutory Authority: Implemented and authorized by Sections 108, 108.5, 109 and 902 of the Illinois Uniform Limited Partnership Act (805 ILCS 215/108, 108.5, 109 and 902).

C) Scheduled Meeting/Hearing Dates: Unknown

D) Date Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

Chuck Moles
Illinois Secretary of State
Department of Business Services
Room 351 Howlett Building
Springfield, Illinois 62756
217-782-4875.1 Fax: 217-524-3390
cmoles@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

j) Part(s) Heading and Code Citation: Part 171 Uniform Limited Partnership Act, 14 Ill. Adm. Code 171

1) Rulemaking:

A) Description of Rule(s): New Rule 171.15. Provides that no limited partnership name shall contain any word or words that create a connotation that is offensive to good taste and decency.

B) Statutory Authority: Implemented and authorized by Sections 108, 108.5, 109 and 902 of the Illinois Uniform Limited Partnership Act

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(805 ILCS 215/108, 108.5, 109 and 902).

C) Scheduled Meeting/Hearing Dates: Unknown

D) Date Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

Chuck Moles
Illinois Secretary of State
Department of Business Services
Room 351 Howlett Building
Springfield, Illinois 62756
217-782-4875.2 Fax: 217-524-3390
cmoles@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

k) Part(s) Heading and Code Citation: Part 180 Uniform Commercial Code, Ill. Adm. Code 180

1) Rulemaking

A) Description of Rules: Amendment to Rule 180.12(b). Specifies when an acknowledgment copy is not returned to a UCC filer.

B) Statutory Authority: Implemented by Section 9-523(a) of the Illinois Uniform Commercial Code Act (810 ILCS 5/9-523).

C) Scheduled Meeting/Hearing Dates: Unknown

D) Date Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

Dennis L. Hankins, Administrator
Illinois Secretary of State
Department of Business Services

OFFICE OF THE SECRETARY OF STATE

JULY 2005 REGULATORY AGENDA

Uniform Commercial Code Division
Room 350 Howlett Building
Springfield, Illinois 62756
217-524-3356.1 Fax: 217-557-4430
cmoles@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

l) Part(s)Heading and Code Citation: Part 180: Uniform Commercial Code, 14 Ill. Adm. Code 180

1) Rulemaking:

A) Description of Rule(s): Amendment to Rule 180.12(c). Specifies that due to privacy concerns non-required information will be removed from filing forms.

B) Statutory Authority: Authority to require Social Security Numbers or Federal Employer Identification Numbers not given by Sections 9-502(a) or 9-516(b) of the Illinois Uniform Code Act (810 ILCS 5/9-502)(810 ILCS /59-516).

C) Scheduled Meeting/Hearing Dates: Unknown

D) Date Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Non-required information will be removed.

F) Agency Contact Person for Information:

Dennis L. Hankins, Administrator
Illinois Secretary of State
Department of Business Services
Uniform Commercial Code Division
Room 350 West Howlett Bldg.
Springfield, Illinois 62756
217-524-3356 Fax: 217-557-4430
dhankins@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

m) Part(s) Heading and Code Citation: Part 180: Uniform Commercial Code, 14 Ill. Adm. Code 180

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1) Rulemaking:

A) Description of Rule(s): New Rule 180.12(d). Provides guidelines when multiple debtors are being deleted.

B) Statutory Authority: Implemented by Section 9-512(a) of the Illinois Uniform Commercial Code Act (810 ILCS 5/9-512).

C) Scheduled Meeting/Hearing Dates: Unknown

D) Date Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Clarifies information to be deleted.

F) Agency Contact Person for Information:

Dennis L. Hankins, Administrator
Illinois Secretary of State
Department of Business Services
Uniform Commercial Code Division
Room 350 Howlett Building
Springfield, Illinois 62756
217-524-3356.1 Fax: 217-557-4430
dhankins@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

n) Part(s) Heading and Code Citation: Part 178: Limited Liability Company Act 14, Ill. Adm. Code 178

1) Rulemaking:

A) Description of Rule(s): New Rule 178.190. Provides that no limited liability company name shall contain any word or words that create a connotation that is offensive to good taste and decency.

B) Statutory Authority: Implemented and authorized by Sections 1-10, 1-15, 1-20 and 45-15 of the Illinois Limited Liability Company Act (805 ILCS 180/1-10, 1-15, 1-20 and 45-15).

C) Scheduled Meeting/Hearing Dates: Unknown

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D) Date Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: None

F) Agency Contact Person for Information:

Chuck Moles
Illinois Secretary of State
Department of Business Services
Room 351 Howlett Building
Springfield, Illinois 62756
217-524-3390.1 Fax: 217-524-3390
cmoles@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

o) Part(s) (Heading and Code Citation): Regulations Under Illinois Business Brokers Act of 1995, 14 Ill. Adm. Code 140

1) Rulemaking:

A) Description of Rule(s): Amend and draft rules generally to conform regulations to legislative enactments and federal laws and regulations as necessary.

B) Statutory Authority: Illinois Business Broker Act, 815 ILCS 307/10-1/

C) Scheduled Meeting/Hearing Dates: None

D) Date the Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown

F) Agency Contact Person for Information:

Tanya Solov, Director
Illinois Securities Department
69 West Washington Street
Suite 1220
Chicago, Illinois 60602
312-793-3384
Fax 312-793-1202
tsolov@ilsos.net

Vickie Moseley
Illinois Securities Department
Jefferson Terrace 300A
300 West Jefferson Street
Springfield, Illinois 62702
217-782-2256
Fax 217-887-8876
vmoseley@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

p) Part(s) (Heading and Code Citation): Regulations Under Illinois Securities Law of 1953, 14 Ill. Adm. Code 130

1) Rulemaking:

A) Description of Rule(s): Amend and draft rules generally to conform regulations to legislative enactments. Update and draft rules to implement North American Securities Administrators Association (NASAA) model rules for the sale of securities outside traditional securities venues. Amend rules to conform with federal legislative enactments.

B) Statutory Authority: Illinois Securities Law of 1953, 815 ILCS 5/1.

C) Scheduled Meeting/Hearing Dates: None

D) Date the Agency Anticipates First Notice: Unknown

E) Impact on small Businesses, Small Municipalities or Not for Profit Corporations: Unknown

F) Agency Contact Person for Information:

Tanya Solov, Director
Illinois Securities Department
69 West Washington Street
Suite 1220
Chicago, Illinois 60602
312-793-3384
Fax 312-793-1202
tsolov@ilsos.net

Vickie Moseley
Illinois Securities Department
Jefferson Terrace 300A
300 West Jefferson Street
Springfield, Illinois 62702
217-782-2256
Fax 217-887-8876
vmoseley@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

q) Part(s) (Heading and Code Citation): Regulations Under Illinois Business Opportunities Sales Law of 1995, 14 Ill. Adm. Code 135

1) Rulemaking:

A) Description of Rule(s): Amend and draft rules generally to conform regulations to legislative enactments and federal laws and regulations as necessary.

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B) Statutory Authority: Illinois Business Opportunities Sales Law of 1995, 815 ILCS 602/5/1.

C) Scheduled Meeting/Hearing Dates: None

D) Date the Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown

F) Agency Contact Person for Information:

Tanya Solov, Director
Illinois Securities Department
69 West Washington Street
Suite 1220
Chicago, Illinois 60602
312-793-3384
Fax 312-793-1202
tsolov@ilsos.net

Vickie Moseley
Illinois Securities Department
Jefferson Terrace 300A
300 West Jefferson Street
Springfield, Illinois 62702
217-782-2256
Fax 217-887-8876
vmoseley@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

r) Part(s) (Heading and Code Citation): Regulations Under Illinois Securities Law of 1953, 14 Ill. Adm. Code 130

1) Rulemaking:

A) Description of Rule(s): Amend and draft rules generally to conform regulations to legislative enactments. Update and draft rules to implement North American Securities Administrators Association (NASAA) model rules for the sale of securities outside traditional securities venues. Amend rules to conform with federal legislative enactments.

B) Statutory Authority: Illinois Securities Law of 1953, 815 ILCS 5/1.

C) Scheduled Meeting/Hearing Dates: None

D) Date the Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown

F) Agency Contact Person for Information:

OFFICE OF THE SECRETARY OF STATE

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Tanya Solov, Director
Illinois Securities Department
69 West Washington Street
Suite 1220
Chicago, Illinois 60602
312-793-3384
Fax 312-793-1202
tsolov@ilsos.net

Vickie Moseley
Illinois Securities Department
Jefferson Terrace 300A
300 West Jefferson Street
Springfield, Illinois 62702
217-782-2256
Fax 217-887-8876
vmoseley@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

s) Part(s) (Heading and Code Citation): Regulations Under Illinois Loan Brokers Act of 1995, 14 Ill Adm. Code 145

1) Rulemaking:

A) Description of Rule(s): Amend and draft rules generally to conform regulations to legislative enactments and federal laws and regulations as necessary.

B) Statutory Authority: Illinois Loan Brokers Act of 1995, 815 ILCS 175/15-1

C) Scheduled Meeting/Hearing Dates: None

D) Date the Agency Anticipates First Notice: Unknown

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown

F) Agency Contact Person for Information:

Tanya Solov, Director
Illinois Securities Department
69 West Washington Street
Suite 1220
Chicago, Illinois 60602
312-793-3384
Fax 312-793-1202
tsolov@ilsos.net

Vickie Moseley
Illinois Securities Department
Jefferson Terrace 300A
300 West Jefferson Street
Springfield, Illinois 62702
217-782-2256
Fax 217-887-8876
vmoseley@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

t) Part(s) (Heading and Code Citation): State Records Commission 44 Ill. Adm. Code 4400 *et seq.*

1) Rulemaking:

OFFICE OF THE SECRETARY OF STATE

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A) Description of Rule(s): Amend parts of Sections 4400.10, 4400.20, 4400.25, 4400.30, 4400.40, 4400.50 and 4400.60 to reflect technical changes in the State Records Act (5 ILCS 160) as amended by P.A. 92-866, effective January 3, 2003, and to add language to Section 4450.60 to allow for the use of the Kodak Archive Writer system for the production of permanent microfilm.

B) Statutory Authority: Disposal and reproduction of records—Regulations (5 ILCS 160/17)

C) Scheduled Meeting/Hearing Dates: No scheduled hearings.

D) Date the Agency Anticipates First Notice: September 2005

E) Impact on Small Businesses, Small Municipalities or Not for Profit Corporations: Unknown

F) Agency Contact Person for Information:

Dave Joens, Director
Illinois State Archives
Norton Building, 2nd Floor-W
Springfield, Illinois 62756
217-782-3492.1 Fax 217-524-3930
djoens@ilsos.net

G) Related Rulemaking and Other Pertinent Information: None

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

CONTRACTOR PROHIBITED FROM AN AWARD
OF A CONTRACT OR SUBCONTRACT
FOR PUBLIC WORKS PROJECTS

Pursuant to the findings in Re: Romano Company, Inc., IDOL File No. 2003-PW-TD01-0670 and 2004-PW-DC04-1477, the Director of the Department of Labor gives notice that [Romano Company, Inc.], its member(s), officer(s), manager(s), agent(s), and all persons acting in Romano Company, Inc.'s interest and/or on Romano Company, Inc.'s behalf, and any business entity, including, but not limited to, any firm, corporation, partnership or association in which Romano Company, Inc., its member(s), officer(s), manager(s), agent(s), and all other persons acting in Romano Company, Inc. interest and/or on Romano Company, Inc.'s behalf have an interest, pecuniary or otherwise, is(are) prohibited from bidding, accepting or working on any contract or subcontract for a public works project covered by the Prevailing Wage Act, 820 ILCS 130/0.01-12 (2001), commencing June 1, 2005 and continuing through May 31, 2006.

Copies of the Prevailing Wage Act are available on the internet at http://www.legis.state.il.us/ilcs/ch820/ch820act130.htm, and at the:

Illinois Department of Labor
Conciliation and Mediation Division
One West Old State Capital Plaza, Room 300
Springfield, Illinois 62701-1217

PROCLAMATIONS

2005-214
PARENTS' DAY

WHEREAS, no other job is more rewarding, challenging, or important as that of raising a child. The maternal and paternal, foster, adoptive, and relative parents that provide for the needs of children are truly a special gift to our society; and

WHEREAS, parents play a critical role in their child's upbringing, instilling core values such as respect and integrity, that the child will eternalize for the rest of their lives; and

WHEREAS, research has found that a strong parent-child relationship increases the likelihood that a child will be able to resist peer pressure, become more academically and economically successful, and decrease the chances that they will become involved with youth violence; and

WHEREAS, in 1994, the United States Congress unanimously passed Public Law 103-362, creating a national observance for parents. On October 14 of that year, President Bill Clinton signed the bill into law, thereby establishing National Parents' Day:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 24, 2005 as PARENTS' DAY in Illinois, and encourage all citizens to honor the individuals who have provided our children with positive guidance, and who have been strong parental figures in their lives.
Issued by the Governor June 9, 2005.
Filed by the Secretary of State June 9, 2005.

2005-215
LIFE INSURANCE AWARENESS MONTH

WHEREAS, life insurance provides families and loved ones of deceased individuals with monetary compensation to help them emotionally and financially deal with their losses; and

WHEREAS, ownership of life insurance has been declining for decades because many people feel they cannot afford it. A recent study of widows and widowers whose spouses suffered untimely deaths found that one in four wished their spouse had better coverage; and

WHEREAS, life insurance professionals provide a valuable service to the community by counseling individuals in financial matters, preparing them for retirement, and helping them plan their estates; and

WHEREAS, insurance professionals are trusted financial advisors and important contributors to the economic and social stability of their communities; and

WHEREAS, the Illinois Association of Insurance and Financial Advisors (IAIFA), in partnership with the National Association of Insurance and Financial Advisors (NAIFA), are promoting Life Insurance Awareness Month to encourage citizens to purchase a life insurance package that will benefit them and their families the most; and

WHEREAS, the IAIFA is hosting several events through the month of September such as the South Cook Financial Services Expo, which will help the IAIFA make its presence known throughout the state and help to educate people about the importance of owning life insurance:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2005 as LIFE INSURANCE AWARENESS MONTH in Illinois, and encourage citizens to learn about life insurance and its benefits.
Issued by the Governor June 9, 2005.
Filed by the Secretary of State June 9, 2005.

2005-216
MINORITY BUSINESS EXPO WEEK

WHEREAS, small businesses serve as drivers of the American entrepreneurial spirit, and are necessary for maintaining the vitality of this country's economy; and

WHEREAS, small businesses provide an important means of advancement for minority populations, allowing for more expedient hands-on business experience and greater independence; and

WHEREAS, as of 2003, small businesses in Illinois accounted for 48.4 percent of the state's non-farm sector employees, with 2.5 million workers. There are currently 110,300 minority-owned businesses in the state; and

WHEREAS, since January 2003, my administration has been active in giving small businesses the boost they need to grow and expand in Illinois. Through programs such as Opportunity Returns, we are working to make a positive economic impact on some of Illinois' most underserved areas; and

WHEREAS, the Minority Business Expo 2005, which is open to all businesses, will be held Saturday, June 17, at the Holiday Inn in Matteson. It will provide a chance for

businesses to network, share creative talents, and form beneficial cooperative ventures:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 13 - 17, 2005 as MINORITY BUSINESS EXPO WEEK in Illinois, and encourage all citizens to support the goal of improving opportunities for all who own or seek to start a small business.
Issued by the Governor June 9, 2005.
Filed by the Secretary of State June 9, 2005.

2005-217
NATIONAL MEN'S HEALTH WEEK

WHEREAS, in 1994, the Men's Health Network worked with Congress to develop National Men's Health Week, as a special campaign to help educate men and their families about preventable health problems, and encourage early detection and treatment of disease among men and boys; and

WHEREAS, it is fundamental that men view their health as an issue of utmost importance, as it effects not only themselves, but also the well-being of their families; and

WHEREAS, men who are educated about the value of preventative health will be more likely to participate in health screenings, and take on healthy eating habits, with regular exercise regimens; and

WHEREAS, during Men's Health Week, men should focus on implementing healthier life choices, and ask their doctors about a range of common men's health issues, including heart disease; diabetes; prostate, testicular and colon cancer; and

WHEREAS, early detection of male health problems will result in reducing rates of mortality from disease, and offer men a chance at more fulfilling and energetic lives:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 13 – 19, 2005 as NATIONAL MEN'S HEALTH WEEK in Illinois, and encourage all men to make a conscious effort to undergo health screenings, and to make a commitment to a healthy lifestyle for themselves, and for their families.
Issued by the Governor June 9, 2005.
Filed by the Secretary of State June 9, 2005.

ILLINOIS ADMINISTRATIVE CODE
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