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**March 17, 2006  Volume 30, Issue 11**

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1) **Heading of the Part**: Standard Procurement

2) **Code Citation**: 44 Ill. Adm. Code 1

3) **Section Number**: 1.4545  
   **Proposed Action**: Amendment

4) **Statutory Authority**: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500].

5) **A Complete Description of the Subjects and Issues Involved**: The proposed amendment provides for web access to Small Business related information, adds reference to service businesses relating to size limitations and, as a result of a recent amendment to this Part and relating to CPO Bulletin #35, the proposed amendment also provides guidelines for use when the small business set-aside requirement may be waived.

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?** Yes

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10) **Statement of Statewide Policy Objectives:** These proposed amendments 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:** Interested persons may submit written comments within 45 days after the date of publication to:

    Gina Wilson  
    Illinois Department of Central Management Services  
    720 Stratton Office Building  
    Springfield, Illinois 62706  
    217/785-1793

12) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not for profit corporations affected:** Any retail business whose annual sales and receipts do not exceed $6 million and any wholesale business whose annual sales do not exceed $10 million would be affected. While a waiver of the set-aside would affect small businesses, they will still have the opportunity to submit a bid or proposal for the contract at issue. They will not be excluded simply by virtue of being a small business.

   B) **Reporting, bookkeeping or other procedures required for compliance:** Since the Small Business Set-Aside Program has been in effect since 1998, reporting and
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bookkeeping procedures are already in place. However, agencies will have to provide detailed justification regarding the proposed waiver process.

C) Types of professional skills necessary for compliance: None. Current staff that performs related functions in this area will be utilized.

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

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 1
STANDARD PROCUREMENT

SUBPART A: GENERAL

Section
1.01 Title
1.05 Policy
1.08 Purpose and Implementation of This Part
1.10 Application
1.15 Definition of Terms Used in This Part
1.25 Property Rights
1.30 Constitutional Officers, and Legislative and Judicial Branches

SUBPART B: PROCUREMENT RULES

Section
1.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section
1.1005 Exercise of Procurement Authority
1.1010 Appointment of State Purchasing Officer
1.1030 Associate Procurement Officers
1.1040 Central Procurement Authority of the CPO
1.1050 Procurement Authority of the SPO; Limitations
1.1060 Delegation
1.1070 Toll Highway Authority
1.1075 Department of Natural Resources
1.1080 Illinois Mathematics and Science Academy

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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1.1510 Illinois Procurement Bulletin
1.1525 Bulletin Content
1.1550 Official State Newspaper
1.1560 Supplemental Notice
1.1570 Error in Notice
1.1580 Direct Solicitation
1.1590 Retention of Bulletin Information

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section
1.2010 Competitive Sealed Bidding
1.2012 Multi-Step Sealed Bidding
1.2015 Competitive Sealed Proposals
1.2020 Small Purchases
1.2025 Sole Economically Feasible Source Procurement
1.2030 Emergency Procurements
1.2035 Competitive Selection Procedures for Professional and Artistic Services
1.2036 Other Methods of Source Selection
1.2037 Tie Bids and Proposals
1.2038 Mistakes
1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section
1.2043 Suppliers
1.2044 Vendor List/Required Use
1.2045 Prequalification
1.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section
1.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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1.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section 1.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section 1.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section 1.2560 Prevailing Wage
Section 1.2570 Equal Employment Opportunity; Affirmative Action

SUBPART L: CONTRACT PRICING

Section 1.2800 All Costs Included

SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section 1.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section 1.4005 Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

Section 1.4505 Procurement Preferences
Section 1.4510 Resident Bidder Preference
Section 1.4530 Correctional Industries
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1.4535 Sheltered Workshops for the Disabled
1.4540 Gas Mileage
1.4545 Small Business
1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

Section
1.5013 Conflicts of Interest
1.5015 Negotiations for Future Employment
1.5020 Exemptions
1.5030 Revolving Door
1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

SUBPART Q: CONCESSIONS

Section
1.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section
1.5510 Complaints Against Vendors
1.5520 Suspension
1.5530 Resolution of Contract Controversies
1.5540 Violation of Law or Rule
1.5550 Protests

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

Section
1.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

Section
1.6500 General
1.6510 No Agency Relationship
1.6520 Obligations of Participating Governmental Units
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1.6530 Centralized Contracts – Estimated Quantities
1.6535 Centralized Contracts – Definite Quantities

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1.7000 Severability
1.7010 Government Furnished Property
1.7015 Inspections
1.7020 Records and Audits
1.7025 Written Determinations
1.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].


SUBPART O: PREFERENCES

Section 1.4545 Small Business
NOTICE OF PROPOSED AMENDMENT

a) Set-Aside
The CPO may determine categories of supplies or service procurements that will be set aside for small business located in Illinois. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.

b) Small Business List
The CPO will maintain a list of responsible vendors that meet the criteria of small business and the supplies and services that each provides. Each purchasing agency will have web-based access to the list. The CPO will periodically inform each purchasing agency of those vendors on the list and the supplies and services that each provides. A business that fits the definition of small on the day of award or proposal opening will be considered small for the duration of the contract.

c) Required Use

1) If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.

2) A Procurement Officer may request a waiver of the set-aside requirement from the Department of Central Management Services. To obtain a waiver, the Procurement Officer must demonstrate a measurable substantial impact, taking into account factors such as cost, supply base, quality, statutory preferences, regional or geographic requirements, acquisition cycle times, and terms and conditions. Following are examples of guidelines that may be considered:

   A) the product or service is provided by a large business sole source vendor;

   B) there is a need for a brand-name product and there are no small businesses that provide the product;

   C) there is an opportunity to establish a no-bid contract with a State use vendor;
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D) the supply base for the product or service includes several larger diversified vendors that can be counted towards the Business Enterprise Program goal;

E) the product or service is available from Illinois Corrections Industries;

F) the prices offered by qualified small businesses are substantially greater than the prices offered by large businesses; and

G) the small business supply base does not meet regional or geographic requirements for the product or service.

d) Withdrawal of Set-Aside
If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

e) Criteria for Small Business
Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is:

1) An Illinois business, independently owned and operated.

2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

3) With annual sales, including sales of affiliates, for most recently ended fiscal year no greater than:
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A) $10,000,000 for wholesale business;

B) $10,000,000 for construction business; or

C) $6,000,000 for retail/service business.

4) With no more than 250 employees, including those of affiliates, if a manufacturing business.

   A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.

   B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.

5) If the business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding $16,000,000 and the retail component may not exceed $6,000,000 and the wholesale component may not exceed $10,000,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).

6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit.
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commensurate with ownership and bears the risk of loss or failure.

f) Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the vendor qualifies as a small business under the Code and this Part. The CPO may establish procedures for verifying such information.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)
1) **Heading of the Part:** Pay Plan

2) **Code Citation:** 80 Ill. Adm. Code 310

3) **Section Numbers:**

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310.APPENDIX G Amendment

4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 20 ILCS 415/8a].

5) A Complete Description of the Subjects and Issues Involved: The Table of Contents' Section headings for Sections 310.110, and Appendices B, C, D, and G have referenced fiscal years removed. The Section 310.Appendix B heading is also clarified to indicate that the schedule is for Salary Grade Pay Grades. The new Section 310.45 heading is added. The Sections 310.450, 455, and 540 headings indicate that the Sections are being repealed.

Section 310.30 Jurisdiction is amended to clarify the positions that are not subject to the Pay Plan. The positions with partial exemptions from the Personnel Code in Section 4(d) that are excluded from the Pay Plan are the positions exempt from Jurisdiction A.

The new Section 310.45 is added to clarify how pay grades or salary ranges assigned to position classifications are compared.

Section 310.50 is amended to clarify the definition of base salary, to remove superior performance increase from the definition of creditable service date, and to make the definitions of entrance salary and reallocation the same as that in Section 310.500.

Section 310.80 Increases in Pay is amended to strike the effective date and parentheses in the last sentence in subsection (a) (1), to strike subsection (d), and strike the date in (e) (1) (A). The subsections are re-numbered.

Section 310.100 Other Pay Provisions is amended to properly name what was called extra duty pay as temporary assignment pay and explain it in subsection (c)(4), to clarify when to seek approval for a salary after reinstatement in subsection (j), and to remove the parentheses and effective dates in subsections (k) (1) and (2).
NOTICE OF PROPOSED AMENDMENTS

Section 310.110 Implementation of Pay Plan Changes for Fiscal Year 2006 is amended to better reflect the salary grade and pay grade definitions in 310.50 and the heading of Appendix B, and to strike fiscal year.

Section 310.130 Effective Date is amended to reflect that all sections of this Part are effective for fiscal year 2007.

Section 310.220 Negotiated Rate is amended to remove the parentheses and effective date in subsection (b) and to include other listings in subsection (d).

Section 310.280 Designated Rate is amended to include the designated rate of $133,104 annually for the Senior Public Service Administrator position, Position Number 40070-25-60-000-00-01, at the Department of Revenue effective November 4, 2005. That is the date when the Illinois Gambling Board approved this position and salary. The Riverboat Gambling Act [230 ILCS 10/5(a)(9)] provides that the salary of the Administrator of the Illinois Gambling Board shall be determined by the Illinois Gambling Board and approved by the Director of the Department of Revenue.

Section 310.290 Out-of-State or Foreign Service Rate is amended to strike the suspension effective date, and July 1, 2005 rates in the ranges. New rates have been proposed in amendments published at 30 Ill. Reg. 231.

Section 310.420 Objectives is amended to remove the performance related objective.

Section 310.450 Procedures for Determining Annual Merit Increases is repealed.

Section 310.455 Intermittent Merit Increase is repealed.

Section 310.490 Other Pay Provisions is amended to remove the date in subsection (i), to properly name what was called extra duty pay as temporary assignment pay and explain it in subsection (j), and to clarify when to seek approval for a salary after reinstatement in subsection (l).

Section 310.500 is amended to clarify the definitions of base salary and midpoint salary, and to strike the definitions of intermittent merit increase, performance review, and performance review date.

Section 310.530 Implementation is amended to remove the FY2006 reference and subsection (b).
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section 310.5.40 Annual Merit Increase Guidechart for Fiscal Year 2006 is repealed.

Section 310.Appendix A Table D HR-001 (Teamsters Local #726) is amended to include the FY2007 rates based on the Agreement between the Departments of Central Management Services, Transportation, Human Services and Employment Security, and the State and Municipal Teamsters, Chauffeurs and Helper Union, Local 726, affiliated with the International Brotherhood of Teamsters (Cook County). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 12, 2004. The rates are increased by $146 effective July 1, 2006 and by $46 effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table E RC-020 (Teamsters Local #330) is amended to include the FY2007 rates based on the Agreement between the Departments of Corrections, Human Services, State Police, Veterans Affairs and Transportation, and the Local 330 General Chauffeurs, Sales Drivers and Helpers (Fox Valley). This agreement is effective July 1, 2004 through June 30, 2008 and was signed September 8, 2004. The rates are increased by $146 effective July 1, 2006 and by $46 effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table F RC-019 (Teamsters Local #25) is amended to include the FY2007 rates based on the Agreement between the Departments of Central Management Services, Corrections, Human Services, State Police, Veterans Affairs, Natural Resources and Transportation, and the Illinois Conference of Teamsters (Downstate). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 17, 2004. The rates in each pay grade are increased by $146 effective July 1, 2006 and by $46 effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table G RC-045 (Automotive Mechanics, IFPE) is amended to reflect the Agreement between the Illinois Federation of Public Employees Local 4408 AFT/AFL-CIO and the State of Illinois Department of Central Management Services. This agreement is effective July 1, 2004 through June 30, 2008 and was signed September 24, 2004. The rates are increased by 3.25% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table H RC-006 (Corrections Employees, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The pay grade assigned to the Corrections Residence...
Counselor I title is upgraded from 10 to 11. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table I RC-009 (Institutional Employees, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table J RC-014 (Clerical Employees, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table K RC-023 (Registered Nurses, INA) is amended to reflect the Agreement between the Illinois Nurses Association RC-023 and the State of Illinois Department of Central Management Services. This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 10, 2004. The rates on each step are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed. Only one Note is retained.

Section 310.Appendix A Table L RC-008 (Boilermakers) is amended by striking rate tables effective January 1 and September 2, 2005, and by making the January 1, 2006 rates effective July 1, 2006.

Section 310.Appendix A Table M RC-110 (Conservation Police Lodge) is amended to reflect the Conservation Police Lodge and the State of Illinois Departments of Central Management Services and Natural Resources. This agreement is effective July 1, 2004 through June 30, 2008 and was signed September 7, 2004. The rates on each step are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table N RC-010 (Professional Legal Unit, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central
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Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table O RC-028 (Paraprofessional Human Services Employees, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table P RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE) is amended to reflect the Agreement between the Illinois Federation of Public Employees Local 4408 and the State of Illinois Department of Central Management Services. This agreement is effective July 1, 2004 through June 30, 2008 and was signed September 24, 2004. The pay grade assigned to the Liquor Control Special Agent I title is upgraded from 14 to 15. The pay grade assigned to the Truck Weighing Inspector title is upgraded from 11 to 12. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed. Only one Note is retained.

Section 310.Appendix A Table Q RC-033 (Meat Inspectors, IFPE) is amended to reflect the Agreement between the Illinois Federation of Public Employees Local 4408, AFT/AFL-CIO and the State of Illinois Department of Central Management Services. This agreement is effective July 1, 2004 through June 30, 2008 and was signed September 14, 2004. The rates in each step are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table R RC-042 (Residual Maintenance Workers, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.
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Section 310.Appendix A Tables T HR-010 (Teachers of Deaf, IFT) and U HR-010 (Teachers of Deaf, Extracurricular Paid Activities) are amended to reflect the Agreement between the Illinois Federation of Teachers, AFL-CIO, Local 919, and the State of Illinois Departments of Central Management Services and Human Services. This agreement is effective August 16, 2004 through August 16, 2008 and was signed August 3, 2005. In Table T, the rates on each step in each lane are increased by 3% effective August 16, 2006 and by 1% effective January 1, 2007. In Table U, the compensation for each extracurricular activity is increased by 1%, effective August 16, 2006. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table V CU-500 (Corrections Meet and Confer Employees) is amended to reflect the Agreement for CU-500 between the State of Illinois Departments of Central Management Services and Corrections, and the American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO. This agreement is effective August 16, 2004 through August 16, 2008 and was signed November 16, 2004. The rates on each step are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table W RC-062 (Technical Employees, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The pay grade assigned to the Disability Claims Analyst title is upgraded from 20 to 21. The pay grade assigned to the Human Rights Investigator I title is upgraded from 15 to 16. The pay grade assigned to the Human Rights Investigator II title is upgraded from 17 to 18. The pay grade assigned to the Human Rights Investigator III title is upgraded from 18 to 19. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table X RC-063 (Professional Employees, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table Y RC-063 (Educators, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services
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and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each lane are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table Z RC-063 (Physicians, AFSCME) is amended to reflect the Agreement between the State of Illinois Department of Central Management Services and the American Federation of State, County and Municipal Employees (AFSCME). This agreement is effective July 1, 2004 through June 30, 2008 and was signed August 19, 2004. The rates on each step in each pay grade are increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007. Prior Fiscal Year rates are removed.

Section 310.Appendix A Table AA NR-916 (Department of Natural Resources, Teamsters) is amended by increasing the salary ranges to accommodate rates to be increased by 3% effective July 1, 2006 and by 1% effective January 1, 2007 and are raised to the nearest rate ending in a zero or five digit. The rate increases are based on the Agreement between the Teamsters Local 916 and the Departments of Central Management Services, Transportation, and Natural Resources. This agreement is effective July 1, 2004 through June 30, 2008 and was signed July 30, 2004. Prior Fiscal Year rates are removed.

Section 310.Appendix B Schedule of Salary Grades – Monthly Rates of Pay for Fiscal Year 2006 is amended to update the Section heading. Also, changes proposed at 30 Ill. Reg. 231 will be incorporated into this rulemaking when adopted. The Department intends to remove the rate table effective July 1, 2005 at that time.

Section 310.Appendix C Medical Administrator Rates for Fiscal Year 2006 Section is amended to update the Section heading. Also, changes proposed at 30 Ill. Reg. 231 will be incorporated into this rulemaking when adopted. The Department intends to remove the rate table effective July 1, 2005 at that time.

310. Appendix D Merit Compensation System Salary Schedule for Fiscal Year 2006 is amended to update the Section heading. Also, changes proposed at 30 Ill. Reg. 231 will be incorporated into this rulemaking when adopted. The Department intends to remove the rate table effective July 1, 2005 at that time.

Section 310. Appendix G Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2006 is amended to update the Section heading. Also, changes proposed at 30 Ill. Reg. 231 will be incorporated into this rulemaking when adopted. The Department intends to remove the rate table effective July 1, 2005 at that time.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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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? Yes

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10) **Statement of Statewide Policy Objectives:** These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.

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

   Mr. Jason Doggett  
   Acting Manager  
   Compensation Section  
   Division of Technical Services and Agency Training and Development  
   Bureau of Personnel  
   Department of Central Management Services  
   504 William G. Stratton Building  
   Springfield IL  62706  
   217/782-7964  
   Fax: 217/524-4570

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:** January 2006

14) **Does this amendment require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]?** No

The full text of the Proposed Amendments begins on the next page:
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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section
310.20 Policy and Responsibilities
310.30 Jurisdiction
310.40 Pay Schedules
310.45 Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.50 Definitions
310.60 Conversion of Base Salary to Pay Period Units
310.70 Conversion of Base Salary to Daily or Hourly Equivalents
310.80 Increases in Pay
310.90 Decreases in Pay
310.100 Other Pay Provisions
310.110 Implementation of Pay Plan Changes for Fiscal Year 2006
310.120 Interpretation and Application of Pay Plan
310.130 Effective Date
310.140 Reinstitution of Within Grade Salary Increases (Repealed)
310.150 Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section
310.205 Introduction
310.210 Prevailing Rate
310.220 Negotiated Rate
310.230 Part-Time Daily or Hourly Special Services Rate
310.240 Hourly Rate
310.250 Member, Patient and Inmate Rate
310.260 Trainee Rate
310.270 Legislated and Contracted Rate
310.280 Designated Rate
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310.290 Out-of-State or Foreign Service Rate
310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section
310.410 Jurisdiction
310.420 Objectives
310.430 Responsibilities
310.440 Merit Compensation Salary Schedule
310.450 Procedures for Determining Annual Merit Increases (Repealed)
310.455 Intermittent Merit Increase (Repealed)
310.456 Merit Zone (Repealed)
310.460 Other Pay Increases
310.470 Adjustment
310.480 Decreases in Pay
310.490 Other Pay Provisions
310.495 Broad-Band Pay Range Classes
310.500 Definitions
310.510 Conversion of Base Salary to Pay Period Units (Repealed)
310.520 Conversion of Base Salary to Daily or Hourly Equivalents
310.530 Implementation
310.540 Annual Merit Increase Guidechart for Fiscal Year 2006 (Repealed)
310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A Negotiated Rates of Pay

310.TABLE A HR-190 (Department of Central Management Services – State of Illinois Building – SEIU) (Repealed)
310.TABLE B HR-200 (Department of Labor – Chicago, Illinois – SEIU) (Repealed)
310.TABLE C RC-069 (Firefighters, AFSCME) (Repealed)
310.TABLE D HR-001 (Teamsters Local #726)
310.TABLE E RC-020 (Teamsters Local #330)
310.TABLE F RC-019 (Teamsters Local #25)
310.TABLE G RC-045 (Automotive Mechanics, IFPE)
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310.TABLE H  RC-006 (Corrections Employees, AFSCME)
310.TABLE I  RC-009 (Institutional Employees, AFSCME)
310.TABLE J  RC-014 (Clerical Employees, AFSCME)
310.TABLE K  RC-023 (Registered Nurses, INA)
310.TABLE L  RC-008 (Boilermakers)
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310.TABLE Q  RC-033 (Meat Inspectors, IFPE)
310.TABLE R  RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S  HR-012 (Fair Employment Practices Employees, SEIU) (Repealed)
310.TABLE T  HR-010 (Teachers of Deaf, IFT)
310.TABLE U  HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V  CU-500 (Corrections Meet and Confer Employees)
310.TABLE W  RC-062 (Technical Employees, AFSCME)
310.TABLE X  RC-063 (Professional Employees, AFSCME)
310.TABLE Y  RC-063 (Educators, AFSCME)
310.TABLE Z  RC-063 (Physicians, AFSCME)
310.TABLE AA NR-916 (Department of Natural Resources, Teamsters)
310.TABLE AB VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)
310.APPENDIX B  Schedule of Salary Grade Pay Grades – Monthly Rates of Pay for Fiscal Year 2006
310.APPENDIX C  Medical Administrator Rates for Fiscal Year 2006
310.APPENDIX D  Merit Compensation System Salary Schedule for Fiscal Year 2006
310.APPENDIX E  Teaching Salary Schedule (Repealed)
310.APPENDIX F  Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G  Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2006

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16,
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SUBPART A: NARRATIVE

Section 310.30 Jurisdiction

All positions of employment in the service of the State of Illinois shall be subject to the provisions of this Part unless specifically excluded now, or hereafter, under Section 4(c) (General Exemptions) or Section 4(d) (Partial Exemptions), when the partial exemption is from Jurisdiction A [20 ILCS 415/4(a)(1)] of the Personnel Code [20 ILCS 415/4(c) or (d)] or other pertinent legislation. Those positions to which jurisdiction of the Personnel Code has been or may be later extended shall also be subject to the provisions of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 310.45 Comparison of Pay Grades or Salary Ranges Assigned to Classifications

When comparing pay grades, salary ranges, or a pay grade and a salary range assigned to position classifications, use the maximum rate in the regular pension formula for the pay grade or salary range to determine whether the pay grade or salary range is the same, higher or lower. If the regular pay formula does not exist for the position classification, then use the alternative pension formula for the position classification.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 310.50 Definitions

The following definitions of terms are for purposes of clarification only. They affect the Schedule of Rates (Subpart B), Negotiated Rates of Pay (Appendix A), and the Schedule of Salary Grades (Appendix B). Section 310.500 contains definitions of terms applying specifically
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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to the Merit Compensation System.

"Adjustment in Salary" – A change in salary rate occasioned by a previously committed error or oversight, or required in the best interest of the State as defined in Sections 310.80 and 310.90.

"Base Salary" – A dollar amount of pay specifically designated in the Schedule of Salary Grades (Appendix B) or Schedule of Rates (Subpart B). Base salary does not include commission, incentive pay, bilingual pay, longevity pay, overtime pay, or shift differential pay or deductions for time not worked.

"Comparable Classes" – Two or more classes that are in the same pay grade.

"Creditable Service" – All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last salary increase that was at least equivalent to a full step. A new creditable service date will follow an increase of a step or more except for the following actions:

Superior performance increase.

A reevaluation resulting in a salary increase less than a step in the former pay grade.

Reallocation resulting in a salary increase less than a step increase in the former pay grade.

Adjustments as provided for in Section 310.80(f) that are approved to correct errors or oversights. (A new creditable service date will follow Section 310.80(f) adjustments in the best interest of the agency, unless the Director of Central Management Services determines the change in creditable service date to be inequitable.)

"Demotion" – The assignment for cause of an employee to a vacant position in a class in a lower pay grade than the former class.

"Differential" – The additional compensation added to the base salary of an employee resulting from conditions of employment imposed on him/her during normal schedule of work.
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"Entrance Salary" – The initial base salary assigned to an employee upon entering State service.

"Hourly Pay Grade" – The designation for hourly negotiated pay rates is "H".

"In Between Pay Grade" – The designation for negotiated pay rates in between pay grades is ".5".

"In-hiring Rate" – An in-hiring rate is a minimum rate/step for a class that is above the normal minimum of the range, as approved by the Director of Central Management Services after a review of competitive market starting rates for similar classes.

"Pay Grade" – The numeric designation used for an established set of steps or salary range.

"Pay Plan Code" – The designation used in assigning a specific salary rate based on a variety of factors associated with the position. Pay Plan Codes used in the Pay Plan are:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>7</td>
<td>Salary Grade regular pension formula rate</td>
</tr>
<tr>
<td>8</td>
<td>Salary Grade alternative pension formula rate</td>
</tr>
<tr>
<td>9</td>
<td>Salary Grade maximum-security institution rate</td>
</tr>
<tr>
<td>B</td>
<td>Negotiated regular pension formula rate for the State of Illinois</td>
</tr>
<tr>
<td>E</td>
<td>Educator title AFSCME negotiated 12-month regular pension formula rate for the State of Illinois</td>
</tr>
<tr>
<td>J</td>
<td>Negotiated regular pension formula rate for states other than Illinois, California or New Jersey</td>
</tr>
<tr>
<td>L</td>
<td>Educator title AFSCME negotiated 12-month alternative pension formula rate for the State of Illinois</td>
</tr>
<tr>
<td>M</td>
<td>Educator title AFSCME negotiated 9-month regular pension formula rate at the Illinois School for the Visually Impaired</td>
</tr>
<tr>
<td>N</td>
<td>Educator title Illinois Federation of Teachers negotiated 9-month regular pension formula rate for the State of Illinois</td>
</tr>
<tr>
<td>O</td>
<td>Educator title AFSCME negotiated 9-month regular pension formula rate at the Illinois Center for Rehabilitation and Education-Roosevelt</td>
</tr>
</tbody>
</table>
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P = Educator title AFSCME negotiated 12-month maximum-security institution rate for the State of Illinois
Q = Negotiated alternative pension formula rate for the State of Illinois
S = Negotiated maximum-security institution rate for the State of Illinois
U = Negotiated regular pension formula rate for the state of California or New Jersey

"Promotion" – The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher pay grade than the former class.

"Reallocation" – The change in the classification of an existing position resulting from significant changes in assigned duties and responsibilities.

"Reevaluation" – The assignment of a different pay grade to a class based upon change in relation to other classes or to the labor market.

"Salary Grade" – The system of pay practices applied to specific positions or employees not represented by a bargaining unit, and not in the Merit Compensation System, which includes Broad-Band positions.

"Salary Range" – The dollar value represented by Steps 1c through 8 of a pay grade assigned to a class title.

"Satisfactory Performance Increase" – An upward revision in the base salary from one designated step to the next higher step in the pay grade for that class as a result of having served the required amount of time at the former rate with not less than a satisfactory level of competence. (Satisfactory level of competence shall mean work, the level of which, in the opinion of the agency head, is above that typified by the marginal employee.)

"Superior Performance" – Performance characterized by work results substantially above a satisfactory level.

"Transfer" – The assignment of an employee to a vacant position having the same pay grade.

"Work Year" – That period of time determined by the agency and filed with the
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Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 310.80 Increases in Pay

Except as otherwise provided for in this Section, for employees occupying positions in classes that are paid in conformance with the Schedule of Negotiated Rates (Appendix A) and the Schedule of Salary Grades (Appendix B), increases shall be granted as follows and will become effective the first day of the pay period following the date of approval:

a) Satisfactory Performance Increase –

1) Each employee who has not attained Step 8 of the relevant pay grade, and whose level of performance has been at a satisfactory level of competence, shall be successively advanced in pay to the next higher step in the pay grade after one year of creditable service in the same class. (Effective July 1, 2003, step increases are suspended for non-union positions and employees.)

2) A satisfactory performance increase shall become effective on the first day of the month within which the required period of creditable service is reached.

3) No satisfactory performance increase may be given after the effective date of separation.

b) Withholding Satisfactory Performance Increase – As an inducement toward attainment of satisfactory level of competence, satisfactory performance increases may be withheld from the employee who has not achieved a satisfactory level of performance. Such action must be supported by:

1) A performance record showing less than satisfactory performance. This must be prepared by the appropriate supervisor, discussed with the employee and approved by the agency head prior to the date the increase would otherwise become effective. The performance record will not be invalidated by refusal of an employee to sign. In such cases, an explanatory comment shall be made on the record by the supervisor. This record will be preserved by the agency.
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2) Notice of withholding of satisfactory performance increases to the Department of Central Management Services – It shall be reported upon completion of action required by subsection (b)(1), but not later than the submission of the payroll reflecting the denial of the increase.

c) Redetermination – A satisfactory performance increase previously withheld shall be granted when the cause for withholding has been eliminated. Redetermination must be made at least annually. In such cases the increases will be effective the first day of the month following date of approval and will be preceded by the preparation and filing of a Performance Record within the agency indicating the attainment of satisfactory level of competence.

d) Superior Performance Increase—

1) The head of an agency may grant a superior performance increase to an employee who characteristically carries out his/her work activities in such a way that the results are substantially above a satisfactory level of performance.

2) An employee shall be eligible for a superior performance increase after six months continuous service. A minimum of 18 months must elapse between superior performance increases. A superior performance increase shall be for one step in the relevant pay grade. (Effective July 1, 2003, step increases are suspended for non-union and union positions and employees.)

3) A superior performance increase does not affect the creditable service anniversary date. A performance record supporting a superior performance increase award shall be retained by each agency head, and shall be available to the Director of Central Management Services upon request.

4) During the fiscal year, the number of superior performance increases in an agency should not exceed one out of five employees.

de) Other Pay Increases –

1) Promotion and Reallocation –
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A) Normally, upon promotion or reallocation, an employee shall be advanced to the lowest step in the new grade that represents at least a full step increase in the former grade. When an employee is promoted from Step 8 after February 15, 2002, the employee shall be paid at the lowest step rate in the new range that results in an increase equal to at least 3%. To compute this, add 3% to the employee's current rate at Step 8 (then include longevity if the employee is receiving an increased rate based on longevity). Then place the employee on the lowest step in the new range that is at least equivalent to that amount.

B) Any deviation requires prior written approval of the Director of Central Management Services. In determining the appropriateness of a request for a special salary treatment by an employing agency, the Director of Central Management Services will consider whether the need for the special salary treatment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request.

2) Reevaluation – If a higher pay grade is assigned to a class, the employee occupying the position in the class shall be advanced to the lowest step in the new grade that represents an increase in pay. If an employee becomes eligible for a satisfactory performance increase as a result of the reevaluation, a one-step increase will be granted immediately.

3) Separation and Subsequent Appointment – Upon separation from a position of a given class and appointment within four calendar days to a position in a higher pay grade, an increase shall be given under the conditions and requirements applicable to promotions.

Adjustment – An employee may receive an upward adjustment in his/her base salary for the purpose of correcting a previous error, oversight or when the best interest of the agency and the State of Illinois will be served. Adjustments must have the prior approval of the Director of Central Management Services. In determining the appropriateness of a request for a salary adjustment by an employing agency, the Director of Central Management Services will consider whether the need for the adjustment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request.
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(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 310.100 Other Pay Provisions

a) Transfer – Upon the assignment of an employee to a vacant position in a class with the same pay grade as the class for the position being vacated, the employee's base salary will not be changed. Upon separation from a position in a given class and subsequent appointment to a position in the same pay grade, no increase in salary will be given.

b) Entrance Salary – Normally, upon original entry to State service, an employee's base salary will be at Step 1c of the pay grade.

1) Qualifications Above Minimum Requirements –

   A) If a candidate possesses directly related training and experience in excess of the minimum requirements of the class specification, the entrance salary may be up to Step 3 as determined by the employing agency. The salary offered should not provide more than a 10% increase over the candidate's current salary.

   B) Qualifications above the minimum requirements shall be documented to support an entrance salary higher than Step 1c. An entrance salary higher than Step 3 must have prior approval from the Director of Central Management Services.

2) Area Differential – For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which the positions are established, a higher entrance step may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate shall be advanced to the new rate.

3) Upon geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment effective the first day of the month following date of approval.

c) Differential and Overtime Pay – An eligible employee may have an amount added
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to his/her base salary for a given pay period for work performed in excess of the normal requirements for the position and work schedule, as follows:

1) Shift Differential Pay – An employee may be paid an amount in addition to his/her base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Department of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

2) Overtime Pay –

   A) Eligibility – The Director of Central Management Services will maintain a list of titles and their overtime eligibility as determined by labor contracts, Federal Fair Labor Standards Act, or State law or regulations. Overtime shall be paid in accordance with the labor contracts, Federal Fair Labor Standards Act, and State law or regulations.

   B) Compensatory Time – Employees who are eligible for compensatory time may request such time, which may be granted by the agency at its discretion, considering, among other things, its operating needs. Compensatory time shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Compensatory time shall be accrued at the rate in which it is earned (straight time or time and a half), but shall not exceed 120 hours in any fiscal year. Compensatory time approved for non-union employees will be earned after 40 actual work hours in a workweek. Compensatory time not used by the end of the fiscal year in which it was earned shall be liquidated and paid in cash at the rate it was earned. Time spent in travel outside the normal work schedule shall not be accrued as compensatory time except as provided by labor contracts and the Federal Fair Labor Standards Act. At no time are overtime hours or compensatory time to be transferred from one agency to another agency.
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3) Incentive Pay – An employee may be paid an amount in addition to his/her base salary for work performed in excess of the normal work standard as determined by agency management. The additional compensation shall be at a wage rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

4) Temporary Assignment Pay – Extra Duty Pay – An employee may be paid an amount in addition to his/her base salary for service in addition to the regular work schedule on a special work assignment. Additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

A) When Assigned to a Higher-Level Position Classification – An employee may be temporarily assigned to a position classification having a higher pay grade and shall be eligible for temporary assignment pay. To be eligible for temporary assignment pay, the employee must be directed to perform the duties that distinguish the higher-level position classification and be held accountable for the responsibility of the higher classification. Employees shall not receive temporary assignment pay for paid days off except if the employee is given the assignment for 30 continuous days or more, the days off fall within the period of time and the employee works 75% of the time of the temporary assignment. Temporary assignment pay shall be calculated as if the employee received a promotion into the higher pay grade. In no event is the temporary assignment pay to be lower than the minimum rate of the higher pay grade or greater than the maximum rate of the higher pay grade.

B) When Required to Use Second Language Ability – Employees who are bilingual or have the ability to use sign language, Braille, or another second language (e.g., Spanish) and whose job...
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d) Equivalent Earned Time –

1) Eligibility – Employees who are non-union, exempt under the Federal Fair Labor Standards Act, and in positions not eligible for overtime compensation may receive equivalent earned time for hours worked in excess of 40 actual work hours in a work week.

2) Accrual –

   A) Employees who are eligible for equivalent earned time shall request that time before working in excess of 40 actual work hours in a work week. Requests for equivalent earned time may be granted by the agency at its discretion, considering its operating needs. Equivalent earned time shall be accrued at straight time only to a maximum of 120 hours in any fiscal year.

   B) Equivalent earned time will accrue in no less than one-half hour increments. Time spent in travel outside the normal work schedule shall not be counted toward accrual of equivalent earned time.

3) Compensation – Any approved equivalent earned time shall be taken at a time convenient to the employee and consistent with the operating needs of the agency. This time may not be carried over from one fiscal year to another fiscal year. At no time is equivalent earned time to be converted into cash payment or transferred from one agency to another agency.

e) Part-Time Work – Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily basis computed by dividing the annual rate of salary by the total number of work days in the year.

f) Out-of-State Assignment – Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this
provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

**g) Lump Sum Payment** – Lump sum payment shall be provided for accrued vacation, sick leave and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum cannot be given in these transactions. Method of computation is explained in Section 310.70(a).

**AGENCY NOTE** – The method to be used in computing the lump sum payment for accrued vacation, sick leave and unused compensatory overtime for an incumbent entitled to shift differential during his/her regular work hours will be to use his/her current base salary plus the shift differential pay. Sick leave earned prior to January 1, 1984 and after December 31, 1997 is not compensable. Sick leave earned and not used between January 1, 1984 and December 31, 1997 will be compensable at the current base daily rate times one-half of the total number of compensable sick days.

**h) Salary Treatment Upon Return From Leave** – An employee returning from Administrative Leave (80 Ill. Adm. Code 302.795), Military Leave (80 Ill. Adm. Code 302.220 and 303.170), Peace Corps Leave (80 Ill. Adm. Code 302.230), Service-Connected Disability Leave (80 Ill. Adm. Code 303.135), Leave to accept a temporary, emergency, provisional, exempt (80 Ill. Adm. Code 303.155) or trainee position, Educational Leave (80 Ill. Adm. Code 302.215), or Leave to serve in domestic peace or job corps (80 Ill. Adm. Code 302.230) will be placed on the step that reflects satisfactory performance increases to which he/she would have been entitled during his/her period of leave. Creditable service date will be maintained. An employee returning to his/her former pay grade from any other leave of over 14 days will be placed at the step on which he/she was situated prior to his/her leave, and his/her creditable service date will be extended by the duration of the leave.

**i) Salary Treatment Upon Reemployment** –

1) Upon the reemployment of an employee in a class with the same pay grade as the class for the position held before layoff, the employee will be placed at the same salary step as held at the time of the layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does
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not count as creditable service time.

2) Upon the reemployment of an employee in a class at a lower salary range than the range of the class for the position held before layoff, the employee will be placed at the step in the lower pay grade that provides the base salary nearest in amount to, but less than, the current value of the step held at the time of layoff, and his/her creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

j) Reinstatement – The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary upon reinstatement should not provide more than a 10% increase over the candidate's current base salary or exceed the current value of the salary step held in the position where previously certified without prior approval by the Director of Central Management Services. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.

k) Extended Service Payment –

1) The Step 8 rate shall be increased by $25 per month for those employees who have attained 10 years of service and have three years of creditable service on Step 8 in the same pay grade. (Effective July 1, 2003, this increase is suspended for non-union positions and employees.)

2) The Step 8 rate shall be increased by $50 per month for those employees who have attained 15 years of service and have three years of creditable service on Step 8 in the same pay grade. (Effective July 1, 2003, this increase is suspended for non-union positions and employees.)

l) Bi-lingual Pay – Individual positions whose job descriptions require the use of sign language, a second language or Braille shall receive 5% or $100 per month, whichever is greater, in addition to the employee's base rate.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 310.110 Implementation of Pay Plan Changes for Fiscal Year 2006

The rates of pay for all employees occupying positions subject to the Schedule of Salary Grade
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 310.130 Effective Date

This Pay Plan Narrative (Subpart A), Schedule of Rates (Subpart B), Merit Compensation System (Subpart C), and Schedule of Salary Grades (Appendix B) shall be effective for Fiscal Year 2007.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

SUBPART B: SCHEDULE OF RATES

Section 310.220 Negotiated Rate

a) The rate of pay for a class in any specific area or agency, or in a specific area for an agency, as established and approved by the Director of Central Management Services after having conducted negotiations for this purpose, or as certified as being correct and reported to the Director of Central Management Services by the Director of the Illinois Department of Labor for designated classifications.

b) An employee occupying a position in a class normally subject to contract, but whose position is excluded from the bargaining unit, shall receive the contract rate and other compensation items specified by the contract, unless the Director of Central Management Services has established another specific provision.

Subsection (Effective July 1, 2003, subsection (b) is suspended for non-union positions and employees.)

c) As provided in certain collective bargaining agreements, an employee may be paid at an appropriate higher rate when assigned to perform the duties of a higher level position. Eligibility for and the amount of this pay will be as provided in the contract.

d) The negotiated rates of pay for classifications in specified operating agencies, in specified agency facilities or with specified duties shall be as indicated in Appendix A of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)
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Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions excluded from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Commerce & Economic Opportunity

Private Secretary II  
(Pos. No. 34202-42-00-000-01-02)  
Annual Salary  
60,000

Department of Healthcare and Family Services

Senior Public Service Administrator  
(Pos. No. 40070-33-20-000-00-61)  
Annual Salary  
123,060

Department of Human Services

Administrative Assistant I  
(Pos. No. 00501-10-68-010-80-21)  
Annual Salary  
55,200

Medical Administrator V  
(Pos. No. 26406-10-76-000-00-01)  
Annual Salary  
186,000

Department of Public Health

Senior Public Service Administrator  
(Pos. No. 40070-20-80-000-00-81)  
Annual Salary  
134,004

Department of Revenue

Senior Public Service Administrator  
(Pos. No. 40070-25-60-000-00-01)  
Annual Salary  
133,104

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 310.290 Out-of-State or Foreign Service Rate

The out-of-state or foreign service rate is the rate of pay for employees occupying positions that require payment in accordance with the economic conditions and social legislation of another
state or foreign country. An adjustment shall be made once a month to the salary of an employee stationed in a foreign country to compensate for a change in the currency exchange rate. The Director of Central Management Services will, before approving an adjustment, consider the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances. Adjustments (Effective July 1, 2003, adjustments, except those based on the currency exchange rate, are suspended for non-union positions and employees.)

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Revenue Tax Specialist I
(States Other Than California and New Jersey) 2645-3657
(CA, NJ) 2990-4134

Revenue Tax Specialist II
(States Other Than California and New Jersey) 2861-4047
(CA, NJ) 3234-4575

Revenue Tax Specialist Trainee
(States Other Than California and New Jersey) 2448-3335
(CA, NJ) 2768-3770

Senior Public Service Administrator
(States Other Than California and New Jersey) 4750-11161
(CA, NJ) 5369-12617

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.420 Objectives

The principal objectives of the Merit Compensation System are:

a) To provide for recognition of and reward for differences in individual employee performance.

ab) To provide standard methods and procedures for establishing and applying rates of pay.

be) To insure internal equity and consistency within and between departments and agencies at all locations of the state.

cd) To establish and maintain fair and competitive salary ranges consistent with the economic interests of the State of Illinois.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 310.450 Procedures for Determining Annual Merit Increases (Repealed)
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a) An annual merit increase is an in-range salary adjustment for demonstrated performance.

b) Eligibility for an annual merit increase shall be determined by the following conditions:

1) Each employee will be eligible for a merit review after attaining 12 months creditable service. The employee's immediate supervisor shall prepare an Individual Development and Performance Evaluation form prior to the Performance Review Date, and discuss the results with the employee.

2) Should the Individual Development and Performance review result in the employee not being eligible for an annual merit increase due to provisions of Section 310.450(d), or should the employee's base rate be at the maximum rate of pay of the salary range assigned to the employee's position, the employee will not be eligible for an annual merit increase until 12 months of additional creditable service has been accrued.

c) Based upon the results of the Individual Development and Performance Evaluation, the employees' immediate supervisor shall determine whether the employee's performance warrants or does not warrant an annual merit increase.

d) The amount of an annual merit increase recommendation shall be determined by use of the Merit Increase Guidechart of Section 310.540 if the employee's Individual Development and Performance Evaluation has on the Performance Review Date been evaluated at a Category 3 or higher level. An employee whose Individual Development and Performance Evaluation has on the Performance Review Date been evaluated at Category 4 shall not receive an increase in the present base salary. However, in no event is the resulting salary to be lower than the minimum or higher than the maximum rate of pay of the respective salary range assigned to the employee's position. (Effective July 1, 2003, increases are suspended.)

e) The employee's immediate supervisor shall prepare a Performance Certification and Salary Increase Recommendation form indicating whether or not the employee is eligible for an annual merit increase and the amount thereof. (Effective July 1, 2003, merit increases are suspended.)
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f) The employee's immediate supervisor shall forward the Individual Development and Performance Evaluation records and Performance Certification and Salary Increase Recommendation records to the agency head or a designated authority for review and approval.

g) Annual merit increase in pay shall become effective the first day of the month in which the employee's Performance Review Date occurs.

(Source: Repealed at 30 Ill. Reg. _____, effective ____________)

Section 310.455 Intermittent Merit Increase (Repealed)

Until further amendment, Intermittent Merit Increases are suspended.

a) An Intermittent Merit Increase may be proposed by a supervisor when one of the following conditions have been met: Outstanding performance of a substantial project; outstanding performance by a manager or supervisor that greatly improves operating efficiency; performance significantly beyond standards for a sustained period. The supervisor must document the circumstances justifying the merit increase.

b) An Intermittent Merit Increase may be awarded in any whole dollar amount up to 5% of current base salary. An Intermittent Merit Increase may be awarded to an employee not more often than once in a six month period.

e) The increase must have the prior approval of the agency Director and the Director of Central Management Services.

(Source: Repealed at 30 Ill. Reg. _____, effective ____________)

Section 310.490 Other Pay Provisions

a) Transfer – Upon assignment of an employee to a vacant position in a class with the same salary range as the class for the position being vacated, the employee's base salary will not be changed. Upon separation and subsequent appointment to a position in the same salary range, no increase in salary will be given.

b) Entrance Salary – Normally upon entry to State service, an employee's base salary will be at the minimum salary of the salary range.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Qualifications Above Minimum Requirements –

A) If a candidate possesses directly related training and experience in excess of the minimum requirements of the class specification, the employing agency may grant an entrance salary up to the midpoint of the first half of the salary range; however, this shall not provide more than a 10% increase over the candidate's current salary. Qualifications above the minimum requirements shall be documented to support an entrance salary higher than the minimum.

B) An entrance salary above the middle of the first half of the salary range must have prior approval of the Director of Central Management Services. This approval will be based on consideration of the candidate's training and experience exceeding the requirements of the class, prior salary history, particular staffing requirements of an agency, and labor market influence on recruitment needs.

2) Area Differential – For positions where additional compensation is required because of dissimilar economic or other conditions in the geographical area in which the positions are established, a higher entrance salary may be authorized by the Director of Central Management Services. Present employees receiving less than the new rate of pay shall be advanced to the new rate.

3) Upon geographical transfer from or to an area for which additional compensation has been authorized, an employee will receive an adjustment to the appropriate salary level for the new geographical area of assignment, effective the first day of the month following the date of assignment.

c) Differential and Overtime Pay – An eligible employee may have an amount added to the base salary for a given pay period for work performed in excess of the normal requirements for the position and work schedule, as follows:

1) Shift Differential Pay – An employee may be paid an amount in addition to the base salary for work performed on a regularly scheduled second or third shift. The additional compensation will be at a rate and in a manner approved by the Director of Central Management Services. The Director
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

2) Overtime Pay –

A) Eligibility – The Director of Central Management Services shall maintain a listing of classes of positions subject to the provisions of the Merit Compensation System that are eligible for overtime compensation. Classes in salary ranges MC 6 and below are eligible for straight-time overtime unless exceptions are determined by the Director of Central Management Services or federal guidelines. Employees in these classes of positions who are assigned and perform work in excess of the normal work schedule as established by the agency shall be compensated at a straight-time rate on either a cash or compensatory time-off basis for all hours worked in excess of a normal work week. Overtime in less than one-half hour increments per day shall not be accrued. Classes in MC 7 and above are not eligible for overtime unless required by federal regulation or approved by the Director of Central Management Services. Exceptions must be requested by the employing agency and will be determined on the basis of the special nature of the situation, a substantial need to provide overtime compensation and a significant number of hours worked beyond the normal work schedule, and will be granted only for a specified time period for which the special situation is expected to exist.

B) Compensatory Time – Employees who are eligible for compensatory time may request such time, which may be granted by the agency at its discretion, considering, among other things, its operating needs. Compensatory time shall be taken within the fiscal year it was earned at a time convenient to the employee and consistent with the operating needs of the agency. Compensatory time shall be accrued at the rate in which it is earned (straight time or time and a half), but shall not exceed 120 hours in any fiscal year. Compensatory time approved for non-union employees will be earned after 40 actual work hours in a workweek. Compensatory time not used by the end of the fiscal year in which
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it was earned shall be liquidated and paid in cash at the rate it was earned. Time spent in travel outside the normal work schedule shall not be accrued as compensatory time except as provided by labor contracts and the Federal Fair Labor Standards Act. At no time are overtime hours or compensatory time to be transferred from one agency to another agency.

d) Equivalent Earned Time –

1) Eligibility – Employees who are non-union, exempt under the Federal Fair Labor Standards Act, and in positions not eligible for overtime compensation may receive equivalent earned time for hours worked in excess of 40 actual work hours in a work week.

2) Accrual –

A) Employees who are eligible for equivalent earned time shall request that time before working in excess of 40 actual work hours in a work week. Requests for equivalent earned time may be granted by the agency at its discretion, considering its operating needs. Equivalent earned time shall be accrued at straight time only to a maximum of 120 hours in any fiscal year.

B) Equivalent earned time will accrue in no less than one-half hour increments. Time spent in travel outside the normal work schedule shall not be counted toward accrual of equivalent earned time.

3) Compensation – Any approved equivalent earned time shall be taken at a time convenient to the employee and consistent with the operating needs of the agency. This time may not be carried over from one fiscal year to another fiscal year. At no time is equivalent earned time to be converted into cash payment or transferred from one agency to another agency.

e) Part-Time Work – Part-time employees whose base salary is other than an hourly or daily basis shall be paid on a daily rate basis computed by dividing the annual rate of salary by the total number of work days in the year.

f) Out-of-State Assignment – Employees who are assigned to work out-of-state on a temporary basis may receive an appropriate differential during the period of the assignment, as approved by the Director of Central Management Services. The
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Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.

g) Lump Sum Payment – Lump sum payment shall be provided for accrued vacation, sick leave and unused compensatory overtime at the current base rate to those employees separated from employment under the Personnel Code. Leaves of absence and temporary layoff (per 80 Ill. Adm. Code 302.510) are not separations and therefore lump sum payments cannot be given in these transactions. Methods of computation are explained in Section 310.520(a).

AGENCY NOTE: The method to be used in computing lump sum payment for accrued vacation, sick leave and unused compensatory overtime for an incumbent entitled to shift differential during the regular work hours will be to use the current base salary plus the shift differential pay. Sick leave earned prior to January 1, 1984 and after December 31, 1997 is not compensable. Sick leave earned and not used between January 1, 1984 and December 31, 1997 will be compensable at the current base daily rate times one-half of the total number of compensable sick days.

h) Salary Treatment upon Return from Leave – An employee returning from Military Leave, Peace Corps Leave, Service-Connected Disability Leave, Administrative Leave, Leave to accept a Temporary, Emergency, Provisional, Exempt or Trainee position, Education Leave, or Leave to serve in domestic peace or job corps will have his/her salary established as determined appropriate by the employing agency and approved by the Director of Central Management Services. However, in no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range. Creditable service date will be maintained. An employee returning to his/her former salary range from any other leave of over 14 days will be placed at the salary which the employee received prior to the leave and the creditable service date will be extended by the duration of the leave.

i) Employees in classes that are made subject to the Merit Compensation System after July 1, 1979 will retain their current salary, except that in no event is the resultant salary to be lower than the minimum rate or higher than the maximum rate of the new salary range.

j) Temporary Assignment Pay – Extra Duty Pay – An employee may be paid an
amount in addition to the base salary for services in addition to the regular work schedule on a special assignment. Additional compensation will be at a rate and manner as approved by the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstances.

1) When Assigned to a Higher-Level Position Classification – An employee may be temporarily assigned to a position classification having a higher salary range and shall be eligible for temporary assignment pay. To be eligible for temporary assignment pay, the employee must be directed to perform the duties that distinguish the higher-level position classification and be held accountable for the responsibility of the higher classification. Employees shall not receive temporary assignment pay for paid days off except if the employee is given the assignment for 30 continuous days or more, the days off fall within the period of time and the employee works 75% of the time of the temporary assignment. Temporary assignment pay shall be calculated as if the employee received a promotion into the higher salary range. In no event is the temporary assignment pay to be lower than the minimum rate of the higher salary range or greater than the maximum rate of the higher salary range.

2) When Required to Use Second Language Ability – Employees who are bilingual or have the ability to use sign language, Braille, or another second language (e.g., Spanish) and whose job descriptions do not require that they do so shall be paid temporary assignment pay when required to perform duties requiring the ability. The temporary assignment pay received is prorated based on 5% or $100 per month, whichever is greater, in addition to the employee's base rate.

k) Salary Treatment Upon Reemployment –

1) Upon the reemployment of an employee in a class with the same salary range as the class for the position held before layoff, the employee will be placed at the same salary as held at the time of the layoff, and his creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

2) Upon the reemployment of an employee in a class at a lower salary range
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than the range of the class for the position held before layoff, the employee will be placed at the same salary as held at the time of layoff, except that if this exceeds the maximum of the new range, the employee will be placed at that maximum salary. The creditable service date will be adjusted to reflect that time on layoff does not count as creditable service time.

l) Reinstatement – The salary upon reinstatement of an employee will be as determined by the employing agency and approved by the Director of Central Management Services. This salary upon reinstatement should not provide more than a 10% increase over the candidate's current base salary, or exceed the salary rate held in the position where previously certified without prior approval by the Director of Central Management Services. In no event is the resulting salary to be lower than the minimum rate or higher than the maximum rate of the salary range.

m) Bilingual Pay – Individual positions whose job descriptions require the use of sign language, a second language, or Braille shall receive 5% or $100 per month, whichever is greater, in addition to the employee's base rate.

n) Clothing or Equipment Allowance – An employee may be paid an amount in addition to his/her base salary to compensate for clothing or equipment that is required in the performance of assigned duties. The amount will be determined by the Director of the employing agency, and will require approval of the Director of Central Management Services. The Director of Central Management Services will approve the manner and rate of this provision after considering the need of the employing agency, the treatment of other similar situations, prevailing practices of other employers, and the equity of the particular circumstance.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 310.500 Definitions

The following are definitions of certain terms and are for purposes of clarification as they affect the Merit Compensation System only.

"Adjustment in Salary" – A change in salary occasioned by previously committed error or oversight, or required in the best interest of the agency or the state as defined in Sections 310.470 and 310.480 of this Subpart.

"Base Salary" – The dollar amount of pay of an employee as determined under the
NOTICE OF PROPOSED AMENDMENTS

provisions of the Merit Compensation System. Base salary does not include commission, incentive pay, bilingual pay, longevity pay, overtime pay, or shift differential pay or deductions for time not worked.

"Creditable Service" – All service in full or regularly scheduled part-time pay status beginning with the date of initial employment or the effective date of the last in-grade or promotional salary increase. Reevaluations and reallocations will not affect the creditable service date. Adjustments (Section 310.470) "for the purpose of correcting a previous error or oversight" shall not result in a change in the creditable service date; however, adjustments in "the best interests of the agency" shall result in a new creditable service date unless the Director of the Department of Central Management Services determines such changes to be inequitable.

"Comparable Classes" – Two or more classes that are in the same Salary Range.

"Demotion" – The assignment for cause of an employee to a vacant position in a class in a lower salary range than the former class.

"Differential" – The additional compensation added to the base salary of an employee resulting from conditions of employment imposed during the normal schedule of work.

"Entrance Salary" – The initial base salary assigned to an employee upon entering State service.

"Intermittent Merit Increase" – An Intermittent Merit Increase is an increase in monthly base salary, other than the annual merit increase awarded to a merit compensation employee based on performance.

"Maximum Rate of Pay" – The highest rate of pay for a given salary range.

"Midpoint Salary" – The rate of pay that is the maximum rate and the minimum rate in the salary range added together divided by two and rounded up or down to the nearest whole dollar divides the rate range of a salary range into two equal parts.

"Minimum Rate of Pay" – The lowest rate of pay for a given salary range. Normally the minimum rate of pay represents the salary to be paid a qualified employee who is appointed to a position in a class assigned to a given salary
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Performance Review" -- The required review of an employee's on-the-job performance as measured by a specific set of criteria.

"Performance Review Date" -- The date on which the annual merit increase must be made effective if a performance review indicates it is appropriate. Actual performance review procedures are to be completed prior to the effective date of any recommendation to allow sufficient time for the records to be processed by the originating agency.

"Promotion" – The appointment of an employee, with the approval of the agency and the Department of Central Management Services, to a vacant position in a class in a higher salary range than the former class.

"Reallocation" – The change in the classification of a position resulting from significant changes in assigned duties and responsibilities.

"Reevaluation" – The assignment of a different salary range to a class of positions based upon a change in relation to other classes or to the labor market.

"Salary Range" – The dollar values encompassed by the minimum and maximum rates of pay of a salary range assigned to a class title.

"Transfer" – The assignment of an employee to a vacant position in a class having the same salary range.

"Work Year" – That period of time determined by the agency and filed with the Department of Central Management Services in accordance with 80 Ill. Adm. Code 303.300 of the Department of Central Management Services.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 310.530 Implementation

a) The salary schedule for the Merit Compensation System for Fiscal Year 2006 will continue as set forth in Appendix D of the Pay Plan.

b) The Merit Increase Guideehart for Fiscal Year 2006 as set forth in Section 310.540 of the Pay Plan.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 310.540  Annual Merit Increase Guidechart for Fiscal Year 2006 (Repealed)

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(Source: Repealed at 30 Ill. Reg. _____, effective ____________)
### NOTICE OF PROPOSED AMENDMENTS

**Section 310. APPENDIX A  Negotiated Rates of Pay**

**Section 310. TABLE D  HR-001 (Teamsters Local #726)**

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### NOTICE OF PROPOSED AMENDMENTS

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**Highway Maintenance Lead Worker (Lead Lead Worker) (Emergency Patrol)**

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**Maintenance Equipment Operator (Tractor Trailer)**

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**Maintenance Worker (not DOT, Chicago Read or DHS forensic)**

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**Maintenance Worker (DHS, forensic)**

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**Maintenance Worker (DOT, not Emergency Patrol)**

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### IN HIRE RATES

**Highway Maintainer**

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**Highway Maintainer and Highway Maintainer (Tractor Mower)**

**On employee's "new hire" anniversary**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Highway Maintainer (Bridge Crew)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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A) Department of Transportation—Division of Highways—Emergency Patrol—Northeast Region (Cook)

Effective on employee's anniversary date between July 1 and December 31, 2004
### NOTICE OF PROPOSED AMENDMENTS

#### Highway Maintainer
- **New Hire 7/1/99 - 6/30/00**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/00 - 6/30/01**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/01 - 6/30/02**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/02 - 6/30/03**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/03 - 6/30/04**
  - Mo.: 4255.00
  - Hr.: 24.45

#### Highway Maintenance Lead Workers
- **New Hire 7/1/00 - 6/30/01**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/01 - 6/30/02**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/02 - 6/30/03**
  - Mo.: 4255.00
  - Hr.: 24.45
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  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/04 - 6/30/05**
  - Mo.: 4255.00
  - Hr.: 24.45

#### Maintenance Workers
- **New Hire 7/1/00 - 6/30/01**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/01 - 6/30/02**
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  - Hr.: 24.45
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  - Hr.: 24.45
- **New Hire 7/1/03 - 6/30/04**
  - Mo.: 4255.00
  - Hr.: 24.45
- **New Hire 7/1/04 - 6/30/05**
  - Mo.: 4255.00
  - Hr.: 24.45

**Effective January 1, 2005**

**for employees with an anniversary date between January 1 and June 30, 2005**

**Effective on employee's anniversary date between January 1 and June 30, 2005**

---

**Effective January 1, 2005**

**for employees with an anniversary date between July 1 and December 31, 2005**

**Effective on employee's anniversary date between July 1 and December 31, 2005**
# DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

(New Hire 7/1/03-6/30/04) 3678.00 21.14
(New Hire 7/1/04-6/30/05) 3462.00 19.90
Highway Maintenance Lead Worker 4505.00 25.89
Highway Maintenance Lead Worker (Lead Lead Worker) 4556.00 26.18
Maintenance Worker 4283.00 24.61

## B) Department of Transportation—Division of Highways—Northeast Region (Cook)

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### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

#### NOTICE OF PROPOSED AMENDMENTS

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*Effective January 1, 2005 for employees with an anniversary date between July 1 and December 31.*

*Effective January 1, 2005 for employees with an anniversary date between January 1 and June 30.*
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

#### NOTICE OF PROPOSED AMENDMENTS

- **Highway Maintainer (Drill Rig)**
  - New Hire 7/1/04 – 6/30/05: 3436.45, 19.75
  - New Hire 7/1/00 – 6/30/01: 3436.45, 19.75
  - New Hire 7/1/01 – 6/30/02: 3436.45, 19.75
  - New Hire 7/1/02 – 6/30/03: 3436.45, 19.75
  - New Hire 7/1/03 – 6/30/04: 3436.45, 19.75
  - New Hire 7/1/04 – 6/30/05: 3436.45, 19.75
- **Highway Maintainer (Tractor Mower)**
  - New Hire 7/1/99 – 6/30/00: 4371.00, 25.12
  - New Hire 7/1/00 – 6/30/01: 4371.00, 25.12
  - New Hire 7/1/01 – 6/30/02: 4371.00, 25.12
  - New Hire 7/1/02 – 6/30/03: 4371.00, 25.12
  - New Hire 7/1/03 – 6/30/04: 4371.00, 25.12
  - New Hire 7/1/04 – 6/30/05: 4371.00, 25.12
  - New Hire 7/1/00 – 6/30/01: 4371.00, 25.12
  - New Hire 7/1/01 – 6/30/02: 4371.00, 25.12
  - New Hire 7/1/02 – 6/30/03: 4371.00, 25.12
  - New Hire 7/1/03 – 6/30/04: 4371.00, 25.12
  - New Hire 7/1/04 – 6/30/05: 4371.00, 25.12
- **Highway Maintainer (Seasonal)**
  - New Hire 7/1/99 – 6/30/00: 3154.00, 18.13
  - New Hire 7/1/00 – 6/30/01: 3154.00, 18.13
  - New Hire 7/1/01 – 6/30/02: 3154.00, 18.13
  - New Hire 7/1/02 – 6/30/03: 3154.00, 18.13
  - New Hire 7/1/03 – 6/30/04: 3154.00, 18.13
  - New Hire 7/1/04 – 6/30/05: 3154.00, 18.13
- **Highway Maintenance Lead Worker (Bridge Crew)**
  - New Hire 7/1/04 – 6/30/05: 4402.00, 25.30
  - New Hire 7/1/00 – 6/30/01: 4402.00, 25.30
  - New Hire 7/1/01 – 6/30/02: 4402.00, 25.30
  - New Hire 7/1/02 – 6/30/03: 4402.00, 25.30
  - New Hire 7/1/03 – 6/30/04: 4402.00, 25.30
  - New Hire 7/1/04 – 6/30/05: 4402.00, 25.30
- **Highway Maintenance Lead Worker (Lead Worker)**
  - New Hire 7/1/04 – 6/30/05: 4453.00, 25.59
  - New Hire 7/1/00 – 6/30/01: 4453.00, 25.59
  - New Hire 7/1/01 – 6/30/02: 4453.00, 25.59
  - New Hire 7/1/02 – 6/30/03: 4453.00, 25.59
  - New Hire 7/1/03 – 6/30/04: 4453.00, 25.59
  - New Hire 7/1/04 – 6/30/05: 4453.00, 25.59
- **Laborer (Maintenance)**
  - New Hire 7/1/04 – 6/30/05: 4144.00, 23.82
  - New Hire 7/1/00 – 6/30/01: 4144.00, 23.82
  - New Hire 7/1/01 – 6/30/02: 4144.00, 23.82
  - New Hire 7/1/02 – 6/30/03: 4144.00, 23.82
  - New Hire 7/1/03 – 6/30/04: 4144.00, 23.82
  - New Hire 7/1/04 – 6/30/05: 4144.00, 23.82
- **Maintenance Worker**
  - New Hire 7/1/04 – 6/30/05: 4181.00, 24.03
  - New Hire 7/1/00 – 6/30/01: 4181.00, 24.03
  - New Hire 7/1/01 – 6/30/02: 4181.00, 24.03
  - New Hire 7/1/02 – 6/30/03: 4181.00, 24.03
  - New Hire 7/1/03 – 6/30/04: 4181.00, 24.03

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<th>Position</th>
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<th>Hr.</th>
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<td>Heavy Construction Equipment Operator</td>
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<td>Highway Maintainer</td>
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<td>Highway Maintainer (Drill Rig)</td>
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<td>25.12</td>
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<td>Highway Maintainer (Tractor Mower)</td>
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<td>Highway Maintainer (Seasonal)</td>
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<td>Highway Maintenance Lead Worker (Bridge Crew)</td>
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<td>24.03</td>
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</table>

Effective on employee's anniversary date between January 1 and June 30, 2005.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

| (New Hire 7/1/03-6/30/04) | 3591.00 | 20.64 |
| (New Hire 7/1/04-6/30/05) | 3379.00 | 19.42 |
| Highway Maintainer (Bridge Crew) | 4340.78 | 24.95 |
| (New Hire 7/1/99-6/30/00) | 4340.78 | 24.95 |
| (New Hire 7/1/00-6/30/01) | 4340.78 | 24.95 |
| (New Hire 7/1/01-6/30/02) | 4100.22 | 23.56 |
| (New Hire 7/1/02-6/30/03) | 3884.03 | 22.32 |
| (New Hire 7/1/03-6/30/04) | 3652.23 | 20.99 |
| (New Hire 7/1/04-6/30/05) | 3436.45 | 19.75 |
| Highway Maintainer (Drill Rig) | 4371.00 | 25.12 |
| (New Hire 7/1/99-6/30/00) | 4371.00 | 25.12 |
| (New Hire 7/1/00-6/30/01) | 4371.00 | 25.12 |
| (New Hire 7/1/01-6/30/02) | 4126.00 | 23.71 |
| (New Hire 7/1/02-6/30/03) | 3910.00 | 22.47 |
| (New Hire 7/1/03-6/30/04) | 3677.00 | 21.13 |
| (New Hire 7/1/04-6/30/05) | 3461.00 | 19.89 |
| Highway Maintainer (Tractor Mower) | 4269.00 | 24.53 |
| (New Hire 7/1/99-6/30/00) | 4269.00 | 24.53 |
| (New Hire 7/1/00-6/30/01) | 4269.00 | 24.53 |
| (New Hire 7/1/01-6/30/02) | 4031.00 | 23.17 |
| (New Hire 7/1/02-6/30/03) | 3820.00 | 21.95 |
| (New Hire 7/1/03-6/30/04) | 3591.00 | 20.64 |
| (New Hire 7/1/04-6/30/05) | 3379.00 | 19.42 |
| Highway Maintainer (Seasonal) | 3154.00 | 18.13 |
| Highway Maintenance Lead Worker | 4402.00 | 25.30 |
| Highway Maintenance Lead Worker (Bridge Crew) | 4473.00 | 25.71 |
| Highway Maintenance Lead Worker (Lead Lead Worker) | 4453.00 | 25.59 |
| Highway Maintenance Lead Worker (Lead Lead Worker—Bridge Crew) | 4525.00 | 26.01 |
| Laborer (Maintenance) | 4144.00 | 23.82 |
| Maintenance Worker | 4181.00 | 24.03 |

C) Departments of Human Services, Public Health, and Employment Security—Northeast Region (Cook)

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<thead>
<tr>
<th>July 1, 2004</th>
<th>January 1, 2005</th>
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<tbody>
<tr>
<td>Mo.</td>
<td>Hr.</td>
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<tr>
<td>Maintenance Equipment Operator</td>
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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<th>Position</th>
<th>Current Rate</th>
<th>Current Hours</th>
<th>New Rate</th>
<th>New Hours</th>
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D) Departments of Central Management Services, Children and Family Services, Public Aid, and Human Services—Northeast Region (Cook)

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<tbody>
<tr>
<td>Grounds Supervisor</td>
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<td>Grounds Supervisor (Chicago-Read)</td>
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<td>Grounds Supervisor (Supervising Tractor Trailer Drivers)</td>
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<td>Maintenance Worker (Chicago-Read)</td>
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E) Department of Central Management Services

<table>
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<tbody>
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<td>Elevator Operator</td>
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(Source: Amended at 30 Ill. Reg. _______, effective _____________
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<td>Bridge Mechanic</td>
<td>05310</td>
<td>RC-020</td>
<td>Q</td>
<td>4709.00</td>
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<td>RC-020</td>
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<td>27.29</td>
<td>4794.12</td>
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<td>Q</td>
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<td>4825.00</td>
<td>27.73</td>
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

IN HIRE RATES

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### Highway Maintainer

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### Highway Maintainer (Bridge Crew)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Highway Maintainer (Drill Rig)

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A) Departments of Children and Family Services, Employment Security, and Human Services (Counties of DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

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B) Department of Transportation—Division of Highways (Counties of DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

Effectives on employee's anniversary date between July 1 and December 31, 2004

Effective July 1, 2004
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

#### NOTICE OF PROPOSED AMENDMENTS

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### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

**NOTICE OF PROPOSED AMENDMENTS**

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**Effective January 1, 2005 for employees with an anniversary date between July 1 and December 31**

**Effective January 1, 2005 for employees with an anniversary date between January 1 and June 30**
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

#### NOTICE OF PROPOSED AMENDMENTS

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Effective on employee's anniversary date between January 1 and June 30, 2005.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

| (New Hire 7/1/03-6/30/04) | 3677.00 | 21.13 |
| (New Hire 7/1/04-6/30/05) | 3461.00 | 19.89 |
| Highway Maintainer (Seasonal) | 3154.00 | 18.13 |
| Janitor I | 3939.00 | 22.64 |
| Janitor II | 3971.00 | 22.82 |
| Laborer-Maintenance Lead Worker | 4201.00 | 24.14 |
| Laborer (Maintenance) | 4144.00 | 23.82 |
| Maintenance-Worker | 4181.00 | 24.03 |
| Power Shovel Operator | 4371.00 | 25.12 |
| Power Shovel Operator (Maintenance) | 4442.00 | 25.53 |
| Power Shovel Operator (Bridge Crew) | 4442.00 | 25.53 |
| Security Guard I | 3967.00 | 22.80 |
| Security Guard II | 4016.00 | 23.08 |
| Silk Screen Operator | 4344.00 | 24.97 |

C) Department of Central Management Services—Division of Vehicles (Counties of DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

| | July 1, 2004 | January 1, 2005 |
| | Mo. | Hr. | Mo. | Hr. |
| Janitor I | 3862.00 | 22.20 | 3939.00 | 22.64 |
| Janitor II | 3893.00 | 22.37 | 3971.00 | 22.82 |
| Maintenance Equipment Operator (all divisions) | 4155.00 | 23.88 | 4238.00 | 24.36 |
| Maintenance-Worker | 4099.00 | 23.56 | 4181.00 | 24.03 |
| Security Guard I | 3889.00 | 22.35 | 3967.00 | 22.80 |
| Security Guard II | 3937.00 | 22.63 | 4016.00 | 23.08 |

D) Department of Corrections (Counties of DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will) (Alternative Pension Formula)

| | July 1, 2004 | January 1, 2005 |
| | Mo. | Hr. | Mo. | Hr. |
| Maintenance Equipment Operator | 4254.00 | 24.45 | 4339.00 | 24.94 |

(Source: Amended at 30 Ill. Reg. ______, effective ___________)

(Source: Department of Central Management Services—Division of Vehicles (Counties of DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will), July 1, 2004—January 1, 2005)
## FULL SCALE RATES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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IN HIRE RATES

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Highway Maintainer and Highway Maintainer (Tractor Mower)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

| (1/1/06-6/30/06) | 3732.00 | 21.45 | 3778.00 | 21.71 | 4001.00 | 22.99 |
| (7/1/06-12/31/06) | 3704.00 | 21.29 | 3750.00 | 21.55 |          |      |
| (1/1/07-6/30/07)  | 3732.00 | 21.45 | 3778.00 | 21.71 | 4001.00 | 22.99 |

**Highway Maintainer (Bridge Crew)**

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**Highway Maintainer (Drill Rig)**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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A) Department of Transportation—Division of Highways—Downstate (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

| Effective on employee's anniversary date between July 1 and December 31, 2004 |
|--------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Highway Maintenance Lead Worker (Bridge Crew) | 4334.00 | 24.91 | 4334.00 | 24.91 |

Highway Maintainer (Emergency Patrol)

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**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

**NOTICE OF PROPOSED AMENDMENTS**

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| (Highway Maintainer (Bridge Crew)) | 4224.60 | 24.28 | 4224.60 | 24.28 |
| (New Hire 7/1/99-6/30/00) | 4025.00 | 23.13 | 4254.00 | 24.45 |
| (New Hire 7/1/00-6/30/01) | 4025.00 | 23.13 | 4254.00 | 24.45 |
| (New Hire 7/1/01-6/30/02) | 3822.00 | 21.97 | 4016.00 | 23.08 |
| (New Hire 7/1/02-6/30/03) | 3604.00 | 20.71 | 3805.00 | 21.87 |
| (New Hire 7/1/03-6/30/04) | 3368.00 | 19.36 | 3578.00 | 20.56 |
| (New Hire 7/1/04-630/05) | 3368.00 | 19.36 | 3578.00 | 20.56 |

| (Highway Maintainer (Seasonal)) | 3154.00 | 18.13 | 3154.00 | 18.13 |

| Janitor I (including Office of Administration) | 3862.00 | 22.20 | 3862.00 | 22.20 |
| Janitor II (including Office of Administration) | 3893.00 | 22.37 | 3893.00 | 22.37 |

| Laborer (Maintenance) | 4063.00 | 23.35 | 4063.00 | 23.35 |
| Laborer Maintenance Lead Worker | 4119.00 | 23.67 | 4119.00 | 23.67 |
| Maintenance Worker (including Office of Administration) | 4099.00 | 23.56 | 4099.00 | 23.56 |

| Power Shovel Operator (Maintenance) | 4254.00 | 24.45 | 4254.00 | 24.45 |
| Power Shovel Operator (Maintenance) (Bridge Crew) | 4323.60 | 24.85 | 4323.60 | 24.85 |

| Security Guard I (including Office of Administration) | 3889.00 | 22.35 | 3889.00 | 22.35 |
| Security Guard II (including Office of Administration) | 3937.00 | 22.63 | 3937.00 | 22.63 |

| Silk Screen Operator | 4259.00 | 24.48 | 4259.00 | 24.48 |
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

#### NOTICE OF PROPOSED AMENDMENTS

**Effective January 1, 2005 for employees with an anniversary date between July 1 and December 31**

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**Effective January 1, 2005 for employees with an anniversary date between January 1 and June 30**

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**New Hire 7/1/99 - 6/30/00**

- Bridge Mechanic: 4303.00
- Bridge Tender: 4067.00
- Deck Hand: 4141.00
- Ferry Operator-I: 4370.00
- Ferry Operator-II: 4421.00
- Highway Maintenance Lead Worker: 4402.00
- Highway Maintainer (Bridge Crew): 4473.00
- Highway Maintainer: 4269.00
- Janitor I (including Office of Administration): 3939.00

**New Hire 7/1/00 - 6/30/01**

- Bridge Mechanic: 4303.00
- Bridge Tender: 4067.00
- Deck Hand: 4141.00
- Ferry Operator-I: 4370.00
- Ferry Operator-II: 4421.00
- Highway Maintenance Lead Worker: 4402.00
- Highway Maintainer (Bridge Crew): 4473.00
- Highway Maintainer: 4269.00
- Janitor I (including Office of Administration): 3939.00

**New Hire 7/1/01 - 6/30/02**

- Bridge Mechanic: 4303.00
- Bridge Tender: 4067.00
- Deck Hand: 4141.00
- Ferry Operator-I: 4370.00
- Ferry Operator-II: 4421.00
- Highway Maintenance Lead Worker: 4402.00
- Highway Maintainer (Bridge Crew): 4473.00
- Highway Maintainer: 4269.00
- Janitor I (including Office of Administration): 3939.00

**New Hire 7/1/02 - 6/30/03**

- Bridge Mechanic: 4303.00
- Bridge Tender: 4067.00
- Deck Hand: 4141.00
- Ferry Operator-I: 4370.00
- Ferry Operator-II: 4421.00
- Highway Maintenance Lead Worker: 4402.00
- Highway Maintainer (Bridge Crew): 4473.00
- Highway Maintainer: 4269.00
- Janitor I (including Office of Administration): 3939.00

**New Hire 7/1/03 - 6/30/04**

- Bridge Mechanic: 4303.00
- Bridge Tender: 4067.00
- Deck Hand: 4141.00
- Ferry Operator-I: 4370.00
- Ferry Operator-II: 4421.00
- Highway Maintenance Lead Worker: 4402.00
- Highway Maintainer (Bridge Crew): 4473.00
- Highway Maintainer: 4269.00
- Janitor I (including Office of Administration): 3939.00

**New Hire 7/1/04 - 6/30/05**

- Bridge Mechanic: 4303.00
- Bridge Tender: 4067.00
- Deck Hand: 4141.00
- Ferry Operator-I: 4370.00
- Ferry Operator-II: 4421.00
- Highway Maintenance Lead Worker: 4402.00
- Highway Maintainer (Bridge Crew): 4473.00
- Highway Maintainer: 4269.00
- Janitor I (including Office of Administration): 3939.00
# DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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Effective on employee’s anniversary date between January 1 and June 30, 2005
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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<th>Jan 1, 2005</th>
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B) Department of Central Management Services — Division of Vehicles — Downstate (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

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### E) Department of Corrections (All Counties Other Than Cook, DuPage, Kane, Kankakee, Kendall, Lake, McHenry and Will)

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### NOTICE OF PROPOSED AMENDMENTS

**Effective January 1, 2005** for employees with an anniversary date between July 1 and December 31

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**Effective on employee's anniversary date between January 1 and June 30, 2005**

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**Department of Natural Resources**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310.APPENDIX A  Negotiated Rates of Pay

Section 310.TABLE G  RC-045 (Automotive Mechanics, IFPE)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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*Cook County only.

(Source: Amended at 30 Ill. Reg. _______, effective _________)
### NOTICE OF PROPOSED AMENDMENTS

#### Section 310. APPENDIX A  Negotiated Rates of Pay

#### Section 310. TABLE H  RC-006 (Corrections Employees, AFSCME)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Effective July 1, 2006
Bargaining Unit: RC-006

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Effective January 1, 2007
Bargaining Unit: RC-006

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**Effective July 1, 2005**  
**Bargaining Unit: RC-006**

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**Effective January 1, 2006**

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(Source: Amended at 30 Ill. Reg. _____, effective ____________)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE I  RC-009 (Institutional Employees, AFSCME)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Residential Care Worker Trainee 38279 RC-009 11
Security Therapy Aide I 39901 RC-009 24
Security Therapy Aide II 39902 RC-009 25
Security Therapy Aide III 39903 RC-009 26
Security Therapy Aide Trainee 39905 RC-009 13
Social Service Aide I 41281 RC-009 12
Social Service Aide II 41282 RC-009 17
Social Service Aide Trainee 41285 RC-009 02
Support Service Coordinator I 44221 RC-009 15
Support Service Coordinator II 44222 RC-009 22
Support Service Lead 44225 RC-009 07
Support Service Worker 44238 RC-009 04
Transportation Officer 45830 RC-009 25
Veterans Nursing Assistant – Certified 47750 RC-009 12

Effective July 1, 2006
Bargaining Unit: RC-009

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*Effective January 1, 2007*
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Bargaining Unit: RC-009

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Effective July 1, 2005
Bargaining Unit: RC-009

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Effective January 1, 2006
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
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*Effective July 1, 2006*

*Bargaining Unit: RC-014*
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Effective January 1, 2007
Bargaining Unit: RC-014
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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### NOTICE OF PROPOSED AMENDMENTS

**Department of Central Management Services**  
**Effective January 1, 2006**  
**Bargaining Unit: RC-014**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _______, effective ____________ )
# DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE K  RC-023 (Registered Nurses, INA)

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**Effective July 1, 2006**  
Bargaining Unit: RC-023

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**Effective January 1, 2007**  
Bargaining Unit: RC-023
**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

**NOTICE OF PROPOSED AMENDMENTS**

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**NOTE:** Longevity Pay — The Step 8 rate shall be increased by $25 per month for those employees who have attained 3 or more years of creditable service on Step 8 in the same pay grade. The Step 8 rate shall be increased $50 per month for those employees who have attained 6 or more years of creditable service on Step 8 in the same pay grade.

**Effective July 1, 2005**
Bargaining Unit: RC-023

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**Effective January 1, 2006**
Bargaining Unit: RC-023
NOTICE OF PROPOSED AMENDMENTS

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NOTE: Longevity Pay – The Step 8 rate shall be increased by $25 per month for those employees who have attained 3 or more years of creditable service on Step 8 in the same pay grade. The Step 8 rate shall be increased $50 per month for those employees who have attained 6 or more years of creditable service on Step 8 in the same pay grade.

(Source: Amended at 30 Ill. Reg. _______, effective _____________)

### Section 310. APPENDIX A  Negotiated Rates of Pay

#### Section 310. TABLE L  RC-008 (Boilermakers)

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**Northern Region:** Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, Will, and Winnebago Counties.


**Southern Region:** Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin,
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Piatt, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Sangamon, Scott, Shelby, Union, Wabash, Washington, Wayne, White, and Williamson Counties.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE M  RC-110 (Conservation Police Lodge)

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LONGEVITY BONUS RATES

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Effective July 1, 2005
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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**LONGEVITY BONUS RATES**

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Effective January 1, 2006

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(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310.APPENDIX A  Negotiated Rates of Pay

Section 310.TABLE N  RC-010 (Professional Legal Unit, AFSCME)

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Effective July 1, 2006
Bargaining Unit: RC-010

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Effective January 1, 2007
Bargaining Unit: RC-010
**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

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**Effective July 1, 2005**

**Bargaining Unit:** RC-010

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**Effective January 1, 2006**

**Bargaining Unit:** RC-010
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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(Source: Amended at 30 Ill. Reg. _______, effective _____________)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE O  RC-028 (Paraprofessional Human Services Employees, AFSCME)

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NOTICE OF PROPOSED AMENDMENTS

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Bargaining Unit: RC-028

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Bargaining Unit: RC-028

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| 11.5 Q | 2541 | 2604 | 2670 | 2738 | 2835 | 2924 | 3025 | 3131 | 3241 | 3418 | 3520 |
| 11.5 S | 2594 | 2655 | 2722 | 2791 | 2890 | 2981 | 3084 | 3192 | 3304 | 3485 | 3589 |

| 12 B | 2497 | 2559 | 2623 | 2691 | 2790 | 2890 | 2981 | 3084 | 3192 | 3304 | 3485 |
| 12 Q | 2579 | 2643 | 2710 | 2782 | 2885 | 2980 | 3096 | 3200 | 3318 | 3498 | 3603 |
| 12 S | 2633 | 2697 | 2765 | 2837 | 2941 | 3055 | 3161 | 3266 | 3379 | 3560 | 3667 |

| 12.5 B | 2555 | 2619 | 2687 | 2756 | 2858 | 2958 | 3069 | 3175 | 3279 | 3458 | 3562 |
| 12.5 Q | 2639 | 2706 | 2776 | 2850 | 2955 | 3064 | 3179 | 3292 | 3399 | 3588 | 3696 |
| 12.5 S | 2693 | 2760 | 2833 | 2906 | 3012 | 3119 | 3241 | 3352 | 3460 | 3562 | 3667 |

| 13 B | 2588 | 2653 | 2724 | 2793 | 2896 | 3006 | 3119 | 3233 | 3353 | 3540 | 3647 |
| 13 Q | 2672 | 2742 | 2813 | 2888 | 2995 | 3112 | 3233 | 3351 | 3475 | 3673 | 3783 |
| 13 S | 2726 | 2797 | 2869 | 2944 | 3052 | 3174 | 3294 | 3412 | 3538 | 3736 | 3848 |

| 14 B | 2693 | 2763 | 2838 | 2913 | 3024 | 3142 | 3279 | 3399 | 3526 | 3661 | 3874 |
| 14 Q | 2784 | 2858 | 2935 | 3013 | 3131 | 3257 | 3399 | 3526 | 3661 | 3874 | 3990 |
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| 16 Q | 3021 | 3105 | 3194 | 3286 | 3433 | 3588 | 3739 | 3892 | 4049 | 4299 | 4418 |
| 16 S | 3080 | 3165 | 3254 | 3347 | 3496 | 3652 | 3803 | 3956 | 4113 | 4350 | 4482 |

| 17 B | 3051 | 3137 | 3227 | 3321 | 3475 | 3635 | 3789 | 3942 | 4102 | 4347 | 4477 |
| 17 Q | 3160 | 3251 | 3346 | 3441 | 3606 | 3772 | 3930 | 4090 | 4256 | 4510 | 4646 |
| 17 S | 3219 | 3312 | 3406 | 3504 | 3669 | 3836 | 3994 | 4153 | 4318 | 4574 | 4711 |

| 21 B | 3762 | 3876 | 3992 | 4110 | 4321 | 4530 | 4742 | 4958 | 5164 | 5486 | 5651 |
| 21 Q | 3904 | 4022 | 4149 | 4264 | 4485 | 4699 | 4920 | 5144 | 5359 | 5693 | 5864 |
| 21 S | 3967 | 4084 | 4202 | 4329 | 4546 | 4762 | 4984 | 5207 | 5420 | 5755 | 5928 |

Effective January 1, 2006

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

(Illinois Register)
**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

**NOTICE OF PROPOSED AMENDMENTS**

**Section 310.APPENDIX A  Negotiated Rates of Pay**

**Section 310.TABLE P   RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- Plant and Pesticide Specialist II 32502  RC-029  18
- Plumbing Inspector 32915  RC-029  19
- Police Officer I 32981  RC-029  16
- Police Officer II 32982  RC-029  18
- Police Officer III 32983  RC-029  20
- Polygraph Examiner I 33001  RC-029  18
- Polygraph Examiner II 33002  RC-029  20
- Polygraph Examiner III 33003  RC-029  22
- Products and Standards Inspector 34603  RC-029  14
- Security Officer 39870  RC-029  12
- Security Officer Sergeant 39877  RC-029  13
- Seed Analyst I 39951  RC-029  11
- Seed Analyst II 39952  RC-029  12
- Site Security Officer 41115  RC-029  08
- Truck Weighing Inspector 46100  RC-029  12
- Vehicle Compliance Inspector 47570  RC-029  16
- Vehicle Emissions Compliance Inspector 47580  RC-029  12
- Vehicle Emissions Quality Assurance Auditor 47584  RC-029  13
- Vital Records Quality Control Inspector 48000  RC-029  12
- Warehouse Claims Specialist 48780  RC-029  19
- Warehouse Examiner 48881  RC-029  15
- Warehouse Examiner Specialist 48882  RC-029  17
- Well Inspector I 49421  RC-029  14
- Well Inspector II 49422  RC-029  17

**Effective July 1, 2006**

Bargaining Unit:  RC-029

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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| 12 | Q | 3083 | 3185 | 3308 | 3420 | 3545 | 3738 | 3813 | 3926 |
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| 13 | Q | 3200 | 3326 | 3455 | 3581 | 3713 | 3925 | 4002 | 4123 |
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| 15 | Q | 3500 | 3646 | 3792 | 3950 | 4095 | 4340 | 4424 | 4558 |
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| 16 | B | 3514 | 3669 | 3822 | 3982 | 4141 | 4385 | 4474 | 4608 |
| 16 | Q | 3835 | 3995 | 4159 | 4327 | 4584 | 4676 | 4770 | 4913 |
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| 18 | B | 3887 | 4069 | 4253 | 4427 | 4604 | 4879 | 4976 | 5125 |
| 18 | Q | 4252 | 4447 | 4629 | 4812 | 5100 | 5202 | 5305 | 5464 |
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| 20 | Q | 4534 | 4747 | 4971 | 5185 | 5401 | 5731 | 5843 | 6019 |
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January 1, 2007
Bargaining Unit: RC-029
**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Effective July 1, 2005
Bargaining Unit: RC-029

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Note: The Step 8 rate shall be increased by $50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 8 in the same pay-grade.

The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional $50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same classification series; and after reaching 17 years of service in the same classification series, an increase of an additional $75 per month shall be granted.

January 1, 2006
Bargaining Unit: RC-029

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NOTICE OF PROPOSED AMENDMENTS

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Note: The Step 8 rate shall be increased by $50 per month for those employees (non-sworn) who attain 15 years of service and have 3 or more years of creditable service on Step 8 in the same pay grade.

The Arson Investigator I, II, Commerce Commission Police Officer I, II, Police Officer I, II and III shall be placed in a longevity schedule receiving a salary increase of an additional $50 per month upon reaching 10 years, 13 years, 15 years and 17 years of service in the same classification series; and after reaching 17 years of service in the same classification series, an increase of an additional $75 per month shall be granted.

(Source: Amended at 30 Ill. Reg. ______, effective _____________)

25 B 5321 5600 5869 6140 6417 6819 6956 7165
**NOTICE OF PROPOSED AMENDMENTS**

**Section 310.APPENDIX A**  Negotiated Rates of Pay

**Section 310.TABLE Q   RC-033 (Meat Inspectors, IFPE)**

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(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE R  RC-042 (Residual Maintenance Workers, AFSCME)

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Effective July 1, 2006
Bargaining Unit: RC-042

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Effective January 1, 2007
Bargaining Unit: RC-042
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Effective July 1, 2005
Bargaining Unit: RC-042

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01 | Q | 2391 | 2449 | 2606 | 2672 | 2767 | 2858 | 2960 | 3059 | 3157 | 3326 | 3426
01 | S | 2444 | 2504 | 2660 | 2726 | 2823 | 2913 | 3016 | 3117 | 3217 | 3386 | 3488
01H | B | 14.20 | 14.55 | 15.48 | 15.87 | 16.40 | 16.94 | 17.54 | 18.13 | 18.69 | 19.68 | 20.27
01H | Q | 14.66 | 15.01 | 15.98 | 16.38 | 16.96 | 17.52 | 18.15 | 18.75 | 19.35 | 20.39 | 21.00
01H | S | 14.98 | 15.35 | 16.31 | 16.71 | 17.34 | 17.86 | 18.49 | 19.11 | 19.72 | 20.76 | 21.38
02 | B | 2480 | 2544 | 2623 | 2691 | 2790 | 2883 | 2990 | 3088 | 3202 | 3374 | 3475
02 | Q | 2559 | 2623 | 2740 | 2782 | 2885 | 2980 | 3096 | 3200 | 3318 | 3498 | 3603
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

**Effective January 1, 2006**
Bargaining Unit: RC-042

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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| 02 | Q  | 2655 | 2721 | 2812 | 2886 | 2993 | 3092 | 3212 | 3320 | 3442 | 3629 | 3738 |
| 02 | S  | 2712 | 2778 | 2869 | 2943 | 3054 | 3152 | 3273 | 3383 | 3506 | 3694 | 3805 |
| 03 | B  | 2591 | 2658 | 2803 | 2877 | 2983 | 3096 | 3213 | 3330 | 3454 | 3646 | 3756 |
| 03 | Q  | 2696 | 2764 | 2918 | 2996 | 3107 | 3229 | 3354 | 3477 | 3605 | 3811 | 3925 |
| 03 | S  | 2752 | 2820 | 2977 | 3054 | 3166 | 3290 | 3418 | 3540 | 3671 | 3876 | 3992 |
| 04 | B  | 2607 | 2672 | 2803 | 2877 | 2983 | 3096 | 3213 | 3330 | 3454 | 3646 | 3756 |
| 04 | Q  | 2711 | 2779 | 2918 | 2996 | 3107 | 3229 | 3354 | 3477 | 3605 | 3811 | 3925 |
| 04 | S  | 2766 | 2835 | 2977 | 3054 | 3166 | 3290 | 3418 | 3540 | 3671 | 3876 | 3992 |
| 05 | B  | 2784 | 2857 | 3037 | 3119 | 3256 | 3391 | 3524 | 3668 | 3804 | 4032 | 4154 |
| 05 | Q  | 2900 | 2976 | 3165 | 3253 | 3398 | 3540 | 3682 | 3835 | 3976 | 4214 | 4340 |
| 05 | S  | 2958 | 3034 | 3226 | 3316 | 3461 | 3601 | 3748 | 3899 | 4039 | 4279 | 4406 |
| 06 | B  | 2871 | 2946 | 3037 | 3119 | 3256 | 3391 | 3524 | 3668 | 3804 | 4032 | 4154 |
| 06 | Q  | 2990 | 3069 | 3165 | 3253 | 3398 | 3540 | 3682 | 3835 | 3976 | 4214 | 4340 |
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(Source: Amended at 30 Ill. Reg. ______, effective _____________)


DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. **APPENDIX A**  Negotiated Rates of Pay

Section 310. **TABLE T**  HR-010 (Teachers of Deaf, IFT)

**Effective August 16, 2006**

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**Effective January 1, 2007**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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NOTE: Effective the first day of the 1997 school year, the salary schedule will be adjusted by either $100 per month or 5% of the monthly salary, whichever is greater, for positions whose job descriptions require the use of sign language, or which require the employee to be bilingual.

Bilingual pay will be paid on a percentage scale based on the sign communication proficiency interview (SCPI) test. An employee would be paid the following percentage of the bilingual pay supplement based on the skill level on the SCPI test:

- 20% — Survival
- 40% — Survival Plus
- 60% — Intermediate
- 80% — Intermediate Plus
- 100% — Advanced

Effective January 1, 2006

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NOTE: Effective the first day of the 1997 school year, the salary schedule will be adjusted by either $100 per month or 5% of the monthly salary, whichever is greater, for positions whose job descriptions require the use of sign language, or which require the employee to be bilingual.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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- 20% Survival
- 40% Survival Plus
- 60% Intermediate
- 80% Intermediate Plus
- 100% Advanced

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A   Negotiated Rates of Pay

Section 310. TABLE U  HR-010 (Teachers of Deaf, Extracurricular Paid Activities)

Extracurricular Activities Pay Schedule
Effective August 16, 2006

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<tr>
<td>Basketball – Girls</td>
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<td>Football</td>
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Track – Girls  
Volleyball  
Wrestling  
Football  
Cheerleading Sponsor:  
High School Basketball  

Classification III  
Per Year  
High School Assistant Coaches:  
Track – Boys  
Track – Girls  
Junior High School Assistant Coaches:  
Track – Boys  
Track – Girls  
Volleyball  
Wrestling  
Cheerleading Sponsors:  
Football Cheerleading Sponsor  
Jr. High School Cheerleading Sponsor  
Other Activities:  
High School Lunchroom Supervisors  
Jr. High School Lunchroom Supervisors  

Classification V  
Per Year  
Special Olympics Coaches:  
Volleyball  
Basketball  
Student Body Government  
Scorekeepers and Timers  
Per Event  
Basketball Scorer  
Basketball Timer  
Football Scorer  
Football Timer
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Wrestling Scorer 40
Wrestling Timer 40
Volleyball Scorer 34
Volleyball Timer 34
Ticket Sellers 29
Football Chain Crew 24

(Source: Amended at 30 Ill. Reg. ______, effective ___________)

## NOTICE OF PROPOSED AMENDMENTS

**Section 310.** APPENDIX A  Negotiated Rates of Pay

**Section 310.TABLE V**  CU-500 (Corrections Meet and Confer Employees)

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### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

#### NOTICE OF PROPOSED AMENDMENTS

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Effective January 1, 2007
Bargaining Unit: CU-500
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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### Notice of Proposed Amendments

**Effective July 1, 2005**  
**Bargaining Unit:** CU-500

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**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

**NOTICE OF PROPOSED AMENDMENTS**

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**Effective January 1, 2006**

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(Source: Amended at 30 Ill. Reg. ______, effective ____________)}
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A Negotiated Rates of Pay

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Behavioral Analyst II 04352 RC-062 19
Business Administrative Specialist 05810 RC-062 16
Buyer 05900 RC-062 18
Capital Development Board Account Technician 06515 RC-062 11
Capital Development Board Art in Architecture Technician 06533 RC-062 12
Capital Development Board Construction Support Analyst 06520 RC-062 11
Capital Development Board Project Technician 06530 RC-062 12
Chemist I 06941 RC-062 16
Chemist II 06942 RC-062 19
Chemist III 06943 RC-062 21
Child Protection Advanced Specialist 07161 RC-062 19
Child Protection Associate Specialist 07162 RC-062 16
Child Protection Specialist 07163 RC-062 18
Child Welfare Associate Specialist 07216 RC-062 16
Child Welfare Staff Development Coordinator I 07201 RC-062 17
Child Welfare Staff Development Coordinator II 07202 RC-062 19
Child Welfare Staff Development Coordinator III 07203 RC-062 20
Child Welfare Staff Development Coordinator IV 07204 RC-062 22
Children and Family Service Intern – Option 1 07241 RC-062 12
Children and Family Service Intern – Option 2 07242 RC-062 15
Clinical Laboratory Technologist I 08220 RC-062 18
Clinical Laboratory Technologist II 08221 RC-062 19
Clinical Laboratory Technologist Trainee 08229 RC-062 14
Communications Systems Specialist 08860 RC-062 23
Community Management Specialist I 08891 RC-062 15
Community Management Specialist II 08892 RC-062 17
Community Management Specialist III 08893 RC-062 19
Community Planner I 08901 RC-062 15
Community Planner II 08902 RC-062 17
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Employment Security Program Representative – Intermittent 13651 RC-062 14H
Employment Security Service Representative 13667 RC-062 16
Employment Security Specialist I 13671 RC-062 14
Employment Security Specialist II 13672 RC-062 16
Employment Security Specialist III 13673 RC-062 19
Employment Security Tax Auditor I 13681 RC-062 17
Employment Security Tax Auditor II 13682 RC-062 19
Energy and Natural Resources Specialist I 13711 RC-062 15
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Energy and Natural Resources Specialist III 13713 RC-062 19
Energy and Natural Resources Specialist Trainee 13715 RC-062 12
Environmental Health Specialist I 13768 RC-062 14
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Environmental Health Specialist III 13770 RC-062 18
Environmental Protection Associate 13785 RC-062 12
Environmental Protection Specialist I 13821 RC-062 14
Environmental Protection Specialist II 13822 RC-062 16
Environmental Protection Specialist III 13823 RC-062 18
Environmental Protection Specialist IV 13824 RC-062 22
Equal Pay Specialist 13837 RC-062 17
Financial Institutions Examiner I 14971 RC-062 16
Financial Institutions Examiner II 14972 RC-062 19
Financial Institutions Examiner III 14973 RC-062 22
Financial Institutions Examiner Trainee 14978 RC-062 13
Flight Safety Coordinator 15640 RC-062 22
Forensic Scientist I 15891 RC-062 18
Forensic Scientist II 15892 RC-062 20
Forensic Scientist III 15893 RC-062 22
Forensic Scientist Trainee 15897 RC-062 15
Guardianship Representative 17710 RC-062 17
Habilitation Program Coordinator 17960 RC-062 17
**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

**NOTICE OF PROPOSED AMENDMENTS**

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Insurance Company Field Staff Examiner 21608 RC-062 16
Insurance Company Financial Examiner 21610 RC-062 13
  Trainee
Insurance Performance Examiner I 21671 RC-062 14
Insurance Performance Examiner II 21672 RC-062 17
Insurance Performance Examiner III 21673 RC-062 20
Intermittent Unemployment Insurance Representative
Internal Auditor I 21721 RC-062 17
Labor Conciliator 22750 RC-062 20
Laboratory Equipment Specialist 22990 RC-062 18
Laboratory Quality Specialist I 23021 RC-062 19
Laboratory Quality Specialist II 23022 RC-062 21
Laboratory Research Specialist I 23027 RC-062 19
Laboratory Research Specialist II 23028 RC-062 21
Land Acquisition Agent I 23091 RC-062 15
Land Acquisition Agent II 23092 RC-062 18
Land Acquisition Agent III 23093 RC-062 21
Land Reclamation Specialist I 23131 RC-062 14
Land Reclamation Specialist II 23132 RC-062 17
Liability Claims Adjuster I 23371 RC-062 14
Library Associate 23430 RC-062 12
Life Sciences Career Trainee 23600 RC-062 12
Liquor Control Special Agent II 23752 RC-062 15
Local Historical Services Representative 24000 RC-062 17
Local Revenue and Fiscal Advisor I 24101 RC-062 15
Local Revenue and Fiscal Advisor II 24102 RC-062 17
Local Revenue and Fiscal Advisor III 24103 RC-062 19
Lottery Sales Representative 24515 RC-062 16
Management Operations Analyst I 25541 RC-062 18
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Telecommunications Systems Analyst  45308  RC-062  17
Telecommunications Systems Technician I  45312  RC-062  10
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Unemployment Insurance Adjudicator I  47001  RC-062  11
Unemployment Insurance Adjudicator II  47002  RC-062  13
Unemployment Insurance Adjudicator III  47003  RC-062  15
Unemployment Insurance Revenue Analyst I  47081  RC-062  15
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Unemployment Insurance Revenue Specialist  47087  RC-062  13
Unemployment Insurance Special Agent  47096  RC-062  18
Veterans Educational Specialist I  47681  RC-062  15
Veterans Educational Specialist II  47682  RC-062  17
Veterans Educational Specialist III  47683  RC-062  21
Veterans Employment Representative I  47701  RC-062  14
Veterans Employment Representative II  47702  RC-062  16
Volunteer Services Coordinator I  48481  RC-062  13
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Wage Claims Specialist  48770  RC-062  09
Weatherization Specialist I  49101  RC-062  14
Weatherization Specialist II  49102  RC-062  17
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Effective July 1, 2006
Bargaining Unit:  RC-062

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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| 19 | J | 3580  | 3684  | 3793  | 3909  | 4108  | 4302  | 4502  | 4691  | 4886  | 5183  | 5338  |
| 19 | Q | 3739  | 3850  | 3966  | 4084  | 4293  | 4493  | 4706  | 4902  | 5108  | 5416  | 5578  |
| 19 | S | 3806  | 3919  | 4035  | 4152  | 4361  | 4562  | 4772  | 4970  | 5176  | 5483  | 5647  |
| 20 | B | 3781  | 3895  | 4011  | 4130  | 4339  | 4540  | 4756  | 4963  | 5168  | 5482  | 5646  |
| 20 | Q | 3953  | 4071  | 4191  | 4316  | 4534  | 4747  | 4971  | 5185  | 5401  | 5731  | 5903  |
| 20 | S | 4018  | 4138  | 4258  | 4384  | 4600  | 4812  | 5038  | 5252  | 5467  | 5795  | 5971  |
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| 22 | Q | 4409  | 4542  | 4678  | 4817  | 5069  | 5319  | 5567  | 5825  | 6069  | 6445  | 6639  |
| 22 | S | 4476  | 4608  | 4746  | 4886  | 5134  | 5385  | 5632  | 5892  | 6138  | 6514  | 6707  |
| 23 | B | 4477  | 4610  | 4748  | 4889  | 5149  | 5413  | 5670  | 5932  | 6189  | 6578  | 6775  |
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| 23 | S | 4746  | 4886  | 5031  | 5179  | 5449  | 5725  | 5992  | 6265  | 6534  | 6940  | 7149  |
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Effective January 1, 2007
Bargaining Unit: RC-062

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# DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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**Effective July 1, 2005**

**Bargaining Unit: RC-062**
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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| 16 | Q | 3134 | 3221 | 3314 | 3409 | 3562 | 3723 | 3879 | 4038 | 4201 | 4450 | 4584 |
| 16 | S | 3196 | 3284 | 3376 | 3473 | 3627 | 3789 | 3946 | 4104 | 4267 | 4513 | 4650 |
| 17 | B | 3143 | 3234 | 3324 | 3421 | 3579 | 3744 | 3903 | 4060 | 4225 | 4477 | 4614 |
| 17 | Q | 3279 | 3373 | 3474 | 3570 | 3741 | 3913 | 4077 | 4243 | 4416 | 4679 | 4820 |
| 17 | S | 3340 | 3436 | 3534 | 3635 | 3807 | 3980 | 4144 | 4309 | 4480 | 4746 | 4888 |
| 18 | B | 3303 | 3398 | 3496 | 3600 | 3774 | 3950 | 4129 | 4298 | 4470 | 4737 | 4880 |
| 18 | Q | 3448 | 3547 | 3652 | 3762 | 3948 | 4128 | 4317 | 4494 | 4672 | 4951 | 5099 |
| 18 | S | 3510 | 3609 | 3718 | 3825 | 4014 | 4194 | 4381 | 4558 | 4739 | 5015 | 5166 |
| 19 | B | 3476 | 3577 | 3683 | 3795 | 3988 | 4177 | 4371 | 4554 | 4744 | 5032 | 5183 |
| 19 | J | 3476 | 3577 | 3683 | 3795 | 3988 | 4177 | 4371 | 4554 | 4744 | 5032 | 5183 |
| 19 | Q | 3630 | 3738 | 3850 | 3965 | 4168 | 4362 | 4569 | 4759 | 4959 | 5258 | 5416 |
| 19 | S | 3695 | 3805 | 3917 | 4031 | 4234 | 4429 | 4633 | 4825 | 5025 | 5323 | 5483 |
| 20 | B | 3671 | 3782 | 3894 | 4010 | 4213 | 4408 | 4617 | 4818 | 5017 | 5322 | 5482 |
| 20 | Q | 3838 | 3952 | 4069 | 4190 | 4402 | 4609 | 4826 | 5034 | 5244 | 5564 | 5734 |
| 20 | S | 3901 | 4017 | 4134 | 4256 | 4466 | 4672 | 4891 | 5099 | 5308 | 5626 | 5797 |
| 21 | B | 3875 | 3992 | 4112 | 4233 | 4451 | 4666 | 4884 | 5107 | 5319 | 5651 | 5824 |
| 21 | U | 3875 | 3992 | 4112 | 4233 | 4451 | 4666 | 4884 | 5107 | 5319 | 5651 | 5824 |
| 21 | Q | 4050 | 4173 | 4295 | 4424 | 4653 | 4875 | 5105 | 5337 | 5560 | 5906 | 6084 |
| 21 | S | 4116 | 4237 | 4360 | 4491 | 4716 | 4941 | 5171 | 5402 | 5623 | 5971 | 6150 |
| 22 | B | 4095 | 4219 | 4347 | 4476 | 4709 | 4939 | 5173 | 5412 | 5637 | 5987 | 6167 |
| 22 | Q | 4281 | 4410 | 4542 | 4677 | 4921 | 5164 | 5405 | 5655 | 5892 | 6257 | 6446 |
| 22 | S | 4346 | 4474 | 4608 | 4744 | 4984 | 5228 | 5468 | 5720 | 5959 | 6324 | 6512 |
| 23 | B | 4347 | 4476 | 4610 | 4747 | 4999 | 5255 | 5505 | 5759 | 6009 | 6386 | 6578 |
| 23 | Q | 4542 | 4677 | 4817 | 4964 | 5226 | 5494 | 5752 | 6018 | 6289 | 6673 | 6873 |
| 23 | S | 4608 | 4744 | 4884 | 5028 | 5290 | 5558 | 5817 | 6083 | 6344 | 6738 | 6941 |
| 24 | B | 4624 | 4763 | 4905 | 5052 | 5321 | 5600 | 5869 | 6140 | 6417 | 6819 | 7024 |
| 24 | J | 4624 | 4763 | 4905 | 5052 | 5321 | 5600 | 5869 | 6140 | 6417 | 6819 | 7024 |
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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| 25 | J | 4929 | 5077 | 5229 | 5386 | 5680 | 5980 | 6278 | 6577 | 6875 | 7317 | 7537 |
| 25 | Q | 5150 | 5305 | 5463 | 5626 | 5937 | 6248 | 6561 | 6874 | 7186 | 7646 | 7876 |
| 25 | S | 5218 | 5369 | 5531 | 5693 | 6002 | 6312 | 6625 | 6938 | 7249 | 7712 | 7943 |
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| 27 | B | 5506 | 5671 | 5842 | 6135 | 6468 | 6810 | 7156 | 7490 | 7826 | 8333 | 8582 |
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(Source: Amended at 30 Ill. Reg. ______, effective ___________)
Section 310.APPENDIX A  Negotiated Rates of Pay

Section 310.TABLE X  RC-063 (Professional Employees, AFSCME)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Vision/Hearing Consultant II 47942 RC-063 20
Vision/Hearing Consultant III 47943 RC-063 21

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Bargaining Unit: RC-063

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Effective July 1, 2005

Bargaining Unit: RC-063
## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

### NOTICE OF PROPOSED AMENDMENTS

| 19 | Q | 3499 | 3603 | 3711 | 3822 | 4017 | 4204 | 4404 | 4587 | 4780 | 5068 | 5220 |
| 19 | S | 3561 | 3667 | 3775 | 3885 | 4081 | 4269 | 4466 | 4651 | 4843 | 5131 | 5285 |
| 20 | B | 3564 | 3672 | 3781 | 3893 | 4090 | 4280 | 4478 | 4674 | 4871 | 5167 | 5322 |
| 20 | Q | 3698 | 3809 | 3922 | 4039 | 4243 | 4442 | 4652 | 4852 | 5054 | 5363 | 5524 |
| 20 | S | 3704 | 3872 | 3985 | 4102 | 4305 | 4503 | 4714 | 4915 | 5116 | 5423 | 5587 |
| 21 | B | 3762 | 3876 | 3992 | 4110 | 4321 | 4530 | 4742 | 4958 | 5164 | 5486 | 5651 |
| 21 | Q | 3904 | 4022 | 4140 | 4264 | 4485 | 4699 | 4920 | 5144 | 5359 | 5693 | 5864 |
| 21 | S | 3967 | 4084 | 4202 | 4442 | 4683 | 4920 | 5167 | 5423 | 5693 | 6095 | 6277 |
| 22 | B | 3976 | 4096 | 4220 | 4446 | 4672 | 4906 | 5142 | 5385 | 5641 | 5907 | 6067 |
| 22 | Q | 4126 | 4251 | 4378 | 4508 | 4743 | 4977 | 5210 | 5451 | 5693 | 6034 | 6213 |
| 22 | S | 4189 | 4312 | 4441 | 4573 | 4804 | 5039 | 5279 | 5513 | 5744 | 6095 | 6277 |
| 23 | B | 4220 | 4346 | 4476 | 4608 | 4843 | 5085 | 5324 | 5565 | 5807 | 6053 | 6302 |
| 23 | Q | 4378 | 4508 | 4643 | 4785 | 5037 | 5295 | 5554 | 5800 | 6053 | 6302 | 6625 |
| 23 | S | 4441 | 4573 | 4707 | 4846 | 5099 | 5357 | 5607 | 5863 | 6125 | 6494 | 6690 |
| 24 | B | 4489 | 4624 | 4762 | 4905 | 5146 | 5397 | 5648 | 5901 | 6161 | 6423 | 6690 |
| 24 | Q | 4657 | 4797 | 4942 | 5092 | 5352 | 5610 | 5871 | 6142 | 6413 | 6690 | 6977 |
| 24 | S | 4724 | 4860 | 5004 | 5254 | 5522 | 5792 | 6072 | 6362 | 6662 | 6977 | 7213 |
| 25 | B | 4785 | 4929 | 5077 | 5229 | 5515 | 5806 | 6095 | 6385 | 6675 | 7020 | 7317 |
| 25 | Q | 4964 | 5113 | 5266 | 5423 | 5692 | 6072 | 6462 | 6862 | 7262 | 7662 | 7991 |
| 25 | S | 5029 | 5175 | 5331 | 5487 | 5758 | 6038 | 6338 | 6648 | 7068 | 7499 | 7934 |
| 26 | B | 5057 | 5209 | 5366 | 5581 | 5885 | 6197 | 6512 | 6815 | 7121 | 7582 | 7889 |
| 26 | Q | 5259 | 5417 | 5580 | 5805 | 6121 | 6444 | 6772 | 7097 | 7405 | 7885 | 8121 |
| 26 | S | 5310 | 5469 | 5634 | 5864 | 6180 | 6507 | 6837 | 7175 | 7477 | 7964 | 8200 |

Effective January 1, 2006  
Bargaining Unit: RC-063
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

| 14 | B | 2774 | 2846 | 2923 | 3000 | 3075 | 3208 | 3377 | 3594 | 3634 | 3845 | 3960 |
| 14 | Q | 2888 | 2965 | 3045 | 3126 | 3248 | 3379 | 3526 | 3658 | 3798 | 4019 | 4140 |
| 14 | S | 2945 | 3022 | 3102 | 3186 | 3312 | 3441 | 3590 | 3722 | 3863 | 4083 | 4205 |
| 15 | B | 2881 | 2957 | 3037 | 3119 | 3256 | 3391 | 3524 | 3668 | 3804 | 4032 | 4154 |
| 15 | Q | 3001 | 3081 | 3165 | 3253 | 3398 | 3540 | 3682 | 3835 | 3976 | 4214 | 4340 |
| 15 | S | 3059 | 3138 | 3226 | 3316 | 3461 | 3601 | 3748 | 3899 | 4039 | 4279 | 4406 |
| 16 | B | 3009 | 3090 | 3174 | 3265 | 3412 | 3562 | 3711 | 3866 | 4020 | 4257 | 4385 |
| 16 | Q | 3134 | 3221 | 3314 | 3409 | 3562 | 3723 | 3879 | 4038 | 4201 | 4450 | 4584 |
| 16 | S | 3196 | 3284 | 3376 | 3473 | 3627 | 3789 | 3946 | 4104 | 4267 | 4513 | 4650 |
| 17 | B | 3143 | 3231 | 3324 | 3421 | 3579 | 3744 | 3903 | 4060 | 4225 | 4477 | 4641 |
| 17 | Q | 3279 | 3373 | 3471 | 3570 | 3741 | 3913 | 4077 | 4243 | 4416 | 4679 | 4820 |
| 17 | S | 3340 | 3436 | 3534 | 3635 | 3807 | 3980 | 4144 | 4309 | 4480 | 4746 | 4888 |
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| 23 | B | 4347 | 4476 | 4610 | 4747 | 4999 | 5255 | 5505 | 5759 | 6009 | 6386 | 6578 |
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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(Source: Amended at 30 Ill. Reg. _______, effective ___________)
### Negotiated Rates of Pay

#### RC-063 (Educator, AFSCME)

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**Effective January 1, 2007**
### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

**NOTICE OF PROPOSED AMENDMENTS**

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Effective July 1, 2006

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**Effective July 1, 2005**
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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| 02 | BA+8 Hours | E | 3198 3291 3385 3484 3645 3809 4008 4215 4415 4786 4930 |
| 02 | BA+8 Hours | L | 3222 3315 3410 3510 3672 3837 4037 4245 4474 4922 4965 |
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| 06 | MA+16 Hours | P | 3575 3680 3788 3899 4124 4347 4576 4808 5032 5461 5625 |
| 07 | MA+32 Hours | E | 3594 3702 3813 3926 4147 4376 4604 4834 5056 5491 5655 |
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Effective January 1, 2006

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Effective January 1, 2006
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE Z  RC-063 (Physicians, AFSCME)

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Bargaining Unit: RC-063

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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Bargaining Unit: RC-063

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**Effective July 1, 2005**
Bargaining Unit: RC-063
**DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

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Effective January 1, 2006
Bargaining Unit: RC-063

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(Source: Amended at 30 Ill. Reg. ______, effective ____________ )
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310.ANNEX A Negotiated Rates of Pay

Section 310.TABLE AA NR-916 (Department of Natural Resources, Teamsters)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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(Source: Amended at 30 Ill. Reg. ______, effective ____________)
NOTICE OF PROPOSED AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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(Source: Amended at 30 Ill. Reg. _______, effective ___________)


DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 310. APPENDIX C  Medical Administrator Rates for Fiscal Year 2006

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<td>Medical Administrator II, Option C</td>
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<td>14480</td>
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<td>12606</td>
<td>14648</td>
</tr>
<tr>
<td>Medical Administrator V</td>
<td>10734</td>
<td>12778</td>
<td>14822</td>
</tr>
</tbody>
</table>

The rates of pay for physicians occupying or appointed to a position in the Medical Administrator classes shall be as listed in the above schedule. All provisions of Subpart C of the Pay Plan, Merit Compensation System will apply to the Medical Administrator positions.

(Source: Amended at 30 Ill. Reg. _______, effective _____________.)
## Section 310.APPENDIX D  Merit Compensation System Salary Schedule for Fiscal Year 2006

<table>
<thead>
<tr>
<th>Salary Range</th>
<th>Minimum Salary</th>
<th>Midpoint Salary</th>
<th>Maximum Salary</th>
</tr>
</thead>
<tbody>
<tr>
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<td>MC 04</td>
<td>2449</td>
<td>3381</td>
<td>4313</td>
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<tr>
<td>MC 05</td>
<td>2571</td>
<td>3581</td>
<td>4591</td>
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<td>MC 06</td>
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<td>4816</td>
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<tr>
<td>MC 07</td>
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<tr>
<td>MC 08</td>
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<td>4227</td>
<td>5458</td>
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<tr>
<td>MC 09</td>
<td>3167</td>
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<td>5759</td>
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<tr>
<td>MC 10</td>
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<td>MC 11</td>
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</tbody>
</table>

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

**Section 310. APPENDIX G  Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2006**

<table>
<thead>
<tr>
<th>Title</th>
<th>Minimum Salary</th>
<th>Maximum Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Information Administrator</td>
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<tr>
<td>Human Resources Representative</td>
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<td>Human Resources Specialist</td>
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<td>Public Service Administrator</td>
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<tr>
<td>Residential Services Supervisor</td>
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<tr>
<td>Senior Public Service Administrator</td>
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<td>9705</td>
</tr>
<tr>
<td>Site Superintendent</td>
<td>2571</td>
<td>5125</td>
</tr>
</tbody>
</table>

(Source: Amended at 30 Ill. Reg. ______, effective ____________ )
STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Special Education

2) **Code Citation**: 23 Ill. Adm. Code 226

3) | **Section Numbers** | **Proposed Action** |
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>226.10</td>
<td>Amendment</td>
</tr>
<tr>
<td>226.50</td>
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<td>226.75</td>
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<td>226.100</td>
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<td>226.110</td>
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<td>226.130</td>
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<td>226.135</td>
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<td>226.170</td>
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<td>226.180</td>
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<tr>
<td>226.190</td>
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<td>226.200</td>
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<td>226.210</td>
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<td>226.230</td>
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<td>226.240</td>
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<td>226.300</td>
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<td>226.510</td>
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<td>226.520</td>
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STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

226.530    Amendment
226.540    Amendment
226.550    Amendment
226.560    Amendment
226.570    Amendment
226.600    Amendment
226.605    Repealed
226.610    Amendment
226.615    Amendment
226.620    Repealed
226.625    Amendment
226.630    Amendment
226.635    Amendment
226.640    Amendment
226.645    Amendment
226.650    Repealed
226.655    Amendment
226.660    Amendment
226.665    Amendment
226.670    Amendment
226.680    Repealed
226.690    Amendment
226.700    Amendment
226.710    Amendment
226.720    Amendment
226.730    Amendment
226.731    New Section
226.735    New Section
226.740    Amendment
226.750    Amendment
226.760    Amendment

4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6

5) A Complete Description of the Subjects and Issues Involved: This rulemaking replaces proposed amendments that were published in the Illinois Register on February 10, 2006. That set of amendments is being withdrawn because of a problem associated with the proposed changes related to class size.
STATE BOARD OF EDUCATION

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As the Board's intention to publish the proposed amendments became widely known late in January, it became clear that the timing of this rulemaking would not leave sufficient opportunity for districts and cooperatives to plan for their staffing needs in light of the intended changes to Section 226.730. ISBE has therefore determined that a different approach should be taken to introducing these changes and that the current requirements will need to be retained for two more school years. Section 226.730 has therefore been revised in this version to reflect a delayed implementation date and also to change some of the proposed class size maximums. An additional Section 226.731 has been included to carry forward the existing requirements until 2008-09.

There are no other differences between this version of the proposed amendments and the version published in February. As noted at that time, the State Board of Education is required by the U.S. Department of Education to ensure that relevant regulations are reconciled with the reauthorized Individuals with Disabilities Education Improvement Act (also referred to as IDEA 2004) and its implementing regulations by no later than June 2006. Notably, IDEA 2004 requires that each State receiving funds "identify in writing to local educational agencies located in the State and the Secretary [of USDE] any . . . rule, regulation or policy as a State-imposed requirement that is not required by this title and Federal regulations" and "minimize the number of rules, regulations and policies to which the local educational agencies and schools located in the State are subject under this title."

As a result, a primary strategy in revising Part 226 has been to reference the proposed federal regulations instead of parroting the language and to reserve substantive text in Part 226 only for those circumstances where we are making a conscious decision either to provide more detail to (e.g., requiring specific deadlines for submission of materials where IDEA 2004 and/or the proposed federal regulations are vague) or to offer more protection to students with disabilities than federal law provides.

6) Will this rulemaking replace any emergency amendments 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 180 days after the publication of this Notice to:

Sally Vogl  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street (S-493)  
Springfield, Illinois 62777  

(217) 782-5270

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

rules@isbe.net

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:** January 2006

The full text of the Proposed Amendments begins on the next page:
STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

PART 226
SPECIAL EDUCATION

SUBPART A: GENERAL

Section
226.10 Purpose
226.50 Requirements for a Free Appropriate Public Education (FAPE)
226.60 Charter Schools
226.75 Definitions

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section
226.100 Child Find Responsibility
226.110 Evaluation Procedures
226.120 Reevaluations
226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability
226.135 Additional Procedures for Students Suspected of or Having Mental Retardation
226.140 Modes
226.150 Evaluation Case Study
226.160 Determination of Eligibility
226.170 Criteria for Determining the Existence of a Specific Learning Disability
226.180 Independent Educational Evaluation
226.190 Reevaluation

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section
226.200 General Requirements
226.210 IEP Team
226.220 Factors in Development, Review, and Revision of the IEP
226.230 Content of the IEP
STATE BOARD OF EDUCATION

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226.240 Determination of Placement
226.250 Child Aged Three Through Five
226.260 Child Reaching Age Three

SUBPART D: PLACEMENT

Section
226.300 Continuum of Placement Options
226.310 Related Services
226.320 Service to Students Living in Residential Care Facilities
226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities
226.340 Nonpublic Placements by Parents Where FAPE is at Issue
226.350 Service to Parentally-Placed Children in Private Schools

SUBPART E: DISCIPLINE

Section
226.400 Disciplinary Actions
226.410 Manifestation Determination Review (Repealed)
226.420 Appeals (Repealed)
226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)
226.440 Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)

SUBPART F: PROCEDURAL SAFEGUARDS

Section
226.500 Language of Notifications
226.510 Notification of Parents' Rights
226.520 Notification of District's Proposal
226.530 Parents' Participation
226.540 Consent
226.550 Surrogate Parents
226.560 Mediation
226.570 Complaints

SUBPART G: DUE PROCESS

Section
226.600 Calculation of Timelines
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| 226.605 | Request for Hearing; Basis [Repealed] |
| 226.610 | Information to Parents Concerning Right to Hearing |
| 226.615 | Procedure for Request |
| 226.620 | Denial of Hearing Request [Repealed] |
| 226.625 | Rights of the Parties Related to Hearings |
| 226.630 | Qualifications, Training, and Service of Impartial Due Process Hearing Officers |
| 226.635 | Appointment, [Repealed] |
| 226.640 | Scheduling the Hearing and Pre-Hearing Conference |
| 226.645 | Conducting the Pre-Hearing Conference |
| 226.650 | Child's Status During Due Process Hearing [Repealed] |
| 226.655 | Expedited Due Process Hearing |
| 226.660 | Powers and Duties of Hearing Officer |
| 226.665 | Record of Proceedings |
| 226.670 | Decision of Hearing Officer; Clarification |
| 226.675 | Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding |
| 226.680 | Reporting of Decisions [Repealed] |
| 226.690 | Transfer of Parental Rights |

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section
226.700 General
226.710 Policies and Procedures
226.720 Facilities and Classes
226.730 Class Size Provisions for 2008-09 and Beyond
226.731 Class Size Provisions for 2007-08
226.735 Case Load for Speech-Language Pathologists
226.740 Records; Confidentiality
226.750 Additional Services
226.760 Evaluation of Special Education
226.770 Fiscal Provisions

SUBPART I: PERSONNEL

Section
226.800 Personnel Required to be Qualified
226.810 Special Education Teaching Approval
226.820 Authorization for Assignment
226.830 List of Independent Evaluators
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226.840 Qualifications of Evaluators

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art.14 and 2-3.6].


SUBPART A: GENERAL

Section 226.10 Purpose

This Part establishes the requirements for the treatment of children and the provision of special education and related services pursuant to the Individuals with Disabilities Education Improvement Act (also referred to as "IDEA") ([20 USC 1400 et seq.]), its implementing regulations (34 CFR 300 as proposed June 21, 2005, on page 35782 of the Federal Register), and Article 14 of the School Code [105 ILCS 5/Art. 14]. This Part also distinguishes between requirements derived from federal authority and those imposed additionally pursuant to Article 14 of the School Code or the authority of the State Board of Education. The requirements of
STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

IDEA, its implementing regulations, and this Part shall apply in every instance when a child is or may be eligible for special education and related services.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.50 Requirements for a Free Appropriate Public Education (FAPE)

Free appropriate public education (FAPE), as defined at 34 CFR 300.17, must be made available by school districts to children with disabilities in accordance with 34 CFR 300.101 - 300.103, unless otherwise specified in this Section. Each local school district shall ensure that a free appropriate public education (FAPE) is available to each child with a disability who is between the ages of 3 and 21, resides in the State and is enrolled in the district, and requires special education and related services to address the adverse effect of the disability on his or her education. The special education and related services must be provided according to the child's individualized education program (IEP) at no cost to the parent and in accordance with this Part. As public schools, charter schools are also bound by these requirements, and children with disabilities who attend public charter schools and their parents retain all rights under this Part.

a) As part of this obligation, each local district shall develop and implement procedures for creating public awareness of special education and related services and for advising the public of the rights of children with disabilities:

1) All such procedures shall ensure that information is made available in each of the major languages represented in the local school district and in language that will be understandable to parents, regardless of ethnic or cultural background or hearing or visual abilities.

2) Procedures developed by a district pursuant to this Section shall include, but need not be limited to:

A) Annual notification to all parents in the district regarding the special education services available in or through that district and of their right to receive a copy of this Part upon request; and

B) An annual dissemination of information to the community served by the school district regarding the special education services available in or through the district and the rights of children with disabilities.

3) Documentation, including examples as appropriate, of the school district's
NOTICE OF PROPOSED AMENDMENTS

b) As part of this obligation, each local school district shall comply with the requirements for identifying, locating, and evaluating all children with disabilities set forth in Section 226.100 of this Part.

c) A local school district is obligated to make FAPE available to each eligible child no later than the child's third birthday. (See Sections 226.110(d) and 226.260 of this Part.)

d) The special education services and placement that constitute FAPE for a particular child shall be identified based on the child's unique needs and not on the child's disability. These services shall address all of the child's identified needs for special education and related services.

e) The district shall provide nonacademic and extracurricular services and activities in a manner necessary to afford children with disabilities an equal opportunity to participate in those services and activities.

f) The local school district shall ensure that no delay occurs in implementing a child's IEP, including any case in which the source of payment or provision of services to the child is being determined.

g) No eligible child from three through 21 years of age may be permanently excluded from the public schools, either by direct action by the board of education, by indication of the district's inability to provide an educational program, or by informal agreement between the parents and the school district to allow the child to remain without an educational program.

1) A public agency need not provide services during periods of removal to a child with a disability who has been removed from his or her current placement for ten school days or fewer in that school year, if services are not provided to a child without disabilities who has been similarly removed. An eligible child who has been suspended or expelled from school for more than ten school days during the school year must continue to receive services necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP.

2) In providing FAPE to children with disabilities who have been suspended
or expelled from school, a school district shall meet the requirements set forth in Subpart E of this Part.

a)  Transfer Students

Provision of FAPE to students who transfer into a local school district shall be made in accordance with the requirements of 20 USC 1414(d)(2)(C). The additional requirements of this subsection (a) shall also apply.

1)  In the case of a student transferring into a district from another district within Illinois, when the new district obtains a copy of the student's IEP before or at the time the child is presented for enrollment: If a child who is receiving special education from a local school district transfers to another district, the new district is responsible for ensuring FAPE by providing special education and related services in conformity with an IEP. When a transfer student is presented for enrollment, the district shall enroll and initiate educational services to the student immediately. The new school district shall ensure that the child has an IEP in effect.

A)  The district may adopt the IEP of the former local school district without developed for the child. Such adoption does not require an IEP meeting if:

i)  a copy of the child's current IEP is available;

ii)  the parents indicate satisfaction with the current IEP; and

iii)  the new district determines that the current IEP is appropriate and can be implemented as written.

B)  A district that cannot fully implement an IEP from a student's former district shall note in the IEP the services to be provided and shall explain what is being done to secure the remaining services, resources, or other unfulfilled portions of the IEP and how long those actions are expected to take.

B)  If the district does not adopt the former IEP and seeks to develop a new IEP for the child, it must initiate an IEP meeting if the school district or the parents do not believe the current IEP is appropriate. In such a case, the district shall, within ten days after the date of the child's enrollment, by providing written notice to
NOTICE OF PROPOSED AMENDMENTS

2) If the new school district does not receive a copy of the child's current IEP or a verbal confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child's needs until a copy of the current IEP is obtained or a new IEP is developed by the school district.

A) In no case shall a child be allowed to remain without services during this interim.

B) The new district shall request the student's records from the sending district or school by the end of the next business day after the date of enrollment.

C) No later than ten days after expiration of the time allotted under Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] for the sending district or school to forward the child's records, the new district shall initiate an IEP meeting for the purpose of developing a new IEP, unless the sending district's or school's IEP arrives before this time elapses, the student has transferred from a district within Illinois, and the new district adopts the previously held IEP and the conditions set forth in subsection (h)(1)(A) of this Section apply.

b)i) Jurisdictional Disputes

Each school district is responsible for ensuring that no eligible child for whom services are sought is denied FAPE due to jurisdictional disputes among Illinois agencies. Provision of FAPE to such a student shall not preclude a district from seeking repayment for costs incurred from any other school district or entity that is determined responsible for such costs.

j) Nothing in this Part relieves any participating agency of the responsibility for providing or paying for any services the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.
Eligibility; Graduation or Completion of Program

1) An eligible student who requires continued public school educational experience to facilitate his or her integration into society shall be eligible for such services through age 21, inclusive (i.e., through the day before the student's 22nd birthday) (see 34 CFR 300.101(a)).

2) Students who reach age 21 during a school year shall be allowed to complete that year.

3) The provision of FAPE is not required with respect to a student with a disability who has graduated with a regular high school diploma or its equivalent.

4) A student with a disability who has fulfilled the minimum State graduation requirements set forth in Section 27-22 of the School Code [105 ILCS 5/27-22] satisfactorily completed a secondary program shall be eligible for a regular high school diploma.

A) If the student's individualized education program prescribes special education, transition planning, transition services, or related services beyond that point, issuance of that diploma shall be deferred so that the student will continue to be eligible for those services.

B) If the student is to receive a regular high school diploma, at least one year prior to the student's anticipated date of its issuance, both the parent and the student shall receive written notification in conformance with the requirements of 34 CFR 300.503 Section 226.520(b) of this Part that eligibility for public school special education services ends following the granting of a diploma and that the parent (or the student, if Section 226.690 of this Part applies) may request an IEP meeting to review the recommendation that the student receive a regular diploma for graduation.

4) Students who have participated in a graduation ceremony, graduated but have not been awarded regular high school diplomas continue to be eligible to receive FAPE through age 21, inclusive.
Exception for Certain Students Incarcerated as Adults

Pursuant to 34 CFR 300.102(a)(2) and 300.311, the right to receive FAPE does not extend to students from 18 through 21 years of age who are incarcerated and who were not identified as eligible and did not have IEPs in their educational placements immediately prior to incarceration.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.60 Charter Schools

For purposes of IDEA the Individuals with Disabilities Education Act and this Part, charter schools established pursuant to Article 27A of the School Code [105 ILCS 5/Art. 27A] shall be treated either as schools within school districts or as local educational agencies in their own right.

a) When a school's charter is issued by a local board of education pursuant to Section 27A-8 of the School Code [105 ILCS 5/27A-8], that charter school shall be considered as a school within the district over which that board of education exercises jurisdiction.

b) When a school's charter is issued by the State Board of Education pursuant to Section 27A-9(f) of the School Code [105 ILCS 5/27A-9(f)], that charter school shall be considered as a local educational agency.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.75 Definitions

Assistive Technology Device: See 34 CFR 300.5. Any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability.

Behavioral Intervention: An intervention based on the methods and empirical findings of behavioral science and designed to influence a child's actions or behaviors positively.

Case Study Evaluation: See "Evaluation"
Cultural Identification: Identifying the family's general cultural factors, such as ethnicity and language spoken, that may have an impact on the design of the case study evaluation procedures used.

Date of Referral: The date on which written parental consent to complete an evaluation is obtained or provided.

Day; Business Day; School Day: See 34 CFR 300.11. A calendar day, unless otherwise indicated as "business day" or "school day".

Business Day: Monday through Friday, except for federal and State holidays (unless holidays are specifically included in the designation of business days, as at 34 CFR 300.403(d)(1)(ii)).

School Day: Any day including a partial day, during the regular school year that students are in attendance at school for instructional purposes.

Developmental Delay: See 34 CFR 300.8 and 300.111(b). Delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through seven years of age).

Disability: IDEA identifies 13 disabilities as the basis for students' eligibility for special education and related services. These disabilities (autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment) shall be defined as set forth in 34 CFR 300.8(c). In addition, for purposes of this Part, "autism" shall include, but not be limited to, any Autism Spectrum Disorder that adversely affects a child's educational performance. Any of the following specific conditions.

Autism: A developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three that adversely affects a child's educational performance. (A child who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the other criteria of this Section are satisfied.) Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual
responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

Deaf-Blindness: Concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Deafness: A hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.

Emotional Disturbance (includes schizophrenia, but does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance): A condition exhibiting one or more of the following characteristics over an extended period of time and to a marked degree that adversely affects a child's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of anxiety or unhappiness or depression; or
- A tendency to develop physical symptoms or fears associated with personal or school problems.

Hearing Impairment: An impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness.
Mental Retardation: Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

Multiple Disabilities: Concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments (does not include deaf-blindness).

Orthopedic Impairment: A severe orthopedic impairment that adversely affects a child's educational performance; includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

Other Health Impairment: Limited strength, vitality or alertness, including a heightened sensitivity to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

- is due to chronic or acute health problems, such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and

- adversely affects a child's educational performance.

Specific Learning Disability: A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. (The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.) [105 ILCS 5/14-1.03(a)]
Speech or Language Impairment: A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Traumatic Brain Injury: An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual, and motor abilities, psychosocial behavior, physical functions, information processing, and speech. The term does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

Visual Impairment: An impairment in vision that, even with correction, adversely affects a child's educational performance (includes both partial sight and blindness).

Domain: An aspect of a child's functioning or performance that must be considered in the course of designing an evaluation. The domains are health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities.

Educational Performance: A student's academic achievement and ability to establish and maintain social relationships and to experience a sound emotional development in the school environment.

Eligible: Identified in accordance with this Part as having any of the disabilities defined in this Section and needing special education and related services.

Equipment (a programmatic definition, not intended to coincide with the definition of "equipment" given in the Program Accounting Manual at 23 Ill. Adm. Code 110.120): See 34 CFR 300.14.

Machinery, utilities, and built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment; and

All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as
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Instructional equipment and necessary furniture; printed, published and
audio-visual instructional materials; telecommunications, sensory, and
other technological aids and devices; and books, periodicals, documents,
and other related materials.

Evaluation: See 34 CFR 300.15. A series of procedures designed to provide
information about a child's suspected disability; the nature and extent of the
problems that are or will be adversely affecting his/her educational development;
and the type of intervention and assistance needed to alleviate these problems.

Extended School Year Services: See 34 CFR 300.106(b). Special education and
related services that are provided to a child with a disability beyond the normal
school year of the public agency in accordance with the child's IEP and at no cost
to the parents of the child and meet the requirements of Section 226.750(c) of this
Part.

Functional Behavioral Assessment: An assessment process for gathering
information regarding the target behavior, its antecedents and consequences,
controlling variables, the student's strengths, and the communicative and
functional intent of the behavior, for use in developing behavioral interventions.

General Curriculum: The curriculum adopted and/or used by a local school
district or by the schools within a district for nondisabled students; the content of
the program, as opposed to the setting in which it is offered.

IEP Team: See 34 CFR 300.23. The group of individuals enumerated in Section
226.210 of this Part, except that in three instances the team shall be expanded to
include any other qualified professionals whose expertise is necessary to
administer and interpret evaluation data and make an informed determination as
to whether the child needs special education and related services (i.e., when
identifying the specific assessments required in order to evaluate a child's
individual needs; when determining whether the child is eligible pursuant to this
Part; and when conducting a Manifestation Determination Review).

conducted by a qualified examiner who is not employed by the school district
responsible for the education of the child in question. (See Section 226.180 of
this Part.)

Individualized Education Program (IEP): See 34 CFR 300.22. An IEP shall be
considered "linguistically and culturally appropriate" if it addresses the language and/or communication needs of a student as a foundation for learning. A written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with Subpart C of this Part.

Individualized Family Service Plan (IFSP): See 34 CFR 300.24. A written plan for providing the early intervention services to a child eligible under 34 CFR 303 and the child's family.

Interim Plan: A portion of an IEP that identifies the services that will be provided as a temporary measure, either when the child's complete IEP cannot be implemented or when the parents and the district have only agreed to a portion of the services that will be needed, and that sets out the specific conditions and timelines to which both the parents and the district have agreed.

Least Restrictive Environment (LRE): The setting that permits a child to be educated with nondisabled children to the maximum extent appropriate. (See Section 226.240(c) of this Part.)

Parent: See 34 CFR 300.30. A natural or adoptive parent of a child; a guardian but not the State if the child is a ward of the State; a person acting in the place of a parent of a child (such as a grandparent or stepparent with whom a child lives); a person who is legally responsible for a child's welfare, or a surrogate parent who has been appointed in accordance with Section 226.550 of this Part. A foster parent is a "parent" when the natural parent's authority to make educational decisions on the child's behalf has been extinguished under State law and the foster parent has an ongoing, long-term parental relationship with the child, is willing to make the educational decisions required of parents under IDEA, and has no interest that would conflict with the interests of the child.

Participating Agency: A State or local agency, other than the local school district, that is or may be legally responsible for providing or funding services to a student who is eligible under this Part.

Personally Identifiable (with reference to information): See 34 CFR 300.32. Including the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's Social Security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
Qualified Bilingual Specialist: An individual who holds the qualifications described in Section 226.800(f) of this Part.

Qualified Personnel: Staff members or other individuals who hold the certificate, license, registration, or credential that is required for the performance of a particular task.

Qualified Bilingual Specialist: An individual who holds the qualifications described in Section 226.800(f) of this Part.

Qualified Specialist: An individual who holds the applicable qualifications described in Subpart I of this Part.

Referral: A formal procedure established by a school district which involves a request for a case study evaluation.

Related Services: See 34 CFR 300.34. Transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, including speech language pathology and audiology services, psychological services, physical and occupational therapy, recreation (including therapeutic recreation), early identification and assessment of disabilities in children, counseling services (including rehabilitation counseling), orientation and mobility services, and medical services for diagnostic or evaluation purposes; also including school health services, social work services in schools, and parent counseling and training.—(See Section 226.310 of this Part.) Related services do not include those performed by licensed physicians or dentists (except for diagnostic or evaluative services or consultation to staff), registered or licensed practical nurses (except when functioning as school nurses), or other medical personnel involved in the provision of ongoing medical care.

Special Education: See 34 CFR 300.38. Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals, in institutions, and in other settings, and including instruction in physical education.

Special School: An educational setting which is established by the local school district exclusively to meet the needs of eligible children.

Student Record: See Section 2 of the Illinois School Student Records Act [105
Supplementary Aids and Services: See 34 CFR 300.41. Aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

Transition Services: See 34 CFR 300.42. A coordinated set of activities for a student with a disability that:

- Is designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- Is based on the individual student's needs, taking into account the student's preferences and interests; and
- Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section 226.100 Child Find Responsibility

This Section implements the requirements of 34 CFR 300.111.

a) Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 CFR 300.131), including children not enrolled in the public schools, who may be eligible for special education and related services. Procedures developed to fulfill this responsibility shall include:

1) An annual screening of children under the age of five for the purpose of
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identifying those who may need early intervention or special education and related services.

2) Ongoing review of each child's performance and progress by teachers and other professional personnel, in order to refer those children who exhibit problems which interfere with their educational progress and/or their adjustment to the educational setting, suggesting that they may be eligible for special education and related services.

3) Ongoing coordination with early intervention programs to identify children from birth through two years of age who have or are suspected of having disabilities, in order to ensure provision of services in accordance with applicable timelines. A) Each local school district shall participate in transition planning conferences arranged by the designated lead agency under 20 USC 1437(a)(9) in order to develop a transition plan enabling the public school to implement an IFSP or IEP no later than the third birthday of each eligible child.

B) A child is considered "referred" to a school district when he or she is identified in writing by staff of an early intervention program pursuant to 34 CFR 303. Such a referral is effective no later than 60 school days prior to the child's third birthday, regardless of the date on which the notification takes place. (See Section 226.260 of this Part.)

4) Coordination and consultation with nonpublic schools located within the district that results in child find activities comparable to those affecting students in the public schools. Costs of child find and evaluation activities may not be considered as part of the expenditures used by the district to meet its obligation under 34 CFR 300.453 (a).

b) When the responsible school district staff members conclude that an individual evaluation of a particular child is warranted based on factors such as a child's educational progress, interaction with others, or other functioning in the school environment, the requirements for referral and evaluation set forth in this Subpart B shall apply.

e) Each school district shall be responsible for ensuring that the confidentiality requirements of 34 CFR 300.560-300.577, 105 ILCS 10/4(a), 23 Ill. Adm. Code 375, and Section 226.740 of this Part apply to all data used to meet the Child Find
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Section 226.110 Evaluation Procedures

Procedures for requesting and conducting initial evaluations of children who are suspected of requiring special education and related services shall conform to the requirements of 34 CFR 300.301, 300.304, 300.305, and 300.306. For purposes of this Section, screening procedures done in accordance with 34 CFR 300.302 shall not be considered an evaluation. Consent for the initial evaluation shall be obtained in conformance with the requirements of 34 CFR 300.300. In addition, the following requirements shall apply.

When there is reason to believe that a child may have a disability requiring special education and related services, the child shall be referred for a special education case study evaluation.

a) Referral Procedures for Requesting an Initial Evaluation

Each school district shall develop and make known to all concerned persons procedures by which an evaluation may be requested. These procedures shall:

1) Designate the steps to be taken in making a request for an evaluation;

2) Designate the persons to whom a request may be made;

3) Identify the information that must be provided;

4) Provide any assistance that may be necessary to enable persons making referrals to meet any related requirements established by the school district; and

5) Identify the process for providing the parents with notice of their rights with respect to procedural safeguards.

b) A referral may be made by a parent of a child or by an employee of a State educational agency, another State agency, a local educational agency, an employee of any concerned person, including but not limited to school district personnel, the parent(s) of a child, an employee of a community service agency, another professional having knowledge of a child's problems, a child, or an employee of the State Board of Education.
c) District's Response to Request for Referral

1) The school district shall be responsible for processing the request for referral, deciding what action should be taken, and initiating the necessary procedures.

2) To determine the extent to which the referred child requires an evaluation, the district may utilize screening data and conduct preliminary procedures such as observation of the child, assessment for instructional purposes, consultation with the teacher or other individual making the referral, and a conference with the child.

3) Within 14 days after receiving a request for an evaluation, the district shall determine whether any additional information is needed upon which to base the evaluation or not to conduct a case study evaluation and notify the referring party and the parent of the decision and the basis on which it was reached.

   A) The district shall convene a team of individuals (including the parent) having the knowledge and skills necessary to administer and interpret evaluation data. The composition of the team will vary depending upon the nature of the child's symptoms and other relevant factors.

   B) The team shall identify the assessments necessary to complete the evaluation in accordance with 34 CFR 300.305 and shall prepare a written notification for the parents as required under 34 CFR 300.304(a). For each domain, the notification shall either describe the needed assessments or explain why none are needed.

   C) The district shall ensure that the notification of the team's conclusions is transmitted to the parents within the 14-day timeline applicable under this subsection (c)(3), along with the district's request for the parents' consent to conduct the needed assessments.

4) Upon completion of the assessments identified pursuant to subsection (c)(3) of this Section, but no later than 60 days following the district's receipt of written consent from the parent to perform the needed assessments, a meeting as described in 34 CFR 300.306 shall be initiated by the district.
decides to conduct an evaluation, parental consent must be obtained.

1) Pursuant to Section 14-8.02 of the School Code [105 ILCS 5/14-8.02], the case study evaluation and IEP meeting shall be completed within 60 school days after the date of referral or the date of the parent's application for admittance of the child to the public school.

2) The IEP meeting shall be conducted within 30 days after the child is determined eligible. The overall limit specified in subsection (d)(1) of this Section still applies.

3) When a child is referred for evaluation with fewer than 60 days of pupil attendance left in the school year, the eligibility determination shall be made and, if the child is eligible, an IEP shall be in effect prior to the first day of the next school year.

e) If the parent refuses consent for initial evaluation, the district may continue to pursue the evaluation by using the mediation or due process procedures described in Section 226.560 and Subpart G of this Part.

e) The IEP Team's report shall also include:

1) the date of the meeting; The referring party shall be provided written notice of the district's decision not to conduct an evaluation and, subject to the requirements of the Illinois School Student Records Act [105 ILCS 10] and 23 Ill. Adm. Code 375 (Student Records), the reasons for that decision; and

2) the signatures of the participants, indicating their presence at the meeting; and

A) The date of the referral and the reasons for which the case study evaluation was requested; and
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D) The reasons for which the district decided not to conduct a case study evaluation.

3) any separate written statement provided by a participant who wishes to be on record as disagreeing with the conclusions expressed in the team's report.

f) The school district shall provide a copy of the IEP Team's report to the parent at the conclusion of the team's meeting. In addition, the district shall provide to the parent, within ten school days after the meeting, written notice conforming to the requirements of Section 226.520 of this Part as to the eligibility determination reached with respect to the child. The parent shall also be entitled to receive copies of any evaluation reports upon request.

g) A copy of the IEP Team's report, together with all documentation upon which it is based, shall become a part of the child's temporary student record.

h) If an assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. For example, the use of a translator when a qualified bilingual professional is not available may create nonstandard conditions.

i) If any needed portion of the evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluative procedure, the district shall note the missing portions in the child's evaluation report and state the reasons why those portions could not be completed.

j) In the event that the student is determined to be eligible for special education and related services pursuant to the procedures described in subsections (d) and (e) of this Section, the IEP meeting shall be conducted within 30 days after the date of that determination.

k) If a district refuses or fails to conduct an evaluation, the parent of the child in question (or the student, if Section 226.690 of this Part applies) may appeal this refusal or failure in an impartial due process hearing.
Section 226.120  Reevaluations Identification of Needed Assessments

Procedures for the completion of reevaluations of children for whom special education and related services are currently being provided shall conform to the requirements of 34 CFR 300.303, 300.304, 300.305 and 300.306, as well as the relevant provisions of Section 226.110 of this Part.

Each school district shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. An evaluation shall cover all domains (see Section 226.75 of this Part) that are relevant to the individual child under consideration. The IEP Team shall determine the specific assessments needed to evaluate the individual needs of the child.

a) The IEP Team that identifies the assessments and procedures needed must have the knowledge and skills necessary to interpret the resulting evaluation data and make an informed determination as to whether the child needs special education and related services. The composition of the team will vary depending upon the nature of the child's suspected disability and other relevant factors.

b) The IEP Team shall review and evaluate existing information about the child, including:

1) Information from a variety of formal and informal sources, including information provided by the child's parents;

2) Current classroom-based assessments and observations;

3) Observations by teachers and providers of related services;

4) Information provided by the child; and

5) Information from specialized evaluations such as those performed by independent evaluators, medical evaluators, behavioral intervention specialists, bilingual specialists, etc.

e) The team may conduct its review without a meeting.
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d) The team shall determine what additional evaluation data are needed in each of the relevant domains, and from what sources that information should be obtained, in order for the team to determine:

1) Whether the child has, or continues to have, one or more of the disabilities defined in Section 226.75 of this Part;

2) The present levels of performance and educational needs of the child;

3) Whether the disability is adversely affecting the child's education;

4) Whether the child needs (or continues to need) special education and related services; and

5) Whether any additions or modifications to the child's special education and related services are needed to enable the child to meet the goals set out in his or her IEP and to participate appropriately in the general curriculum.

e) If the IEP Team identifies the need for additional evaluations, the school district shall administer or arrange for such tests and other evaluation procedures as may be needed to produce the needed information.

f) If the IEP Team determines that no additional information is needed, the district shall provide written notice to the child's parents of:

1) the determination and the reasons for it; and

2) the parents' right to request an assessment to determine whether the child is or continues to be eligible for special education and related services.

g) Within ten school days after a parent requests an assessment pursuant to subsection (f)(2) of this Section the district shall either:

1) Notify the parent that it will conduct the assessment and make the necessary arrangements; or

2) If the district does not wish to conduct the assessment, request a due process hearing or notify the parent (in keeping with the requirements of Section 226.520 of this Part) of his or her right to request a due process hearing.
h) The IEP Team shall document its evaluation decisions, the basis for the determination made in each domain, and its decisions under subsections (d) and (f) of this Section. This information shall be provided to the parents in the form of a written notice in accordance with Section 226.520 of this Part.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 226.130 Additional Procedures for Students Suspected of or Having a Specific Learning Disability Evaluation Requirements

In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall adhere to the procedures set forth at 34 CFR 300.308, 300.309, 300.310, and 300.311 when evaluating a student who is suspected of, or who has previously been identified as having, a specific learning disability as described in 34 CFR 300.8. The district may use a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, provided that the district also uses a process that determines if the child responds to scientific, research-based intervention as part of the evaluation procedures described in 34 CFR 300.304. The district may also use other alternative research-based procedures for determining whether a child has a specific learning disability.

Each local school district shall establish written procedures to ensure that the following requirements are met.

a) Tests and other materials used to evaluate a child:

1) Shall be selected and administered so as not to be discriminatory on a racial or cultural basis;

2) Shall be provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;

3) Shall be technically sound and designed to assess the relative contributions of cognitive, behavioral, physical, and developmental factors; and

4) Shall be used in a manner consistent with the instructions provided by their publishers.

b) A variety of assessment tools and strategies shall be used by qualified specialists who are trained and knowledgeable and shall be used to gather relevant functional
and developmental information about the child. The assessment shall include information provided by the parent that may assist in determining:

1) Whether the child is eligible for special education and related services; and, if so,

2) The content of the child's IEP or IFSP, including information related to enabling the child to be involved in and progress in the general curriculum or, if in preschool, to participate in appropriate activities.

c) When a student is suspected of having a specific learning disability, an observation shall be conducted in accordance with Section 226.170 of this Part.

d) Any standardized test that is administered shall:

1) Have been validated for the specific purpose for which it is used; and

2) Be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the test.

e) Tests and other evaluation materials shall be tailored to assess specific areas of educational need and may not be merely those that are designed to provide a single general intelligence quotient.

f) Tests shall be selected and administered so as to ensure that, if they are administered to a child with impaired sensory, motor or communication skills, the results of each test accurately reflect the factors that test purports to measure.

g) No single procedure and no single individual shall be used as the sole criterion or evaluator for determining whether a child is eligible pursuant to this Part or for identifying an appropriate educational program for a child.

h) The school district shall use assessment tools and strategies that provide relevant information and are sufficiently comprehensive to assist in identifying all of the child's needs for special education and related services, whether or not commonly linked to the disability according to which the child has been classified.

i) If an assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators
can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. For example, the use of a translator when a qualified bilingual professional is not available may create nonstandard conditions.

j) If any needed portion of a case study evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluative procedure, the district shall note the missing portion(s) in the child's evaluation report and state the reason(s) why such portion(s) could not be completed.

k) Each individual conducting a portion of a child's evaluation shall be qualified in accordance with Section 226.840 of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.135 Additional Procedures for Students Suspected of or Having Mental Retardation

In addition to the requirements set forth in Sections 226.110 and 226.120 of this Part, the district shall ensure that a psychological evaluation has been conducted and a recommendation for eligibility made by a school psychologist for any child who is suspected of or determined to have mental retardation.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 226.140 Modes of Communication and Cultural Identification

Before a child is given a case study evaluation, the local school district shall ensure compliance with the requirements of Section 14-8.02 of the School Code by determining the primary language of the child's home, general cultural identification, and mode of communication.

a) Determination of the child's language use pattern and general cultural identification shall be made by determining the languages spoken in the child's home and the languages used most comfortably and frequently by the child.

b) If the child has a non-English-speaking background, a determination shall be made of his or her proficiency in English. Such a determination shall be
conducted in accordance with the provisions of 23 Ill. Adm. Code 228 (Bilingual Education), which specifies the assessment procedures and eligibility criteria for bilingual education programs (see 23 Ill. Adm. Code 228.15).

c) Determination of the child's mode of communication shall be made by assessing the extent to which the child uses verbal expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for verbal expressive language.

d) The child's language use pattern, proficiency in English, mode of communication, and general cultural identification shall be noted in the child's temporary student record, and this information shall be used in the evaluation and in the development and implementation of the individualized education program.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 226.150 Evaluation Case Study to be Nondiscriminatory

Each evaluation shall be conducted so as to ensure that it is linguistically, culturally, racially, and sexually nondiscriminatory.

a) The languages used to evaluate a child shall be consistent with the child's primary language of the home or other mode of communication. (See Section 226.140 of this Part.) If the language use pattern involves two or more languages or modes of communication, the child shall be evaluated by qualified specialists or, when needed, qualified bilingual specialists using each of the languages or modes of communication used by the child. The provisions of subsections (b) and (c) of this Section shall apply when a qualified bilingual specialist is needed but unavailable.

b) If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall use an individual who possesses the professional credentials required under Section 226.840 of this Part to complete the specific components of the evaluation. This qualified specialist shall be assisted by a certificated school district employee or other individual who has demonstrated competencies in the language of the child.

c) If documented efforts to locate and secure the services of a qualified bilingual specialist or a qualified specialist assisted by another individual as provided in subsection (b) of this Section are unsuccessful, the district shall conduct
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assessment procedures which do not depend upon language. Any special education resulting from such alternative procedures shall be reviewed annually until the child acquires a predominantly English language use pattern.

d) Tests given to a child whose primary language is other than English shall be relevant, to the maximum extent possible, to his or her culture.

e) If the child's receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the district shall utilize test instruments and procedures that do not stress spoken language and one of the following:

1) Visual communication techniques in addition to auditory techniques.

2) An interpreter to assist the evaluative personnel with language and testing.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.160 Determination of Eligibility (Repealed)

Each school district shall develop written eligibility criteria that comply with the definitions of the disability categories identified in Section 226.75 of this Part.

a) Upon completing the administration of tests and any other evaluation procedures, the IEP Team shall meet to interpret the evaluation data. This shall be done for the purpose of determining whether the child is eligible for special education and related services. In making this determination, the IEP Team shall:

1) Draw upon information from a variety of sources, including aptitude and achievement tests, parental input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

2) Ensure that information obtained from all of these sources is documented and considered; and

3) Ensure that a psychological evaluation has been conducted and a recommendation for eligibility has been made by a school psychologist for all children determined mentally impaired.

b) A child may not be determined eligible under this Part if the determinant factor for that determination is lack of instruction in reading or math or limited English
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proficiency and the child does not otherwise meet the district's eligibility criteria.

e) At the conclusion of the IEP Team's meeting, the team shall prepare a report
describing its consideration of pre-existing information about the child, all new
evaluation reports obtained, and any other information relevant to the decision
about the child's eligibility. This description shall relate the information
considered to the child's needs and shall further conform to the requirements of
Section 226.170(d) of this Part if applicable. The team's report shall also include:

1) the date of the meeting;

2) the signatures of the participants, indicating their presence at the meeting; and

3) any separate written statement provided by a participant who wishes to be
on record as disagreeing with the conclusions expressed in the team's
report.

d) The school district shall provide a copy of the IEP Team's report to the parent at
the conclusion of the team's meeting. In addition, the district shall provide to the
parent, within ten school days after the meeting, written notice conforming to the
requirements of Section 226.520 of this Part as to the eligibility determination
reached with respect to the child. The parent shall also be entitled to receive
copies of any evaluation reports upon request.

e) A copy of the IEP Team's report, together with all documentation upon which it is
based, shall become a part of the child's temporary student record.

f) If a child is determined eligible for special education and related services, an IEP
shall be developed in accordance with Subpart C of this Part.

(Source: Repealed at 30 Ill. Reg. ______, effective ____________)

Section 226.170 Criteria for Determining the Existence of a Specific Learning Disability
(Repealed)

The determination of the existence of a specific learning disability shall be conducted in
accordance with the requirements set forth in the federal regulations at 34 CFR 300.541-543.

(Source: Repealed at 30 Ill. Reg. ______, effective ____________)
Section 226.180 Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation of their child in accordance with 34 CFR 300.502 and Section 14-8.02(b) of the School Code, subject to the provisions of this Section. The following rights and requirements shall also apply.

a) The district shall provide to the parents, upon their request, the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 of this Part.

b) If the parents disagree with the district's evaluation and wish to obtain an independent educational evaluation at public expense, their request to that effect shall be submitted in writing to the local school district superintendent. They shall submit to the local school district superintendent a written request to that effect.

c) If the district disagrees with the need for an independent educational evaluation, it shall initiate a due process hearing to demonstrate that its evaluation is appropriate. Such a hearing must be initiated by the local school district within five days following receipt of a written parental request for an independent educational evaluation.

d) An independent educational evaluation at public expense must be completed within 30 days after receipt of a parent's written request, unless the school district initiates a due process hearing or the parties agree that the 30-day period should be extended. If either party wishes such an extension and is unable to obtain the other party's agreement, the district shall initiate a due process hearing within ten school days after the date on which the extension was proposed.

e) If the final decision of the hearing and review process is that the school district's evaluation is appropriate, the parents shall have the right to an independent educational evaluation, but not at public expense.

f) If the school district's evaluation is shown to be inappropriate, the district shall pay for the independent educational evaluation or reimburse the parents for the cost of the evaluation.

g) If the parent is entitled to an independent educational evaluation at public expense, it shall be completed within 30 days after the decision is rendered, unless the parties agree that the 30-day period should be extended. If either party wishes such an extension and is unable to obtain the other party's agreement, the school
district shall initiate a due process hearing within ten school days after the date on which the extension was proposed. 

b) When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:

1) an individual whose name is included on the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 of this Part provided by the State Board of Education with regard to the relevant type(s) of evaluation; or

2) another individual possessing the credentials required by Section 226.840 of this Part.

c) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840 of this Part, the parent(s) and the school district shall agree on the qualifications of the examiner and the specific evaluation to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.

j) The conditions under which an independent evaluation is obtained at public expense, including the location of the evaluation and the qualifications of the examiner, shall meet the criteria that the public agency uses when it initiates an evaluation, to the extent that those criteria are consistent with the parent's right to an independent evaluation. Although the district may ask the parent to specify the areas of disagreement with the local school district's evaluation, the district may not impose any additional conditions or timelines related to obtaining an independent educational evaluation at public expense (such as requiring the parent to specify the areas of disagreement).

d) If the parent obtains an independent educational evaluation, the written result of that evaluation shall be considered by the IEP Team. The district shall send the notice convening the IEP Team's meeting within ten days after receiving the evaluation report or after the parent requests a meeting to consider the results of an independent evaluation.

1) The district shall consider the results in any decision made with respect to the provision of a free appropriate public education to the child.
2) The independent evaluation results may be presented as evidence at a hearing or review regarding the child pursuant to this Part.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.190 Reevaluation (Repealed)

a) A local school district shall reevaluate an eligible child whenever conditions warrant a reevaluation or the child's parent or teacher requests a reevaluation, but at least once every three years. Reevaluations are subject to the applicable requirements of Sections 226.110 through 226.180 of this Part.

b) A district shall reevaluate an eligible child before determining that the child is no longer eligible pursuant to this Part.

c) A reevaluation is not required for a student who graduates from high school with a regular high school diploma or its equivalent or attains the age of 21. (See Section 226.50(k)(4) of this Part.)

(Source: Repealed at 30 Ill. Reg. _____, effective ____________)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section 226.200 General Requirements

Each school district shall provide special education and related services to eligible children in accordance with their IEPs.

a) An IEP shall be in effect before special education and related services are provided to an eligible child.

b) Any activity undertaken with respect to a child's IEP (such as developing or revising the goals, benchmarks, short term objectives, services, or placement) shall be conducted by an IEP Team that conforms to the requirements of Section 226.210 of this Part.

c) Each school district shall have an IEP in effect for each eligible child within its jurisdiction at the beginning of each school year.
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1) When an IEP is developed or revised, notice to the parents shall be provided immediately in accordance with Section 226.520 of this Part, and implementation of the IEP shall occur no later than ten days after the provision of such notice.

2) A school district shall provide special education and related services to eligible children in accordance with their IEPs. The district and teachers shall make efforts in good faith to assist children in achieving the goals and objectives or benchmarks listed in their IEPs. However, an IEP does not constitute a guarantee by a school district or teachers that a child will progress at a specified rate.

3) If a participating agency other than the local school district fails to provide transition services required by an IEP, the school district shall convene an IEP meeting to identify alternative strategies for meeting the applicable transition objectives established in the child's IEP.

d) A child's IEP shall be reviewed at least annually to determine whether the goals for the child are being achieved.

e) Either a child's teacher or a child's parent may request the review of the child's IEP at any time. Within ten days after receiving such a request, the district shall either agree and notify the parent in accordance with Section 226.530(b) of this Part or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.

f) A child's IEP shall be revised if necessary to address:

1) any lack of expected progress related to the annual goals or the general curriculum, if appropriate;

2) the child's anticipated needs;

3) information about the child provided to or by the parents; or

4) any other relevant matters.

g) Each district shall have procedures in place for providing to involved staff members the information they need about the results of a child's IEP meeting, including any responsibilities they will have for implementation of the IEP.
Section 226.210  IEP Team

The composition of the IEP Team for a particular child, and the participation, attendance, and excusal of the team members and other individuals in the IEP meeting, shall conform to the requirements of 34 CFR 300.321, 300.322, 300.324, and 300.325 this Section. The additional requirements of this Section shall also apply.

a) If the child does not have a regular education teacher but is anticipated to receive at least some instruction in the regular education setting, the team shall include a general education classroom teacher qualified to teach children of that age. The child's parents shall be members of the IEP Team.

b) For a child of less than school age, the team shall include an individual qualified to teach preschool children without identified disabilities. The IEP Team shall include at least one regular education teacher if the child is participating or may participate in the regular education environment.

1) This should be the teacher who is or may be responsible for implementing a portion of the IEP, so that the teacher can participate in discussions about how best to teach the child. The responsibilities of this teacher shall include assisting in:

A) the determination of appropriate positive behavioral interventions and strategies for the child; and

B) the identification of supplementary aids and services, program modifications, and supports for school personnel, consistent with 34 CFR 300.347(a)(3).

2) If the child does not have a regular teacher but is anticipated to receive at least some instruction in the regular education setting, the team shall include a regular classroom teacher qualified to teach children of that age.

3) For a child of less than school age, the team shall include an individual qualified to teach preschool children.

c) The team shall include at least one special education teacher. If known, this shall
be the person who is or will be responsible for implementing a portion of the child's IEP. If the child is receiving only speech and language services, the speech and language pathologist shall fulfill the role of the special education teacher set forth at 34 CFR 300.321(a)(3).

d) The representative of the public agency required by 34 CFR 300.321(a)(4) must, in addition to the requirements set forth in that portion of the federal regulations, have the authority to make commitments for the provision of resources and be able to ensure that the services set out in the IEP will be implemented.

f) The IEP Team may include a qualified bilingual specialist or bilingual teacher, if the presence of such a person is needed to assist the other participants in understanding the child's language and cultural factors as they relate to the child's instructional needs.

g) In the case of a child whose behavior impedes his or her learning or the learning of others, the team may include a person knowledgeable about positive behavior strategies, who may be one of the individuals enumerated in subsections (b) through (f) and (h) of this Section.

h) The IEP Team shall include an individual who is qualified to interpret the instructional implications of the evaluation results, who may be one of the individuals enumerated in subsections (b) through (g) of this Section.

i) In the case of a student for whom transition services must be planned, the district shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. If a public agency invited to send a representative to a meeting does not do so, the district shall document other steps taken to obtain participation of that agency in the planning of any transition services.

j) Participation of Student

1) Either the district or the parent may invite the student who is the subject of
the IEP meeting to attend.

2) The district shall invite the student when a purpose of the meeting is to plan for transition services needed by the student. The notice to the student shall conform to the requirements of Section 226.520(b)(8) of this Part. If the student does not attend, the district shall take other steps to ensure that the student's preferences and interests are considered.

3) The district shall invite the student and the parent when Section 226.690 of this Part applies. The student's absence from the IEP meeting shall be subject to the provisions for parental participation set forth in Section 226.530 of this Part.

k) At the discretion of the parent (or the student, if applicable) or the district, the IEP Team shall include other individuals with knowledge or special expertise regarding the child, including providers of related services.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.220  Factors in Development, Review, and Revision of the IEP

The development, review, and revision of each child's IEP shall conform to the requirements of 34 CFR 300.324 and 300.328. The additional requirements of this Section shall also apply. In developing a child's IEP, the IEP Team shall consider the strengths of the child and the concerns of the parents for enhancing the child's education, as well as the results of the most recent valid evaluation and any available assessment information that may be useful. If the IEP Team determines that one or more of the factors described in this Section could impede learning or that the child needs a particular device or service (including an intervention, accommodation, behavioral intervention or strategy, or other program modification or support for school personnel) in order for the child to receive FAPE, these needs shall be documented in the IEP.

a) When an IEP is developed or revised, notice to the parents shall be provided immediately in accordance with 34 CFR 300.503(b) and (c) and implementation of the IEP shall occur no later than ten days after the provision of this notice. The team shall consider whether the child requires assistive technology devices and services.

b) Either a child's educational provider or a child's parent may request the review of the child's IEP at any time. Within ten days after receipt of such a request, the district shall either agree and notify the parent in accordance with 34 CFR
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300.503 or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child. The team shall consider whether the child has any special needs related to communication.

c) In the case of a child of limited English proficiency, the team shall consider the language-related needs of the child.

d) In the case of a child who is deaf or hard of hearing, the team shall consider the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and mode of communication, academic level, and full range of needs, including opportunities for direct instruction in the child's language and mode of communication.

e) In the case of a child whose behavior impedes his or her learning or the learning of others, the team shall consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.

f) In the case of a child who is visually impaired, the team shall consider whether instruction in Braille and/or the use of Braille will be necessary. To omit or discontinue Braille instruction or use requires an evaluation of the child's reading and writing skills and needs and a determination by the IEP Team that Braille is not appropriate.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.230 Content of the IEP

The content of each child's IEP shall conform to the requirements of 34 CFR 300.320. The additional requirements of this Section shall also apply. Nothing in this Section shall be construed to require the inclusion of information in one section of a child's IEP that is already contained in another section.

a) Each IEP shall include: all the components enumerated in this subsection (a).

1) A statement of the child's present levels of educational performance, including: A) How the child's disability affects the child's involvement and progress in the general curriculum; or B) For a preschool child, how the disability affects the child's participation in appropriate activities. 2) A
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statement of measurable annual goals that reflect consideration of the State Goals for Learning and the Illinois Learning Standards (see 23 Ill. Adm. Code 1), as well as benchmarks or short-term objectives developed in accordance with the child's present levels of educational performance, related to:

A) Meeting the child's needs that result from the child's disability, to enable the child to be involved in and progress in the general curriculum or, for preschool children, to participate in activities appropriate to the child's age; and

B) Meeting each of the child's other educational needs that result from the child's disability.

3) A description of how the child's progress toward his or her annual goals will be measured and of how the parent(s) will be informed of the child's progress. This description shall include a statement of the child's ability to participate in classroom-based assessments and what accommodations are necessary, if any. If the child is unable to participate even with accommodations, a description of the alternative assessment(s) and/or method(s) to be used shall also be provided.

A) Parents of children with disabilities shall be informed of their children's progress at least as often as parents of children without disabilities are informed of their children's progress.

B) The information provided to the parents of a child served pursuant to this Part shall include a description of the child's progress toward his or her annual goals and an indication of the extent to which that progress is sufficient to enable the child to achieve those goals by the time the current IEP will require annual review.

2)(4) A statement regarding of the child's ability to participate in State and district-wide assessments.

A) This statement must describe any individual accommodations that are needed in order for the child to participate in a given assessment.

B) If the IEP Team determines that the child will not participate in a
particular assessment of student achievement (or part of an assessment), a statement as to:

i) Why that assessment is not appropriate for the child; and

ii) How the child's performance will be assessed, including a description of the alternate assessments to be used.

3) A statement as to the languages or modes of communication in which special education and related services will be provided, if other than or in addition to English.

6) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular education class and in extracurricular and other nonacademic activities.

7) A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided in order for the child:

A) To advance appropriately toward attaining the annual goals;

B) To be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities.

8) The projected beginning date for the services and modifications described in subsection (a)(7) of this Section; the amount, frequency, location, and duration of each of the services and modifications.

4) A statement as to whether the child requires the provision of services beyond the district's normal school year in order to receive FAPE ("extended school year services") and, if so, a description of those services that includes their amount, frequency, duration, and location.

10) The placement that the team has determined to be appropriate for the child.

b) An IEP that contains one or more goals addressing the child's behavior shall also include a behavioral intervention plan as described in this subsection (b). A
behavioral intervention plan may, however, also be included in an IEP that does not contain a goal addressing the child's behavior, if deemed appropriate by the IEP Team. Each IEP of a student who requires a behavioral intervention plan shall:

1) Summarize the findings of the functional behavioral assessment;

2) Summarize prior interventions(s) implemented;

3) Describe any behavioral interventions(s) to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors;

4) Identify the measurable behavioral changes expected and methods(s) of evaluation;

5) Identify a schedule for a review of the interventions' effectiveness; and

6) Identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions.

c) Beginning not later than the first IEP to be in effect when the child turns 14½, and updated annually thereafter, the IEP shall include: The IEP for a student who has reached the age of 14 shall also include a description of the student's transition service needs under the applicable components of the IEP, with specific reference to the student's courses of study.

1) appropriate, measurable, postsecondary goals based upon age-appropriate assessments related to training, education, employment, and, where appropriate, independent living skills;

2) the transition services that are needed to assist the child in reaching those goals, including courses of study and any other needed services to be provided by entities other than the school district; and

3) any additional requirements set forth in Section 14-8.03 of the School Code [105 ILCS 5/14-8.03].

d) For purposes of 34 CFR 300.320(c), the age of majority under Illinois law is 18.
The IEP for a student who has reached the age of 14½ shall include goals for employment, postsecondary education, or community living alternatives and a description of transition supports or services, based on the student's needs, including identification of the agency responsible for delivering any needed support or service and, as applicable, any interagency responsibilities or needed linkages. c) The IEP for a student who has reached the age of 17 shall include documentation indicating that the student has been informed of the rights under the Individuals with Disabilities Education Act that will transfer to the student when he or she reaches the age of 18. d) The IEP of a student who may, after reaching age 18, become eligible to participate in the home-based support services program for mentally disabled adults with cognitive disabilities that is authorized by the Developmental Disability and Mental Disability Services Act [405 ILCS 80] shall set forth specific plans related to that program that conform to the requirements of Section 14-8.02 of the School Code.

g) Students Incarcerated as Adults

1) The IEP of a student incarcerated as an adult is not required to comply with:

A) The requirements of subsection (a)(4) of this Section regarding assessment; and

B) The requirements of subsections (c) and (d) of this Section regarding planning for the transition to adult life and services to assist with that transition, if the student's eligibility for special education will end before he or she will be eligible to be released from prison.

2) The IEP Team may modify a student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. The requirements of Section 226.240(c) of this Part regarding placement in the least restrictive environment shall not apply in these circumstances.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.240 Determination of Placement

The determination of placement shall conform to the requirements of 34 CFR 300.114 through
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300.116, 300.327, and 300.501(c). a) The placement determination shall be made by the IEP Team. b) The placement determination shall be consistent with the child's IEP. c) The placement determination shall provide the least restrictive environment for the child. 1) To the maximum extent appropriate, each child, including children in public or nonpublic residential facilities, shall be educated with children who are nondisabled. 2) Special education classes, separate schooling, or other removal of children with disabilities from the regular education environment shall occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 3) Each child's placement shall be as close as possible to his or her home. 4) Unless the IEP requires some other arrangement, a child shall be educated in the school he or she would attend if not disabled. 5) Consideration shall be given to the possible harmful effect of a placement on the child or on the quality of services received. 6) A child shall not be removed from an age-appropriate regular classroom solely because of needed modifications in the general curriculum. d) The placement decision shall, to the maximum extent appropriate, permit the child to participate in nonacademic and extracurricular services and activities (e.g., meals, recess, recreational activities, and clubs sponsored by the district). e) The placement determination shall be reviewed at least annually or any time the IEP is revised.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.250 Child Aged Three Through Five

In the case of an eligible child three through five years of age, an IFSP that contains the material described in 34 CFR 300.323(b)20 USC 1436 may serve as a child's IEP if using that plan is agreed to by the local school district and the child's parents. If a district proposes to use an IFSP, the local school district shall:

a) Provide a detailed explanation of the differences between an IFSP and an IEP to the child's parents;

b) Obtain informed, written consent from the parents for the use of the IFSP; and

c) Ensure that the IFSP shall be developed in accordance with the IEP requirements found in Subpart C Sections 226.200 through 226.230 of this Part.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.260 Child Reaching Age Three

a) Child with an IFSP
For each child who will be making the transition from an early intervention program into the special education program of a school district at age three, the district shall ensure that either an IEP or the child's IFSP is in effect on his or her third birthday. A representative of the school district shall participate in the transition meeting scheduled by the early intervention team.

b) Child Without an IFSP

1) For each child who is referred to a school district at least 60 school days prior to his or her third birthday and determined eligible, the district shall ensure that either an IEP or an IFSP is in effect on his or her third birthday.

2) For each child who is referred with fewer than 60 school days remaining before his or her third birthday, or after that date, and determined to be eligible, the district shall comply with the requirements of Section 226.110(f) of this Part.

c) If a child's third birthday occurs during the summer, the IEP Team for that child shall determine when the district's services to the child will begin.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART D: PLACEMENT

Section 226.300 Continuum of Placement Options

Each local school district shall, in conformance with the requirements of 34 CFR 300.38 and 300.115, ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. With respect to the home instruction and instruction in hospitals and institutions referenced in 34 CFR 300.38 and 300.115: The continuum shall include at least the following.

a) Regular Classes

The child receives his or her basic educational experience through instruction in regular classes. However, these experiences are supplemented through:

1) Additional or specialized instruction from the teacher;
2) Consultation to and with the teacher by providers of special education and related services;

3) Provision of special equipment, materials, and accommodations;

4) Modification in the instructional services (e.g., multi-age placement, expectations, grading, etc.);

5) Modification of curricular content or educational methodology; or

6) Other supplementary services, such as itinerant or resource services, in conjunction with the regular class placement.

b) Special Classes

The child receives specially designed instruction through a special education class. The child is included in those parts of regular classes which are appropriate.

c) Special Schools

The child receives specially designed instruction in a special school. The child is included in those parts of regular classes which are appropriate.

d) Home/Hospital Services

The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.

b(1) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, the IEP Team for that child shall consider the need for home or hospital services. Such consideration shall be based upon a written statement from a physician licensed to practice medicine in all its branches which specifies:

1) the child's condition;

2) the impact on the child's ability to participate in education (the child's physical and mental health level of tolerance for receiving educational services); and
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3) the anticipated duration or nature of the child's absence from school.

c) If an IEP Team determines that home or hospital services are medically necessary, the team shall develop or revise the child's IEP accordingly.

d) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs. The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that the child should not receive as many as five hours of instruction in a school week.

e) A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.

f) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.

g) Services required by the IEP shall be implemented as soon as possible after the district receives the physician's statement.

e) State-Operated or Nonpublic Programs

The child is served in a State-operated or nonpublic facility because his or her disabilities are so profound or complex that no services offered by the public schools can meet his or her needs.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.310 Related Services

Each school district shall ensure that related services (defined in 34 CFR 300.34) are provided if necessary to assist an eligible child in benefiting from his or her special education. The related services that will be provided to a particular child shall be described in the IEP in conformance with the requirements of Section 226.230(a)(7) and (8) of this Part. The most commonly provided related services include assistive technology; audiology; counseling services; early identification and assessment of disabilities; diagnostic medical services; occupational therapy; orientation and mobility services; parent counseling and training; physical therapy; recreation; rehabilitation counseling; school health services; school psychological...
services; school social work services; special readers, braillists, typists, and interpreters; speech-language pathology services; transition services; transportation; and vocational education.

a) **Assistive Technology:** Any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device as defined in Section 226.75 of this Part. Examples include:

1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for children with disabilities;

3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

5) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

6) Training or technical assistance for individuals providing education or rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of a student with a disability.

b) **Audiology** includes such services as:

1) Identification of children with hearing loss;

2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

3) Provision of habilitative activities such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;
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4) Creation and administration of programs for the prevention of hearing loss;

5) Counseling and guidance for pupils, parents, and teachers regarding hearing loss; and

6) Determination of a child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

c) Occupational Therapy:

1) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;

2) Improving ability to perform tasks for independent functioning;

3) Preventing, through early intervention, initial or further impairment or loss of function.

d) Orientation and Mobility Services: Services provided to a blind or visually impaired child to enable the child to attain systematic orientation to and safe movement within the environments in school, home, and community. Includes teaching a child:

1) Spatial and environmental concepts and the use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (for example, using sound at a traffic light to cross the street);

2) The use of the long cane to supplement visual travel skills or as a tool for safely negotiating the environment;

3) The use of remaining vision and low vision aids; and

4) Other concepts, techniques, and tools deemed appropriate for the child.

e) Parent Counseling and Training: Services to assist parents in understanding the special needs of their child, provide parents with information about child development, and help parents to acquire the skills that will allow them to support
the implementation of their child's IEP or IFSP.

f) Recreation: Services such as:
   1) Assessment of leisure function;
   2) Therapeutic recreation services;
   3) Recreation programs in schools and community agencies; and
   4) Leisure education.

g) Rehabilitation Counseling: Services provided in individual or group sessions that focus on career development, preparation for employment, achieving independence, and integration in the workplace and community of a student with a disability.

h) School Health Services include such activities as:
   1) Preparing a health assessment by conducting interviews with a child's parents and teachers, reviewing the Certificate of Child Health Examination, reviewing the vision and hearing screening results and other pertinent health information, and recommending additional medical evaluations as indicated;
   2) Interpreting health assessment results;
   3) Obtaining, integrating, and interpreting pertinent health information about a child as it applies to learning;
   4) Consulting with other staff members in planning school programs to meet the needs of children who require the provision of special health services at school;
   5) Planning and managing a program of school health services to meet the specific needs of all children;
   6) Identifying and mobilizing community health resources to enable children to learn as effectively as possible in the educational program; and
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7) Administering medication:

i) School Psychological Services may include such activities as:

1) Administering psychological and educational tests and other assessment procedures;

2) Interpreting assessment results;

3) Obtaining, integrating, and interpreting information about children's behavior and conditions relating to learning;

4) Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations;

5) Planning, managing, and providing a program of psychological services, including psychological counseling for children and parents; and

6) Assisting in completing a functional behavioral assessment, as well as assisting in the development of positive behavioral intervention strategies.

j) School Social Work Services may include activities such as:

1) Preparing a social developmental study on a child with a disability;

2) Group and individual counseling with a child and his or her family;

3) Working with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;

4) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and

5) Assisting in completing a functional behavioral assessment, as well as assisting in the development of positive behavioral intervention strategies.

k) Speech-Language Pathology Services encompass such activities as:
1) Screening, diagnosis and appraisal of specific speech and language impairments;

2) Identification of children with speech and/or language impairments;

3) Referral and follow-up for medical or other professional attention necessary for the habilitation of speech and language impairments;

4) Planning and developing interventions and programs for children or youth with speech and language impairments;

5) Provision of services for the habilitation and prevention of speech and language impairments; and

6) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

l) Transportation: Special transportation services required because of the child's disability or the location of the special education program or related services, and which are in addition to the regular transportation services provided by the local school district.

   1) Travel to and from school and between schools;

   2) Travel in and around school buildings;

   3) Specialized vehicles, specialized equipment (such as lifts and ramps, whether provided on regular, adapted, or special buses), and personnel who provide assistance to students in the course of transportation

m) Travel Training: Providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to:

   1) Develop an awareness of the environment in which they live; and

   2) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
Section 226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities

When an IEP Team determines that no less restrictive setting on the continuum of alternative placements will meet a child's needs, the child may be placed in a State-operated or nonpublic special education facility. In such a case, use of a State-operated program should be given first consideration. However, the district shall refer the child to the agency or facility which is most appropriate to the individual situation. This determination shall be based upon recent diagnostic assessments and other pertinent evidence and made in light of such other factors as proximity to the child's home. Evidence of a condition that presents a danger to the physical well-being of the student or to other students may be taken into consideration in identifying the appropriate placement for a particular child.

a) When it appears that a child will require a placement pursuant to this Section, the IEP Team shall invite representatives of potential service providers to assist in identifying or verifying the appropriate placement for that child. If one or more needed representatives cannot attend, the district shall use other methods to ensure their participation.

b) The local school district is responsible for ensuring implementation of the child's IEP and convening any needed IEP meetings, including the annual review. If the district allows a State-operated or nonpublic school to initiate and conduct the IEP meeting, the district must ensure that the parent and a representative of the district are invited to participate in any decision about the child's IEP and agree to any proposed changes in the program before the changes are implemented. The district remains responsible for the development and implementation of the child's IEP and for compliance with the requirements of this Part.

c) No school district shall place any child in a nonpublic special education program, nor shall any such program accept placement of any child with a disability under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02], unless all the following conditions have been met.

1) The program has been approved by the State Board of Education pursuant to the criteria set forth in 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code) for the school year for which placement is sought.
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2) The allowable costs for the program have been established pursuant to Section 14-7.02 of the School Code.

3) The district has made the certification of inability to meet the student's needs to the State Superintendent of Education, if required pursuant to Section 14-7.02 of the School Code, and the State Superintendent has found the district in substantial compliance with Section 14-4.01 of the School Code [105 ILCS 5/14-4.01].

4) The program has been approved by the State Board of Education for all of the disability categories applicable to the student and requiring services pursuant to the IEP.

5) The program has been approved by the State Board of Education for the age range that includes the age of the student.

6) The district has determined that all educational programming and related services specified on the child's IEP will be provided to the student by the facility. The use of a nonpublic facility in accordance with section 23 Ill. Adm. Code 401 does not relieve the local school district of the responsibility for ensuring that the student will receive the provision of all programming and related services required by the IEP, whether from one source or from multiple sources.

7) The school district and the facility have entered into the contractual agreement required by subsection (d) of this Section.

8) The child will receive an education that meets the standards applicable to education provided by the school district.

d) If a nonpublic school placement is chosen, the district and the facility shall enter into an agreement utilizing a format provided by the State Board of Education. The agreement shall provide for, but need not be limited to:

1) The child's IEP, as developed by the local school district;

2) The amount of tuition that will be charged;

3) Assurance that the special education staff of the placing school district may inspect the private facility and confer with the staff at reasonable
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4) Assurances that the placement will result in no cost to parents.

e) When a nonpublic facility is used, the school district shall be responsible for the
   payment of tuition and the provision of transportation as provided by Section 14-7.02 of the School Code. (See also Section 226.750(b)226.750(e) of this Part.)

f) Each local school district shall be responsible for monitoring the performance of
   each State-operated or nonpublic facility where it has placed one or more eligible
   students, to ensure that the implementation of each IEP conforms to the applicable
   requirements of this Part.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.340 Nonpublic Placements by Parents Where FAPE is at Issue

This Section shall apply to students with disabilities who have been, or are to be, placed in a non-
public facility by their parents following the parents' refusal to accept an offer of FAPE by a
school district. For such students, the reimbursement obligations and other requirements set
forth at 34 CFR 300.148 shall be applicable. If a determination is made by a hearing officer or
court of law that the school district is not obligated to provide special education or
reimbursement to such a student, the school district shall treat the student as a student defined by
Section 226.350 of this Part.

Except as provided in 34 CFR 300.403, a parent who elects to place a child in a nonpublic school
or facility without the consent or referral of the local school district is not entitled to have the
district pay for that placement if the district made or attempted to make FAPE available to the
child.

a) Disagreements between a parent and a school district regarding the district's
 provision of an appropriate program for a particular child shall be resolved by
 means of the due process afforded pursuant to Subpart G of this Part.

b) No child who is placed into a nonpublic facility by his or her parent(s) without the
 consent or referral of the local school district has an individual right to receive the
 special education and related services that the child would receive if enrolled in
 the district. Instead, a district's services to such children are subject to the
 provisions of Section 226.350 of this Part.
"Parentally-Placed Private School Students" shall be defined as set forth in 34 CFR 300.130. As noted in Section 226.110 of this Part, school districts shall conduct child find for parentally-placed private school students in conformance with the requirements of 34 CFR 300.131. Each school district shall also conform to the requirements of 34 CFR 300.132 through 300.144. In fulfilling the requirements of 34 CFR 300.134 (Consultation) and 300.135 (Affirmation), school districts that are members of the same special education joint agreement are permitted to conduct jointly their consultation with private school and parent representatives. However, even when multiple districts' funds are pooled by a joint agreement, the amounts that are required to be used for services to parentally-placed private school students must be spent in accordance with each member district's "proportionate share" obligation. School districts that are members of the same special education joint agreement shall be prohibited from aggregating proportionate share funds when determining services for parentally-placed private school students.

a) To the extent consistent with their number and locations in the State, provision must be made by school districts for services to children with disabilities who have been enrolled in private schools by their parents.

1) Each school district shall consult annually with representatives of private schools in light of the funding available for serving their students, the number of such students, their needs, and their respective locations to decide:

A) Which children will receive services;

B) What services will be provided;

C) How the services will be provided;

D) How the services provided will be evaluated; and

E) Where the services will be provided.

2) Each school district shall give representatives of private schools a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements of this subsection (a).
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3) The consultation required by this subsection (a) shall occur before the school district makes any decision that affects the opportunities of private school children with disabilities to participate in services.

4) The school district shall make the final decisions with respect to the services to be provided to eligible children who are enrolled in private schools.

5) The school district shall maintain a written record of actions taken in compliance with the requirements of this subsection (a).

b) The services provided by a school district to children with disabilities enrolled in private schools shall be comparable in quality to the services provided to eligible children enrolled in the district. "Comparable in quality" means provided by similarly qualified personnel.

1) Eligible students in private schools may receive a different amount of services than eligible children in public schools.

2) No individual child must receive a specific service or receive the same amount of service the child would receive in a public school.

3) For any child served pursuant to this Section, the school district shall develop a service plan that identifies the services that the district will provide to the child. The plan shall meet the requirements of Section 226.230 of this Part and shall be developed, reviewed, and revised consistent with Sections 226.200, 226.210, 226.220, and 226.530 of this Part.

c) Services may be provided on site at a child's private school, including a religiously affiliated school, to the extent consistent with the provisions of IDEA (20 USC 1413(d)).

d) Transportation to and from a site other than the private school shall be provided if necessary for a child to benefit from or participate in the services offered by the district at that site. This includes transportation from the service site to the private school or to the child's home, depending upon the timing of services.

e) When a student receives services from a school district pursuant to this Section, the procedural safeguards described in Subpart F of this Part shall be available...
only with respect to complaints that the district has failed to fulfill the requirements of this Section. The due process requirements of Subpart G of this Part shall not apply.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

SUBPART E: DISCIPLINE

Section 226.400 Disciplinary Actions

With respect to disciplinary action concerning children with disabilities, school districts shall conform to the requirements of 34 CFR 300.530 through 300.536, as well as Section 10-22.6 of the School Code [105 ILCS 5/10-22.6]. In addition, upon the occurrence of any act that may subject the student either to expulsion from school or suspension resulting in more than ten cumulative days of suspension during any one school year, the district shall be required to convene a meeting of the IEP Team to review the student's behavioral intervention plan or, if a behavioral intervention plan has not yet been developed, to develop one.

a) School personnel may order the removal of an eligible child from his or her current placement for periods of no more than ten consecutive school days each in response to separate incidents of misconduct, as long as such repeated removals do not constitute a pattern based on consideration of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. In such a case, these removals shall not be considered to constitute a change in placement.

1) After an eligible child has been removed from his or her placement for ten school days in the same school year, the district shall provide services to the child on any subsequent day(s) of removal.

2) School personnel, in consultation with the child's special education teacher, shall determine the extent of the services to be provided, which shall be adequate to enable the child to progress appropriately in the general curriculum and advance toward achieving the goals set forth in his or her IEP.

b) Any removal of a student (i.e., any "suspension") shall be reported immediately to the student's parents, along with a full statement of the reasons for the suspension, a copy of which shall also be given to the school board. The district shall provide the parents notice of their right to request that the district review the suspension.
decision, as required by Section 10-22.6 of the School Code [105 ILCS 5/10-22.6].

c) When a district first removes a child for more than ten school days in a school year or initiates a removal that will constitute a change in placement, the district shall, no later than ten business days after the date of such removal, either:

1) convene an IEP meeting to review and, if necessary, revise the child's existing behavioral intervention plan as appropriate to address the child's behavior; or

2) convene an IEP meeting to develop a plan for a functional behavioral assessment for the child and, as soon as possible thereafter, develop a behavioral intervention plan for the child in light of that assessment.

d) Upon any subsequent removal of a child that does not constitute a change in placement, the members of the IEP Team shall review the child's behavioral intervention plan and its implementation. If any one member of the team believes that the plan needs to be modified, the district shall convene an IEP meeting to review the plan and revise it as the team deems appropriate.

e) A student may be suspended from using the transportation provided by the school district if his or her behavior warrants such a measure. When suspending transportation privileges results in the student's absence from school on a given day, that day shall be considered a day of suspension or removal, and the requirements of Section 10-22.6 of the School Code shall apply.

f) School personnel may order a change in placement for an eligible child to an interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, up to a maximum of 45 days, if:

1) the child carries a weapon, as defined at 34 CFR 300.520, to school or to a school function under the jurisdiction of a state or a local school district; or

2) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, both as defined at 34 CFR 300.520, while at school or a school function under the jurisdiction of a state or a local school district.
g) No later than ten business days after making the decision to place the child in an alternative setting, the district shall convene an IEP meeting as delineated in subsection (c) of this Section.

h) The interim alternative educational setting in which a child is placed pursuant to subsection (f) of this Section shall be identified by the child's IEP Team.

1) The setting shall be selected so as to enable the child to continue to progress in the general curriculum.

2) While the child is served in the interim alternative educational setting, he or she shall continue to receive the services and modifications set forth in the IEP.

3) The placement shall include services and modifications designed to address the behavior that resulted in the child's being removed from his or her current educational placement and to prevent that behavior from recurring.

i) Interim alternative educational settings for students who exhibit behavior that is likely to result in injury to themselves or others are subject to the provisions of Section 226.655 of this Part.

j) No eligible child shall be expelled for behavior or a condition which is, or results from, the child's disability. If a district is considering expelling an eligible student, the district shall:

1) Conduct a manifestation determination review as described in Section 226.410 of this Part;

2) Adhere to the requirement of Section 10-22.6(a) of the School Code regarding meeting with the parent(s); and

3) Maintain the child in an appropriate placement.

k) An expulsion constitutes a change in placement and requires revision of the child's IEP in a manner that conforms to the applicable requirements of Subpart C of this Part. Cessation of services to an eligible child is prohibited during a period of expulsion.
Section 226.410 Manifestation Determination Review *(Repealed)*

The requirements of this Section shall apply whenever a disciplinary action is contemplated with respect to an eligible child that will constitute a change in placement and that action is being considered because of behavior that violates any rule or code of conduct of the school district that applies to all students.

a) On the date when the district determines that disciplinary action will be taken, the district shall notify the parents in writing to that effect and shall notify them of the procedural safeguards that apply.

b) As soon as possible, but in no event more than ten school days after the date on which the district determines that disciplinary action will be taken, the district shall conduct a review of the relationship between the child's disability and the behavior that is subject to the disciplinary action (a "manifestation determination review").

c) The manifestation determination review shall be conducted by the IEP Team.

d) The IEP Team shall determine whether the child's behavior was a manifestation of his or her disability. In making its determination, the IEP Team shall consider all available relevant information, including:

   1) evaluation and diagnostic results, including information supplied by the child's parent(s);

   2) observations of the child; and

   3) the child's current IEP and placement.

e) The team may determine that the subject behavior was not a manifestation of the child's disability only if it is determined that:

   1) the child's IEP and placement were appropriate, and special education services, supplementary aids and services, and behavioral intervention strategies were provided consistent with that IEP and that placement.
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2) The child's disability did not impair his or her ability to understand the impact and consequences of the behavior.

3) The child's disability did not impair his or her ability to control the behavior.

f) If the child's behavior is determined to have been a manifestation of his or her disability, the district shall immediately initiate steps to remedy any deficiencies identified in the IEP or its implementation, so that such deficiencies may be removed as soon as possible.

g) If the child's behavior is determined not to have been a manifestation of the disability, the district may apply relevant disciplinary procedures in the same manner as it would with respect to children without disabilities. In such a case, the district shall ensure that the student's special education and disciplinary records are provided for consideration by the person(s) making the final determination regarding the disciplinary action to be taken.

h) When the application of a disciplinary measure results in a change in placement, services shall be provided to the extent determined necessary by the IEP Team to enable the student to progress in the general curriculum and advance appropriately toward achieving the goals set forth in his or her IEP.

(Source: Repealed at 30 Ill. Reg. _____, effective ________)

Section 226.420 Appeals (Repealed)

a) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the disability or with any disciplinary decision regarding placement, the parent may request an expedited due process hearing in accordance with Subpart G of this Part.

b) The local school district, upon receiving the parent's request for a due process hearing, shall immediately initiate the procedure set forth in Section 226.615 of this Part to request an expedited due process hearing.

c) If a parent requests a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day period, whichever occurs first, unless
the parent and the district agree otherwise. The same shall apply if a parent appeals the decision of a hearing officer in this regard.

d) If a child's IEP Team proposes a new placement to take effect upon the expiration of an interim placement, and if the child's parent wishes to challenge that new placement, the child shall return to the placement previously set forth in his or her IEP (i.e., prior to placement in the interim alternative educational setting) during the pendency of any due process hearing, except as provided in subsection (e) of this Section. (For purposes of this subsection (d), "new placement" may mean placement in the same alternative educational setting that was used as an interim alternative.)

e) If school personnel consider that it is too dangerous for the child to be returned to the current placement, the district may request an expedited due process hearing to extend the length of time the student may remain in the interim alternative educational setting. (See Section 226.655 of this Part.)

(Source: Repealed at 30 Ill. Reg. ______, effective ____________)

Section 226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)

a) A child who has not been determined eligible under this Part and who has engaged in behavior that violated any rule or code of conduct of the local school district may assert any of the protections provided for in this Part if the school district had knowledge that the child might be an eligible child before the occurrence of the behavior that precipitated disciplinary action.

b) A district shall be deemed to have knowledge that a child may be an eligible child if, prior to the incident:

1) The parent of the child has expressed concern in writing (or orally, if the parent is illiterate in English or has a disability that prevents a written statement) to personnel of the school district that the child is in need of special education and related services;

2) The behavior or performance of the child demonstrates the need, or a potential need, for such services;

3) The parent of the child has requested an evaluation of the child; or
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4) The child’s teacher or another school employee has expressed concern in writing about the behavior or performance of the child to the director of special education or to other district personnel, in accordance with the district’s child find or referral procedures.

c) A district shall not be deemed to have knowledge that a child may be an eligible child if:

1) the district determined that no evaluation was necessary or conducted an evaluation and determined that the child was not eligible; and

2) provided written notice to the child’s parents of its determination.

d) If a district does not have knowledge that a child is or may be an eligible child prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as those applied to children without disabilities engaging in comparable behavior.

1) When a request is made for an evaluation of a child during the time period when the child is subjected to disciplinary measures, the district shall conduct an evaluation in an expedited manner.

2) The child shall remain in the educational placement determined by school authorities, which may include suspension or expulsion without educational services, until the evaluation is completed.

3) The district shall provide special education and related services after developing an IEP if the child is determined to be eligible for special education and related services.

(Source: Repealed at 30 Ill. Reg. ______, effective ____________)

Section 226.440 Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)

a) Nothing in this Part prohibits a local school district from reporting a crime committed by a child with a disability to appropriate authorities; or prevents state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.
b) A local school district reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the authorities to whom it reports the crime, to the extent permitted by the Illinois School Student Records Act [105 ILCS 10], the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110], and the Family Educational Rights and Privacy Act (20 USC 1232(g)).

(Source: Repealed at 30 Ill. Reg. ______, effective ____________)

SUBPART F: PROCEDURAL SAFEGUARDS

Section 226.500 Language of Notifications

a) The notices to individual parents required in this Subpart F shall conform to the requirements of 34 CFR 300.503(c) be:

1) Written in language understandable to the general public; and

2) Provided in such a way as to accommodate the primary language or other mode of communication of the respective parent, unless it is clearly not feasible to do so.

b) If the primary language or other mode of communication of the parent is not a written language, the local school district shall ensure that:

1) The notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

2) The parent understands the content of the notice; and

3) There is written evidence in the child's record that the requirements of this subsection (b) have been met.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.510 Notification of Parents' Rights

A copy of the notice of procedural safeguards available to the parents of a child with a disability
shall be given to the parents in accordance with, and shall conform to the requirements of, 34 CFR 300.504.

a) A written notification conforming to the requirements of subsection (b) of this Section shall be given to parents on at least the following occasions:

1) Upon a child's initial referral for evaluation;

2) Along with each notification of an IEP meeting;

3) Along with each request for consent for the reevaluation of a child; and

4) Upon receipt of a request for due process pursuant to this Part.

b) The notification required by this Section shall include a full explanation of all of the rights available to parents concerning:

1) Independent educational evaluation;

2) Prior written notice;

3) Parental consent;

4) Inspection and review of all educational records having to do with:

A) The identification, evaluation, and educational placement of the child; and

B) The provision of FAPE to the child;

5) The opportunity to file a written complaint with the Illinois State Board of Education as described in Section 226.570 of this Part;

6) Procedures for students who are subject to placement in an interim alternative educational setting;

7) Requirements for parents' unilateral placement of children in private schools at public expense;

8) Mediation services;
9) Due process hearings, including requirements for disclosure of evaluation results and recommendations;

10) A child's placement during the pendency of due process proceedings;

11) Civil actions; and

12) Attorneys' fees.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.520 Notification of District's Proposal

The written notice a school district is required to provide to a parent prior to a proposal or refusal Ten days before a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of, or the provision of FAPE to, a child shall conform to the requirements of 34 CFR 300.503. "Reasonable time", for purposes of 34 CFR 300.503(a), is defined as ten days, the district shall provide written notice to the parent to that effect.

a) If the notice relates to an action proposed by the school district that also requires parental consent, the district may give notice at the same time as it requests consent.

b) The notice required by this Section shall include:

1) A description of the action proposed or refused by the district;

2) An explanation of why the district proposes or refuses to take the action;

3) A description of any other options that the district considered and the reasons why those options were rejected;

4) A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;

5) A description of any other factors that are relevant to the district's proposal or refusal;

6) A statement that the parents of an eligible child are protected by the
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procedural safeguards of this Part, and an indication of the means by which a description of those procedural safeguards may be obtained;

7) Sources for parents to contact to obtain assistance in understanding the provisions of this Part; and

8) If a meeting will be held, the information required by Section 226.530(b)(1) of this Part.

e) A parent may waive the ten-day notice period before placement, allowing the district to place the child in the recommended program as soon as practicable.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.530 Parents' Participation

With respect to parents' participation in meetings, school districts shall conform to the requirements of 34 CFR 300.322 and 300.501. For purposes of 34 CFR 300.322(a)(1), "notifying parents of the meeting early enough to ensure that they will have an opportunity to attend" shall mean notification no later than ten days prior to the proposed date of the meeting. In addition, the:

a)Nothing in this Part precludes routine communication and consultation from occurring among school employees without parents in attendance, including preparatory activities that school personnel engage in to develop a proposal or a response to a parent's proposal that will be discussed at an IEP meeting. b) Whenever a meeting is to be held which a parent has a right to attend, the requirements of this subsection (b) shall apply. 1) No later than ten days prior to the proposed date of the meeting, except for a meeting convened pursuant to Section 226.400(g) of this Part, the district shall notify the parents in writing of the purpose of the meeting, the proposed date, time, and place for the meeting, who else will be in attendance, and the parent's right to invite other individuals with knowledge or special expertise regarding the child. If a parent indicates that the proposed date or time is inconvenient, the district shall make reasonable efforts to accommodate the parent's schedule. 2) If neither parent can attend, the district shall use other methods to attempt to secure at least one parent's participation, including rescheduling the meeting, individual or conference telephone calls, or use of such other means of communication as may be available. 3) A meeting may be conducted without a parent in attendance if the district is unable to obtain the parent's participation. In this case, the district shall maintain a record of its attempts to arrange a mutually agreed on time and place, such as: A) Detailed records of telephone calls made or attempted and the results of those calls; B) Copies of correspondence sent to the parents and any responses received; and C) Detailed records of visits made to the parent's home or place of employment and the results of those visits. 4) The district shall take whatever action is necessary to facilitate the parent's understanding of and
participation in the proceedings at a meeting, including arranging for and covering the expense of an interpreter for parents who are deaf or whose native language is other than English. Any document generated during the meeting, including a copy of the IEP, shall be provided to the parent upon request, unless an applicable federal or State statute or federal regulation requires its automatic provision without a request.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 226.540 Consent

Consent, as defined in 34 CFR 300.9, shall be obtained and may be revoked in accordance with the requirements of 34 CFR 300.154(e), 300.300, 300.323, and 300.622. In addition, the following requirements shall apply:

a) A parent shall be considered to have given consent only when:

1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language or other mode of communication;

2) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

3) The parent understands that his or her granting of consent is voluntary and may be revoked at any time.

b) A school district may not require parental consent as a condition of any benefit to the parent or the child except for the service or activity for which consent is required.

c) Parental consent shall be obtained before conducting an initial evaluation of a child. Consent for initial evaluation shall not be construed as consent for initial placement.

d) Parental consent shall be obtained before conducting any reevaluation of a child. If a parent fails or refuses to provide consent for a required triennial reevaluation within ten days after the district requests it, the district shall request a due process hearing.
e) Parental consent shall be obtained prior to the initial provision of special education and related services.

f) Parental consent shall be obtained prior to the use of the parent's private insurance to pay for services required by a child's IEP.

g) Parental consent shall be obtained for the disclosure of personally identifiable information about a child, consistent with the requirements of the Student Records Act.

h) Parental consent shall be obtained for the use of an IFSP instead of an IEP.

ai) A parent may revoke consent for any action by the district or cooperative entity serving his or her child that requires parental consent. If a parent desires to revoke consent, he or she may do so either in writing or orally. If the revocation of consent is communicated orally, the district or cooperative entity shall commit the parent's request to writing and provide a copy of this written summary to the parent within five days.

bj) Any revocation of consent is effective immediately, subject to the provisions of subsection (c)(k) of this Section, but is not retroactive, i.e., it does not negate an action that occurred after the consent was given and before it was revoked. For purposes of this subsection (bj), a district shall be considered to have given immediate effect to a parent's revocation of consent when it either discontinues the action that is the subject of the revocation prior to its next scheduled occurrence or provides to the parent a written explanation of the timeline for the district's action and the reasons for that timeline. The district or cooperative entity shall ensure that each staff member whose activities are affected by the revocation of consent is promptly informed of the revocation.

c) If a district disagrees with a parent's revocation of consent, the district may request a due process hearing pursuant to Subpart G Section 226.605 of this Part.

1) If the parent's revocation of consent pertains to an evaluation or re-evaluation of the student, the district shall not proceed with the evaluation or re-evaluation during the pendency of due process.

2) If the parent's revocation of consent pertains to a special education placement for the student that is already in effect, the district's request for
a due process hearing shall have the effect of staying that placement, provided that the district submits the request in writing to the State Board of Education in keeping with the provisions of Section 226.615 of this Part and within three business days after the parent's revocation occurred.  

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.550 Surrogate Parents

The qualifications, responsibilities, and appointment procedures for surrogate parents shall conform to the requirements of 34 CFR 300.519 and Section 14-8.02a of the School Code [105 ILCS 5/14-8.02a]. In addition, the following requirements shall apply:

a) Whenever the parent or guardian of a child who is or may be eligible for services pursuant to this Part is not known or unavailable, or when the child is a ward of the State living in a residential facility, a person shall be assigned to act as a surrogate parent for the child in matters relating to the identification, evaluation, and educational placement of the child and the provision of a free, appropriate public education to the child.

1) A foster parent is considered a parent for the purposes of this Section, so a child residing with a foster parent does not require a surrogate parent to represent him or her in educational matters.

2) When a child who is a ward of the State is placed in a residential facility, a representative of that facility shall submit to the State Board of Education a request for the appointment of a surrogate parent if the district has not already done so.

b) The State Board of Education shall appoint a surrogate parent for each child who requires one, in keeping with the criteria set forth in 34 CFR 300.519(d) and the following requirements.

1) All reasonable efforts shall be made to secure a surrogate parent whose racial, linguistic, and cultural background is similar to the child's.

2) The surrogate parent shall have been trained by the State Board.

3) The surrogate parent shall have no interest that conflicts with the interests of the child he or she will represent.
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4) The surrogate parent shall have the knowledge and skills needed to ensure adequate representation of the child.

5) An individual may not be appointed as a surrogate parent for a child if he or she is:
   A) employed by the State Board of Education;
   B) employed by the school district in which the child is enrolled; or
   C) employed by any other agency involved in the child's education.

c) When a surrogate parent is appointed, the State Board of Education shall provide written notification to the local school district, the individual appointed, and, if applicable, the residential facility of the name and address of the surrogate parent, the specific responsibilities to be fulfilled, and the length of time for which the appointment is valid.

d) Any person participating in good faith as a surrogate parent on behalf of a child before school officials or a hearing officer shall have immunity from civil or criminal liability that otherwise might result by reason of such participation, except in cases of willful and wanton misconduct.

e) The services of any person assigned as a surrogate parent shall be terminated if the child's parent or guardian becomes available.

f) When a child living in a residential facility no longer requires a surrogate parent, a representative of the facility shall notify the State Board of Education in writing to that effect. This notification shall include the reason for withdrawal of the request.

eg) When a surrogate parent's appointment is terminated, the State Board of Education shall so notify the surrogate parent, the local school district, and, if applicable, the residential facility.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.560 Mediation
The procedures for mediation shall conform to the requirements of 34 CFR 300.506. Each school district shall inform parents that the State Board of Education offers a process of mediation that can be used when there are disputes regarding the identification, evaluation, or placement of, or the provision of FAPE to, a child. This notification shall be provided at least whenever a due process hearing is requested.

a) Each district shall ensure that, when used, the mediation process:
   1) Is voluntarily entered into by all parties; and
   2) Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under this Part.

b) If either party is interested in participating in mediation, that party shall contact the State Board of Education.

c) Each session in the mediation process shall be scheduled in a timely manner and held in a location that is convenient to the parties involved in the dispute.

d) Discussions that occur during mediation shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to mediation may be required to sign a confidentiality pledge prior to the commencement of the process.

e) Any agreement reached in the course of mediation shall be set forth in writing and shall be consistent with applicable federal and State laws and regulations.

f) The State Board of Education shall maintain a list of individuals who are qualified mediators and knowledgeable about the laws and regulations relating to the provision of special education and related services.

g) Mediators shall be selected by the State Board from its list by rotation.

h) The State Board of Education shall bear the cost of sending a mediator to sessions held pursuant to this Section and other, incidental costs.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.570 Complaints
This Section sets forth the State Board of Education's written complaint procedures, as required by 34 CFR 300.151.

a) A parent, individual, organization, or advocate may file a signed, written complaint with the State Board of Education alleging that a local school district, cooperative service unit or the State has violated the rights of one or more children with disabilities. Such a complaint shall include:

1) A statement that a responsible public entity has violated a requirement of Part B of the IDEA, 34 CFR, Article 14 of the School Code, or this Part;

2) The facts on which the statement is based; and

3) The signature and contact information for the complainant;

4) The names and addresses of the student(s) involved (and the names of the schools of attendance), if known;

5) A description of the nature of the problem of the child, including the facts relating to the problem; and

6) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

b) A complaint shall only be considered if it alleges that the violation occurred not more than one year prior to the date on which the complaint is received, unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date on which the complaint is received.

c) Within 60 days after a valid complaint is filed, the State Board of Education shall:

1) Carry out an independent on-site investigation, if deemed necessary by the State Board of Education.

2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

3) Provide the public entity with the opportunity to:
A) offer a proposal to resolve the complaint; and
B) offer to engage the parent in mediation or alternative means of dispute resolution.

4) Review all relevant information and make an independent determination as to whether the public entity is violating a requirement of Part B of the IDEA, 34 CFR, Article 14 of the School Code, or this Part.

5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains:
   
   A) findings of fact and conclusions;
   B) the reasons for the State Board of Education’s final decision;
   C) orders for any actions, including without limitation technical assistance activities and negotiation, that are necessary to bring the public entity into compliance with applicable requirements.

Each complaint that complies with the requirements of subsections (a) and (b) of this Section shall be investigated within 60 days after its receipt by the State Board of Education. An extension of that time limit is allowed if exceptional circumstances exist with respect to a particular complaint.

d) An extension of the time limit set forth in subsection (c) of this Section shall be allowed if exceptional circumstances exist with respect to a particular complaint or if the parent and the public entity agree to extend the time to conduct the activities pursuant to subsection (c)(3)(B) of this Section. Upon completion of the State Board's investigation, the agency shall issue a letter of findings that sets forth:

1) the allegations of the complaint;
2) findings of fact and conclusions;
3) the reasons for the decision; and
4) orders for any actions that are necessary to bring a school district into compliance with applicable requirements.
e) If a written complaint is received by the State Board of Education involving one or more issues that are also the subject of a due process hearing, the State Board shall hold those portions of the complaint in abeyance pending the completion of the hearing. However, any issues that are not the subject of the hearing shall be resolved as provided in this Section.

f) If a complaint is filed about an issue that has previously been decided in a due process hearing involving the same parties, the decision arising from that hearing shall be considered binding, and the State Board shall inform the complainant to that effect. A complaint alleging a public entity's local school district's failure to implement a decision arising from due process, however, shall be resolved by the State Board pursuant to Section 226.675 of this Part.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

SUBPART G: DUE PROCESS

Section 226.600 Calculation of Timelines

In calculating the timelines specified in this Subpart G, Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11] shall apply. The first day shall be excluded and the last day shall be included, unless the last day is Saturday, Sunday, or a holiday as defined or fixed in any statute now or hereafter in force in this State, in which case it shall be excluded. If the day succeeding such Saturday, Sunday, or holiday is also a holiday or Saturday or Sunday, then such succeeding day shall also be excluded.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 226.605 Request for Hearing; Basis (Repealed)

A parent, a school district, or a student may request an impartial due process hearing for any reason connected to the identification, evaluation, or placement of, or the provision of services to, a student who is or may be eligible pursuant to this Part. No other party shall have standing to submit such a request. The school district or public agency must insure that all requests or notices pursuant to due process are maintained in a confidential manner consistent with the Illinois School Student Records Act and the rules of the State Board of Education at 23 Ill. Adm. Code 375.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)
Section 226.610 Information to Parents Concerning Right to Hearing

a) Each school district shall notify parents in writing of the procedures for requesting a due process hearing in accordance with 34 CFR 300.507 and 300.508. This written notice shall be provided to the parent by the district upon receipt of a request for a due process hearing. Written notice provided to parents as required under Section 226.510 of this Part shall be deemed sufficient notice for purposes of this Section inform parents in writing of their right to a hearing and of the procedures for requesting one. The district shall notify the parent of the information the parent must provide when requesting a hearing, in one of the following ways:

1) The district may provide the parent with a model form designed by the State Board of Education in accordance with 34 CFR 300.507(c)(1)(v)(3); or

2) The district may inform the parent that the request for a hearing must include the following information:

   A) the name of the child;

   B) the address of the child's residence;

   C) the name of the school the child is attending;

   D) a description of the nature of the problem relating to the proposed or refused initiation or change, including facts relating to the problem;

   E) a proposed resolution of the problem, to the extent known and available to the parents at the time; and

   F) if known, whether the parents will be represented by legal counsel.

b) The director of special education shall assist parents in taking whatever action is necessary to use the hearing process.

e) The district shall inform the parents of the availability of mediation and of any free or low-cost legal services and other publicly funded advocacy services available in the area if the parent requests the information, or if the parent or the
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The local education agency may develop procedures that require the parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with a parent training and information center or community parent resource center in the State that is funded through a federal grant under IDEA.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.615 Procedure for Request

The filing, basis for, and content of due process requests, whether by a parent, a student, or a local school district, shall conform to the requirements of 34 CFR 300.507 and 300.508. Pursuant to Section 226.605 of this Part, the local school district, the parent of any student resident within the district, or the student may request an impartial due process hearing. A parent’s or student’s request for a hearing shall be made in writing to the superintendent of the school district in which the student is a resident. The district shall provide any assistance that may be necessary to enable a person requesting a due process hearing to meet any related requirements. (See Section 226.655 of this Part for requirements pertaining to expedited due process hearings.) In addition, in fulfilling the requirement to "forward a copy of the due process complaint to the SEA" as required by 34 CFR 300.508(a)(2), the party filing a due process complaint must deliver the complaint to the State Board of Education in Springfield by certified mail or another means that provides written evidence of the delivery.

a) If the district makes the request, it shall be sent in writing to the State Board of Education in Springfield, and at the same time a copy shall be sent to the other party. This letter shall include the information set forth in subsections (b)(1)(A), (C) and (D) of this Section.

b) When a district receives a request for a hearing from a parent or from a student, then within five days after its receipt of the request the district shall:

1) Send a letter to the State Board of Education in Springfield requesting the appointment of an impartial due process hearing officer. This letter shall be delivered by certified mail or another means that provides written evidence of the delivery and shall include:
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A) the name, address, and telephone number of the student and the parent, and of the person making the request for the hearing if other than the student or the parent;

B) the date on which the request for the hearing was received by the local school district;

C) the nature of the controversy to be resolved;

D) the remedy being sought;

E) the primary language spoken by the parents and student; and

F) a copy of the request.

2) Send to the person requesting the hearing, by certified mail or another means providing written evidence of delivery, a copy of the letter sent to the State Superintendent.

A) If the hearing has been requested by the district or the student, the district shall inform the parents by certified mail of the request and invite them to participate in the proceedings.

B) All references to parents made in the remainder of this Subpart G shall be understood to include both the parents and the person requesting the hearing.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.620 Denial of Hearing Request (Repealed)

A request for an impartial due process hearing that conforms with Section 226.605 of this Part may not be denied for any reason.

(Source: Repealed at 30 Ill. Reg. _____, effective ____________)

Section 226.625 Rights of the Parties Related to Hearings
The hearing rights of parties shall conform to the requirements of 34 CFR 300.512 and Section 14-8.02a of the School Code [105 ILCS 5/14-8.02a]. In addition, the following requirements shall apply.

a) The parties have the right to be represented at their own expense by counsel, or to be represented and assisted by other persons having special knowledge of this Part. b) The parents may inspect and review all school records pertaining to their child and, subject to the provisions of 23 Ill. Adm. Code 375.50 (Student Records), may obtain copies of any such records at their own expense. c) The parents shall have access to the district's list of independent evaluators, and may obtain an independent evaluation of their child at their own expense.

1) If the parents believe that acquisition of a completed independent evaluation will require a delay in convening the hearing, the parents shall request such a delay as provided in Section 226.640(c) of this Part.

2) The parents may ask the hearing officer to determine whether an independent evaluation is needed. If the hearing officer concludes, after reviewing the available information, that an independent evaluation is necessary to inform the hearing officer concerning the services to which the student may be entitled, it shall be so ordered and provided at the school district's expense. The hearing officer shall delay the hearing as provided for in Section 226.640(b) of this Part.

3) This subsection (a)(c) shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.

d) Either party to a hearing, other than an expedited hearing conducted pursuant to Section 226.655 of this Part, has the right to the disclosure, at least five days prior to the hearing, of any evidence to be introduced. At least five days prior to the hearing, each party shall disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. Either party may prohibit the introduction of evidence which was not disclosed to that party at least five days prior to the hearing. The hearing officer may reschedule the hearing to permit full disclosure. Disclosure of evidence with respect to an expedited hearing shall conform to the requirements of Section 14-8.02b of the School Code [105 ILCS 5/14-8.02b].

e) Either party may compel the attendance of any school district employee at the hearing, or any other person who may have information relevant to the needs, the
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abilities, the proposed program, or the status of the student. At the request of
either party, the hearing officer shall authorize the issuance of subpoenas to
compel the testimony of witnesses or the production of documents relevant to the
case at issue. If any person refuses to comply with a subpoena issued under this
Section, court action may be sought as provided in Section 14-8.02a(g) of the
School Code [105 ILCS 5/14-8.02a(g)].

f) Pursuant to 34 CFR 300.509(c)(1)(i), the parent has the right to have the child
who is the subject of the hearing present at the hearing.

g) Either party, or any other person participating in the hearing, may request that an
interpreter be available during the hearing because one of the participants is
hearing impaired and/or uses a primary language other than English. Interpreters
shall be provided at the school district's expense.

h) The student's educational placement shall not be changed pending completion of
the hearing except as provided in Section 14-8.02a(j) of the School Code.

i) The hearing officer shall conduct the hearing in a fair, impartial, and orderly
manner. The hearing officer shall afford each party an opportunity to present the
evidence, testimony, and arguments each party believes necessary to support
and/or clarify the issues in dispute and the relief the party is requesting. The
hearing officer shall regulate the course of the hearing and the conduct of the
parties and their counsel.

j) The hearing shall be closed to the public unless the parents of the child
specifically request that it be open. The hearing officer shall advise the parents of
their right to have the hearing open to the public. If the parents make such a
request, the hearing shall be open. (References to parents in this subsection (j)
apply to the student if Section 226.690 of this Part applies.)

k) The parties shall have the right to confront and cross-examine witnesses.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.630 Qualifications, Training, and Service of Impartial Due Process Hearing
Officers

a) Impartial due process hearing officers must possess qualifications in conformance
with the requirements of 34 CFR 300.511 and Section 14-8.02a(c) of the School
Code [105 ILCS 5/14-8.02(a)]. In order to be considered for training as an impartial due process hearing officer, an individual either must hold a master’s degree or a juris doctor degree or must hold a bachelor’s degree in combination with relevant experience. 1) For purposes of this Subpart G, ”Relevant experience”, as used in Section 14-8.02(a) of the School Code, means at least three years’ experience, whether paid or voluntary, in special education, disability-related issues, or advocacy.

2) Employees of the State Board of Education, school districts, special education cooperatives, regional service areas or centers, regional educational cooperatives, State Operated Elementary and Secondary Schools, or private providers of special education facilities or programs may not serve as impartial due process hearing officers. [105 ILCS 5/14-8.02(a)(e)]

3) Except as provided in Section 14-8.02(a)(f) of the School Code, former employees of, and current or former contractors to, the State Board of Education, school districts, special education cooperatives, regional service areas or centers, regional educational cooperatives, state operated elementary and secondary schools, or private providers of special education facilities or programs shall not be disqualified as potential hearing officers by virtue of such employment or service.

b) An individual wishing to be considered as an impartial due process hearing officer shall submit an application to the State Board. In completing the application form, which shall be provided by the State Board, the individual shall disclose at least the following information:

1) name and address;

2) degree(s) held;

3) current employment status, including, if applicable, the employer's name and the title of the employee's position;

4) school district of residence; and

5) professional background and relevant experience.
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c) Persons who have complied with the requirements of subsections (a) and (b) of this Section shall, if recommended by the Screening Committee pursuant to Section 14-8.02a(b) of the School Code, then be invited to complete a training course conducted as provided in Section 14-8.02a(d) of the School Code. Failure to complete this training course successfully shall result in ineligibility to serve as a hearing officer.

d) Based on the recommendations of the training entity, interviews, and supporting information, the due process screening committee, applying the objective criteria developed by the Advisory Council on Education of Children with Disabilities, shall recommend to the Advisory Council those candidates to be appointed as impartial due process hearing officers. The number of candidates recommended shall equal 150% of the number deemed necessary by the State Board of Education.

e) Each hearing officer shall at least annually attend a review session and/or training course pursuant to Section 14-8.02a(d) of the School Code. Failure to attend a required review session or training course shall result in the hearing officer's termination.

f) Conditions of Service

Hearing officers' terms of service and subsequent reappointment shall be as provided in Section 14-8.02a(d) and (e) of the School Code.

1) A hearing officer shall accept each case to which he or she is assigned, unless:

   A) the hearing officer is ill;

   B) the hearing officer has a personal, professional, or financial interest that would conflict with his or her objectivity with respect to a particular case; or

   C) the hearing officer is ineligible to accept a particular case pursuant to Section 226.635(a) of this Part.

2) A hearing officer whose other commitments will interfere with his or her ability to accept cases for more than 15 days shall so notify the State Board of Education in writing.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers
The appointment, recusal, and substitution of due process hearing officers shall conform with the requirements of Section 14-8.02a(f) of the School Code [105 ILCS 5/14-8.02a(f)].

a) Upon receipt of a request for a hearing the State Board shall, within five days (one day for an expedited hearing) and using the rotation system called for in Section 14-8.02a(f) of the School Code, appoint an impartial due process hearing officer and notify that individual and the parties of his or her appointment. Prior to making any appointment, the State Board shall review the background of the prospective appointee in order to establish that:

1) the individual has never been employed by or administratively connected with the school district or special education cooperative involved in the case;

2) the individual is not a resident of the district involved; and

3) the prospective appointee has no apparent personal, professional, or financial interest that would interfere with his or her objectivity regarding the matter at issue.

b) An appointee who does not meet the requirements set forth in subsection (a) of this Section shall recuse himself or herself within five days after receiving notification of the appointment, except that an appointee in an expedited hearing shall recuse himself or herself immediately if recusal is necessary. Notification to the State Board of such recusal may occur by telephone, provided that a written statement is also supplied.

c) A PARTY TO A DUE PROCESS HEARING conducted under Section 14-8.02a of the School Code SHALL BE PERMITTED ONE SUBSTITUTION OF A HEARING OFFICER AS A MATTER OF RIGHT [105 ILCS 5/14-8.02a(f)]. A request for a substitute hearing officer shall be made in writing to the State Board of Education within five days after the verified date of delivery of the notification at the last known address. In the event that both parties submit written requests on the same day and both should be received simultaneously, the State Board of Education shall deem the substitution to have been at the request of the party initially requesting the hearing. The right of the other party to a substitution will thereby be absolutely protected.

d) Section 14-8.02a(f) of the School Code contemplates two situations requiring the appointment of a hearing officer other than the individual who originally receives
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the case under the rotation system and specifies different methods of selecting a replacement.

1) When the appointed hearing officer is unavailable or recuses himself or herself before the parties are notified of his or her appointment, the State Board shall appoint the next scheduled hearing officer under the rotation system.

2) When a hearing officer recuses himself or herself after learning the circumstances of a case, or when a party to the hearing submits a proper request for substitution, the State Board shall select and appoint another hearing officer at random.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.640 Scheduling the Hearing and Pre-Hearing Conference

The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.

a) The hearing officer shall schedule a pre-hearing conference in accordance with the requirements of Section 14-8.02a(g) of the School Code. Within five days after receiving written notification by the State Board, the appointed hearing officer shall contact the parties to determine a time and place reasonably convenient to the parties and otherwise in accordance with Section 14-8.02a(g) of the School Code for convening the hearing and pre-hearing conference.

b) The hearing officer shall provide the parties at least ten days' written notice of the dates, times, and locations of the pre-hearing conference and the hearing. Either party may request a delay in convening the hearing and/or the pre-hearing conference. The party requesting a delay shall do so in writing to the hearing officer, with a copy sent at the same time to the other party. The requesting party shall set forth the reasons for the request. The hearing officer shall either grant or deny the request and shall so inform the parties and the State Board of Education in writing. The hearing officer shall determine a new time and date for convening the hearing and/or pre-hearing conference.

1) If the parties jointly propose a delay in convening the hearing or pre-hearing conference, it shall be delayed as agreed. The hearing officer, being advised of such agreement, shall confirm the delay in writing to the
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parties and the State Board of Education. Such notice shall become part of the administrative record.

2) If the parties cannot agree to a mutually convenient time and place for convening the hearing and/or pre-hearing conference, the hearing officer shall fix the time and place, notify the parties in writing, and proceed to convene and conduct the pre-hearing conference and hearing, provided that the delay shall not continue for a period longer than necessitated by the circumstances that precipitated the delay.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.645 Conducting the Pre-Hearing Conference

a) The hearing officer shall convene the pre-hearing conference in accordance with Section 14-8.02a(g) of the School Code.

b) Any party to the pre-hearing conference shall be permitted to participate by teleconference (Section 14-8.02a(g) of the School Code). It shall be the responsibility of the parties to ensure that any information required at the pre-hearing conference is received by the hearing officer and the other party at or prior to the conference. c) At the conclusion of the pre-hearing conference, the hearing officer shall prepare a report of the conference that shall be entered into the hearing record. The report shall include, but need not be limited to: 1) the issues, the order of presentation, and any scheduling accommodations that have been made for the parties or witnesses; 2) a determination of the relevance and materiality of documents or witnesses, if raised by a party or the hearing officer; and 3) such stipulations of fact as have been agreed to during the pre-hearing conference. d) The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.650 Child's Status During Due Process Hearing (Repealed)

a) Except as provided in Section 226.655 of this Part, during the pendency of any administrative or judicial proceeding regarding a due process hearing decision, the child shall remain in his or her current educational placement unless the State or local agency and the parents of the child agree otherwise.
If the due process hearing involves an application for initial admission to the public school, the child, with the consent of the parents, shall be placed in the public school until the completion of all the proceedings.

If the decision of a hearing officer agrees with the child’s parents that a change of placement is appropriate, that placement shall be treated as an agreement between the State or local agency and the parents for purposes of subsection (a) of this Section.

(Source: Repealed at 30 Ill. Reg. _____, effective _____________)

Section 226.655 Expedited Due Process Hearing

Requests for expedited due process hearings shall be made in accordance with 34 CFR 300.532 and 300.533 and Section 14-8.02b of the School Code [105 ILCS 5/14-8.02b].

1) The State Board of Education shall arrange for an expedited hearing when: 1) The local school district requests such a hearing because school personnel maintain that it is dangerous for the child to be in the current placement. 2) The parent requests such a hearing because the parent disagrees with the district's placement decision when a child is moved to an interim alternative educational setting for a weapon or drug violation. 3) The parent requests such a hearing because the parent disagrees with the district's determination that a child's behavior was not a manifestation of the child's disability. b) During the pendency of an expedited hearing, the child's placement shall be the interim alternative educational setting that was determined appropriate by the IEP Team. e) The hearing officer shall determine:

1) whether the child shall be placed in the proposed alternative educational setting; or

2) whether the local school district has demonstrated that the child's behavior was not a manifestation of the child's disability (see Section 226.410 of this Part).

b) The hearing officer shall consider the following factors in determining whether an interim alternative placement is appropriate:

1) Whether the local school district has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current
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placement of the child is substantially likely to result in injury to the child or to others;

2) Whether the child's current placement is appropriate;

3) Whether the district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

4) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring.

c) If all the conditions set forth in subsection (b)(d) of this Section are met, the hearing officer shall order a change in the child's placement to an appropriate interim alternative educational setting for not more than 45 days. 1) This new alternative educational setting shall be identified by the IEP Team as provided in Section 226.400(h) of this Part. 2) If the district demonstrates that the student is substantially likely to injure himself or herself or others if returned to the placement that was used prior to the student's removal, the hearing officer may order that the student remain in the interim setting for subsequent periods of up to 45 days each.

d) An expedited hearing shall result in a decision within ten school days after the request for the hearing, unless the parents and the local school district agree otherwise.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.660 Powers and Duties of Hearing Officer

a) ONCE APPOINTED, THE IMPARTIAL DUE PROCESS HEARING OFFICER SHALL NOT COMMUNICATE WITH THE STATE BOARD OF EDUCATION OR ITS EMPLOYEES CONCERNING THE HEARING [105 ILCS 5/14-8.02a(g)] and shall not initiate or participate in any ex parte communications with the parties, except as provided in Section 14-8.02a(g) or 14-8.02b of the School Code, as applicable.

b) The hearing officer shall disclose any actual or potential conflict of interest to the parties upon learning of such a conflict.
The hearing officer shall conduct the hearing and, with respect to the hearing, shall have, but is not limited to, the following powers:

- To administer, or to authorize the court reporter to administer, oaths;
- To examine witnesses;
- To authorize the issuance of subpoenas;
- To rule upon the admissibility of evidence;
- To order independent evaluations;
- To grant specific extensions of time;
- To read into the hearing record any stipulations of fact and other matters agreed upon at the pre-hearing conference and to enter into the record any pre-hearing orders;
- To render decisions and issue orders and clarifications.

The hearing officer shall comply with timelines established in Section 14-8.02a or Section 14-8.02b of the School Code, as applicable.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.665 Record of Proceedings

A record of the hearing shall be made and the cost of the record borne in accordance with 34 CFR 300.512(a)(4) and Section 14-8.02a(g) of the School Code [105 ILCS 5/14-8.02a(g)]. The hearing officer shall ensure that an electronic verbatim record of the hearing is made in the format of the parent’s choice (such as by tape recording or by a court reporter). The hearing officer shall also ensure that all written evidence presented at the hearing is marked to indicate the party offering the evidence and is made part of the administrative record. The parents or the district may obtain a copy of the verbatim record of the hearing. The State Board and the district shall share equally the cost of providing these copies.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)
Section 226.680 Reporting of Decisions *(Repealed)*

The State Board of Education shall, after deleting all personally identifiable information and indexing by subject matter, make the decisions of impartial due process hearing officers available to the Illinois State Advisory Council on Education of Children with Disabilities, to impartial due process hearing officers, and to the Screening Committee established pursuant to Section 14-8.02a(b) of the School Code. This information shall also be available to other interested parties upon request.

(Source: Repealed at 30 Ill. Reg. _____, effective _____________)

Section 226.690 Transfer of Parental Rights

This Section implements 34 CFR 300.520.

a) When a student with a disability reaches the age of majority (18 years of age; see 755 ILCS 5/11-1) or becomes an emancipated minor pursuant to the Emancipation of Mature Minors Act [750 ILCS 5/Art. 11a] (except for a student with a disability who has been adjudged as a disabled person pursuant to 755 ILCS 5/Art. 11a-1):

1) The school district shall provide any notice required by this Part to both the individual and the parents, and all other rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to the student; and

2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to a child who is incarcerated in an adult or juvenile, State, or local correctional institution.

b) Whenever rights are transferred to a student pursuant to this Section, the district shall notify the student and the parents of the transfer of rights.

c) All notices that are required under this Part and 34 CFR 300 shall be provided to the student and the parent after the student reaches the age of majority.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)
Section 226.700  General

a) Each school district shall provide and maintain appropriate and effective educational programs, at no cost to the parents, for all eligible children who are residents of the district. b) Each school district shall establish and implement a goal of ensuring full educational opportunity for all children with disabilities in its service area. Each district shall make available to children with disabilities the variety of educational programs and services available to nondisabled children in the area served by the district, including art, music, industrial arts, consumer and homemaking education, and vocational education. c) Special education and related services shall be established and conducted as an integral part of the district's educational effort. d) Each school district, independently or in cooperation with other districts, shall provide a comprehensive program of special education for children with disabilities who are from three through 21 years of age and who are resident in the district. A "comprehensive program" is one that includes:

1) A viable organizational and financial structure;

2) Systematic procedures for identifying and evaluating the need for special education and related services;

3) A continuum of appropriate alternative placements available to meet the needs of children for special education and related services (see Section 226.300 of this Part);

4) Qualified personnel who are employed in sufficient number to provide:

   A) Administration of the program;

   B) Supervisory services;

   C) Instructional and resource services;

   D) Related services; and

   E) Transportation services;
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5) Appropriate and adequate facilities, equipment and materials;

6) Functional relationships with public and private agencies that can supplement or enhance the special education services of the public schools;

7) Interaction with parents and other concerned persons that facilitates the educational development of children with disabilities;

8) Procedures for internal evaluation of the special education services provided; and

9) Continuous planning for program growth and improvement based on internal and external evaluation.

b) The school district is the primary agent for the delivery of special education services. Districts may carry out their obligations with regard to special education by forming cooperatives or joint agreements. These entities are:

1) Authorized by State law to develop, manage, and provide services or programs on behalf of school districts;

2) Recognized as agencies for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State;

3) Considered as service agents of the participating districts; and

4) Directed by, and responsible to, all the participating local districts.

cf) Special education and related services which would not comply with specific requirements of this Part shall require written approval from the State Board of Education prior to their implementation. A district's request for approval shall be submitted in writing to the State Board and shall include a description of the district's proposal. In determining whether to approve such a request, the State Board's staff shall consider whether the proposed program or service will compromise students' educational opportunity or prevent the full implementation of any student's IEP, in light of such factors as the students' disabilities and the proposed class size, staff qualifications, physical plant and evaluation plan. Denial of such a request may be appealed to the State Superintendent of
Education.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.710 Policies and Procedures

a) Each local school district, or the cooperative entity of which it is a member, shall develop written policies and procedures conforming to the requirements of subsection (b) of this Section and shall submit these to the State Board of Education for approval, using a format supplied by the State Board. The State Board shall approve those which conform to the requirements of this Section and are consistent with applicable federal and State statutes and regulations. The State Board shall notify districts of any deficiencies that must be remedied before approval will be granted.

b) Each set of policies and procedures shall address the district's compliance with at least the requirements for:

1) the provision of a free appropriate public education;
2) child find;
3) evaluation and determination of eligibility;
4) Individualized Education Programs;
5) students' participation in assessments;
6) serving students in the least restrictive environment;
7) the provision of extended school year services;
8) transition of children served under Part C of the Individuals with Disabilities Education Act into preschool programs;
9) serving students who attend nonpublic schools;
10) procedural safeguards;
11) establishing the goal of full educational opportunity;
12) confidentiality of personally identifiable information; and

13) the use of federal matching funds under the Medicaid (Title XIX) or Children's Health Insurance (KidCare; Title XXI) program to supplement special education programs and services (if the district is participating in one or more of those federal programs).

c) Any revision of a set of policies and procedures shall be submitted to the State Board for approval prior to its implementation.

d) Each set of policies and procedures shall constitute a public document.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.720 Facilities and Classes

a) Facilities used for special education services shall be appropriate to, and adequate for, the specific programs or services for which they are used and, pursuant to Section 14-8.01 of the School Code, shall be subject to the applicable provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools). The facilities shall be comparable to those provided to the students in the general education environment.

b) The age range of students within a special education grouping shall not exceed four years at the elementary level and six years at the secondary level. Early childhood classes and services shall serve only children from three through five years of age.

c) Special education classes and services shall be delivered in age-appropriate settings.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.730 Class Case Load/Class Size for 2008-09 and Beyond

a) When a student's IEP calls for services in a regular education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs-identified special education eligibility, that utilizes the general curriculum, that is taught by
an instructor certified for regular (general) education, and that is not designated as a general remedial classroom. However, a class in which up to 40 percent of students have identified disabilities shall also be considered a regular education class for purposes of meeting this requirement, provided that:

In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disability, and the degree of intervention necessary.

1) The class is smaller than the average class size in the State of Illinois, as identified on the Illinois School Report Card; or

2) A special education teacher is present whenever more than 30 percent of the students have IEPs, and this teacher assists the regular education teacher in the delivery of instruction as necessary to meet the needs of the students with IEPs; or

3) The total number of students in the relevant age range who are served at that location precludes forming more than one class per grade level or more than one section of a class.

Class size means the total number of students an educator serves during any class period. As used in this subsection (b), "class" means any circumstance where at least one special education teacher is assigned and provides instruction and/or therapy exclusively to students with IEPs. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary. A student shall be considered to require "instructional services" when he or she receives special education instruction for 50 percent of the school day or more. Classes and services for such students shall be subject to the limitations of this subsection (b)(a).

1) Classes in which all the students are removed from the regular education classroom for less than 20 percent of the school day shall have at least one qualified teacher for each 15 students in attendance during any given class period. However, the district may increase the class size by a maximum of two students when a paraprofessional is provided for the entire class period.

2) Each class in which any student is removed from the regular education classroom for 20-60 percent of the school day shall have at least one
qualified teacher for each ten students in attendance during that class period. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class period.

3) Each class in which any student is removed from the regular education classroom for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class period. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class period.

4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class period. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class period.

5) The provisions of subsections (b)(1)-(4) of this Section notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services.

1) Early childhood instructional classes or services shall have a maximum ratio of one qualified teacher to five students in attendance at any given time; total enrollment shall be limited according to the needs of the students for individualized programming.

2) Instructional classes or services for students who have either a severe/profound disability or multiple disabilities as defined in Section 226.75 of this Part shall have a maximum enrollment of five students.

3) Instructional classes or services for children whose primary disability is a severe visual, auditory, physical, speech or language impairment, autism, traumatic brain injury, or an emotional disturbance or behavioral disorder shall have a maximum enrollment of eight students.

4) Instructional classes or services for children whose primary disability is a specific learning disability or that serve children who have different disabilities shall have a maximum enrollment of ten students.
Instructional programs that group students who have different disabilities shall be formulated only under the following circumstances:

A) The students are grouped in relation to a common educational need; or

B) The program can be completely individualized and the teacher is qualified to plan and provide an appropriate educational program for each student in the group.

5) Instructional classes or services designed for children whose primary disability is moderate visual or auditory impairment shall have a maximum enrollment of twelve students.

6) Instructional classes or services for children whose primary disability is mild/moderate mental impairment shall have a maximum enrollment of 12 students at the primary level and 15 students at the intermediate, middle, junior high, and secondary levels.

7) A school district may increase the enrollment in an instructional class or service by a maximum of two students in response to unique circumstances which occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded program can be adequately and appropriately met. Alternatively, the district may increase the enrollment in an instructional class or service by a maximum of five students when a full-time, noncertified assistant is provided.

b) A student shall be considered to require "resource services" when he or she receives special education instruction for less than 50 percent of the school day. Classes and services for such students shall be subject to the limitations of this subsection (b).

1) Enrollment shall be limited to the number of students who can effectively and appropriately receive assistance, up to a maximum of 20 students.

2) The teacher or service provider shall participate in determining the appropriate enrollment.
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3) The number of children served by a speech-language pathologist shall be based on the speech-language needs of each child. At no time shall the caseload exceed 80 students and, beginning September 1, 2003, the caseload of a speech-language pathologist shall not exceed 60 students.

4) A school district may not increase the enrollment subsection in a resource class or service when a noncertified assistant is provided.

e) The caseload/class size for any service provider includes each student who receives direct or indirect service, such as consultation services, as delineated in an IEP.

(Source: Amended at 30 Ill. Reg. _____, effective _____________)

Section 226.731 Class Size Provisions for 2007-08

a) When a student's IEP calls for services in a regular education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for regular (general) education, and that is not designated as a general remedial classroom. However, a class in which up to 40 percent of students have identified disabilities shall also be considered a regular education class for purposes of meeting this requirement, provided that:

1) The class is smaller than the average class size in the State of Illinois, as identified on the Illinois School Report Card; or

2) A special education teacher is present whenever more than 30 percent of the students have IEPs, and this teacher assists the regular education teacher in the delivery of instruction as necessary to meet the needs of the students with IEPs; or

3) The total number of students in the relevant age range who are served at that location precludes forming more than one class per grade level or more than one section of a class.

b) A student shall be considered to require "instructional" classes when he or she receives special education instruction for 50 percent of the school day or more. Classes for such students shall be subject to the limitations of this subsection (b).
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1) Early childhood instructional classes shall have a maximum ratio of one qualified teacher to five students in attendance at any given time; total enrollment shall be limited according to the needs of the students for individualized programming.

2) Instructional classes for students who have either a severe/profound disability or multiple disabilities shall have a maximum enrollment of five students.

3) Instructional classes for children whose primary disability is a severe visual, auditory, physical, speech or language impairment, autism, traumatic brain injury, or an emotional disturbance or behavioral disorder shall have a maximum enrollment of eight students.

4) Instructional classes for children whose primary disability is a specific learning disability or that serve children who have different disabilities shall have a maximum enrollment of ten students. Instructional programs that group students who have different disabilities shall be formulated only under the following circumstances:

   A) The students are grouped in relation to a common educational need; or

   B) The program can be completely individualized and the teacher is qualified to plan and provide an appropriate educational program for each student in the group.

5) Instructional classes designed for children whose primary disability is moderate visual or auditory impairment shall have a maximum enrollment of 12 students.

6) Instructional classes for children whose primary disability is mild/moderate mental impairment shall have a maximum enrollment of 12 students at the primary level and 15 students at the intermediate, middle, junior high, and secondary levels.

7) A school district may increase the enrollment in an instructional class by a maximum of two students in response to unique circumstances that occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded
program can be adequately and appropriately met. Alternatively, the district may increase the enrollment in an instructional class by a maximum of five students when a full-time, noncertified assistant is provided.

c) A student shall be considered to require "resource" classes when he or she receives special education instruction for less than 50 percent of the school day. Classes for such students shall be subject to the limitations of this subsection (c).

1) Enrollment shall be limited to the number of students who can effectively and appropriately receive assistance, up to a maximum of 20 students.

2) The teacher shall participate in determining the appropriate enrollment.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 226.735 Case Load for Speech-Language Pathologists

The number of children served by a speech-language pathologist shall be based on the speech-language needs of each child. At no time shall the caseload of a speech-language pathologist exceed 60 students.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 226.740 Records; Confidentiality

a) Students' records shall be maintained in accordance with 34 CFR 300.610 through 300.627, the School Student Records Act [105 ILCS 10] and the rules of the State Board of Education (23 Ill. Adm. Code 375). In addition, the following requirements shall apply:

b) Each school district shall protect the confidentiality of personally identifiable information during its collection, storage, disclosure, and destruction.

c) All persons collecting or using personally identifiable information shall receive training or instruction regarding the State's and school district's policies and procedures and the requirements of this Part for ensuring the confidentiality of any personally identifiable information collected, used or maintained.

d) Each school district shall maintain, for public inspection, a current listing of the names and positions of those employees within the local school district who may
have access to personally identifiable information.

e) Parents shall be afforded the opportunity to inspect, review, and copy all educational records with respect to the identification, evaluation, educational placement, and provision of FAPE to their child. Each school district shall provide parents on request a list of the types and locations of educational records collected, maintained, or used by the agency. If any educational record includes information on more than one child, the parents of any of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

af) The portion of each district's policies and procedures that is required pursuant to Section 226.710(b)(3) of this Part shall require that all information maintained concerning a student receiving special education be directly related to the provision of services to that child and shall address:

1) the method by which information concerning a student will be collected;
2) the confidential nature of the information;
3) the use to which such the information will be put;
4) how the information will be recorded and maintained;
5) the period for which the information will be maintained;
6) the persons to whom the information will be available; and
7) under what circumstances the information will be made available.

bg) The portion of each district's policies and procedures referred to in subsection (a)(4) of this Section shall be consistent with:

1) The Illinois School Student Records Act;
2) 23 Ill. Adm. Code 375 (Student Records);
3) 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision);
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4) The Family Educational Rights and Privacy Act; and


(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 226.750 Additional Services

Additional services and activities shall be provided to students whose IEPs require them in accordance with 34 CFR 300.105 (Assistive Technology), 300.106 (Extended School Year) and 300.108 (Physical Education). In addition, the following shall apply: The additional services and activities referred to in this Section shall be provided to students whose IEPs require them. In each such case, the relevant requirements of this Section shall apply.

a) Assistive Technology

1) The responsible school district shall furnish such assistive technology devices as a child's IEP may prescribe, including providing these in the child's home if required in order for the child to receive FAPE.

2) Each school district shall ensure that hearing aids and assistive technology or adaptive devices are functioning properly.

ab) Behavioral Intervention

1) School districts shall establish local policies and procedures on the use of positive behavioral interventions to manage, intervene in, or change the behavior of students with disabilities.

2) Each district's policies and procedures shall require that IEP teams consider strategies including positive behavioral interventions and supports to address behaviors that impede a child's functioning or that of other children in the academic setting or in noninstructional contexts such as regular transportation and extracurricular activities. The district's policies and procedures shall include criteria for determining when a particular student's possible need for a behavioral intervention plan should be reviewed.

3) Behavioral interventions shall be used in consideration of the child's physical freedom, social interaction, and right to placement in the least
restrictive environment and shall be administered in a manner that respects human dignity and personal privacy.

c) **Extended School Year**
   A school district shall not limit its provision of services during an extended school year to particular categories of disability, nor shall a district unilaterally limit the type, amount, or duration of such services.

d) **Physical Education**
   Physical education services, specially designed if necessary, shall be made available to every child receiving FAPE.
   
   1) Each child with a disability shall participate in a regular physical education program available to nondisabled children unless the child is receiving services full time in a separate facility or needs specially designed physical education, as prescribed in the child's IEP.
   
   2) If a child is receiving services full time in a separate facility, the school district shall ensure that he or she receives physical education services appropriate to his or her needs.

be) **Transportation**
   Each child who is eligible for special education and related services pursuant to this Part shall be eligible for special transportation. Such transportation shall be provided as the child's disability or the program location may require.
   
   1) Arrival and departure times shall ensure a full instructional day which is comparable to that of the regular education students. Any deviation from this standard must be based upon the individual needs of the child and reflected in the child's IEP.
   
   2) Every effort should be made to limit the child's total travel time to not more than one hour each way to and from the special education facility.
   
   3) The special transportation shall be scheduled in such a way that the child's health and ability to relate to the educational experience are not adversely affected.
   
   4) Vehicles utilized for special transportation shall be adapted to the specific needs of the children receiving this service.
5) Personnel responsible for special transportation shall be given training experiences which will enable them to understand and appropriately relate to children with disabilities.

6) When a district has placed students in a State-operated or nonpublic day program, the district shall provide transportation for the children in that program.

7) When a child is placed in a residential facility, the school district shall provide transportation services for the child's initial trip to the facility and return home at the close of the school term. The district shall likewise provide transportation for the child at the beginning and end of each school term thereafter.

A) If the district assumes responsibility for transportation arrangements, it shall provide reasonable notice to parents of departure dates and times. It shall in all instances notify the parents within 48 hours after completing those arrangements.

B) The modes of travel and degree of support and supervision to be provided shall be included in the student's IEP.

C) The district shall provide transportation services for one round trip home, at a midterm break or at another time as mutually agreed by the district and the parents, and at any additional time when the facility is to be temporarily closed.

D) The school district shall provide round-trip transportation at any time the district seeks additional diagnostic assessments of the student or if the parent wishes the child to be present during a due process hearing.

E) The school district shall provide round-trip transportation in emergencies such as serious illness of the child or death or imminent death of an individual in the child's immediate family. "Immediate family" includes a parent, grandparent, a sibling, or any person who resides in the child's immediate household. If the district questions the severity of an illness of the child or an
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immediate family member, it may require the opinion of a licensed physician to corroborate the severity of the illness.

F) The school district may also provide transportation services to encourage family contacts and/or to reintegrate the child into the home and community. The district shall have the authority to determine, upon consultation with the parents, when transportation is appropriate for this purpose and shall incorporate this decision, with the specific reasons for it, into the student's IEP.

Vocational Education

Students eligible pursuant to this Part shall receive vocational education in accordance with their individual IEPs.

1) Community work experiences that are part of a student's IEP shall occur during the school day, unless this is precluded by the nature of the experiences.

2) Participation in community work experiences shall be in accordance with the student's IEP and applicable child labor laws.

23) All community work experiences which are provided by the school as part of the IEP and for which the student receives educational credit shall be supervised by school personnel.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 226.760 Evaluation of Special Education

a) The extent to which a school district is fulfilling its responsibilities to children with disabilities shall be determined by the State Board of Education. Official representatives of the State Board shall be authorized to examine all documentation, including student records, that would facilitate the determination.

b) Evaluation by the State Board of Education shall focus on the district's provision of special education services, on each special education cooperative organization of which it is a participant, and on community resources utilized by the district.
c) Evaluation of special education services shall be based on all of the following elements.

1) **Comprehensive Plan** The performance of the program, as evidenced by data that state education agencies must collect, including without limitation the information collected pursuant to 34 CFR 300.170, 300.600, 300.601, 300.602, and 300.646; Each district or cooperative entity shall have in place a comprehensive plan conforming to the requirements of 34 CFR 300.137 that describes the district’s provision of special education services, its plan for program improvement, and those factors unique to the individual district or cooperative which must be considered in the evaluation. This plan shall be reviewed at least triennially and revised as needed to reflect the district’s current circumstances. The resulting revisions shall be filed with the State Board of Education. Alternatively, a district may submit a statement indicating that its triennial review did not reveal a need for any changes. The plan shall be a public document.

2) **Policies and Procedures** The State Board shall consider the adequacy of the policies and procedures developed pursuant to Section 226.710 of this Part.

3) **Continuous Internal Evaluation** Each district or cooperative entity shall develop and implement procedures to assess the extent to which children with disabilities are being adequately served and the effectiveness of each special education service.

4) **Records** Each district or cooperative entity shall maintain records to demonstrate compliance with the assurances furnished in its applications for State and federal funds.

d) The State Board of Education shall provide written reports of its evaluations and any subsequent recommendations or actions to the appropriate board(s) of education.

e) Compliance with the requirements of this Part shall be a factor in determining a district's recognition status pursuant to 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).

f) A district whose status is changed to "nonrecognized" due to an unfavorable evaluation of its compliance with the requirements of this Part shall
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have the opportunity to request a hearing pursuant to the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475).

(Source: Amended at 30 Ill. Reg. _____, effective _____________)
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1) **Heading of the Part:** Massage Licensing Act

2) **Code Citation:** 68 Ill. Adm. Code 1284

3) **Section Numbers**: Proposed Action:
   - 1284.50 Amendment
   - 1284.60 Amendment
   - 1284.70 Amendment
   - 1284.80 Amendment
   - 1284.90 New Section

4) **Statutory Authority:** Massage Licensing Act [225 ILCS 57]

5) **A Complete Description of the Subjects and Issues Involved:** Section 67 of the Act requires continuing education each renewal period for individuals licensed as massage therapists; this proposed rulemaking implements the CE requirements. Section 1284.90 provides the number of continuing education hours required per renewal and what shall be accepted as approved CE. Requirements and qualifications to become an approved CE sponsor are also provided. Section 1284.50 adds the $500 fee for becoming a continuing education sponsor as well as the renewal fee of $250.

6) **Does 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 (if applicable):** This rulemaking has no effect 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
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217/785-0813  Fax #: 217/557-4451

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:* Those providing massage therapy services.

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

   C) *Types of professional skills necessary for compliance:* Massage therapy training is necessary for licensure.

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

   The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE  68:  PROFESSIONS AND OCCUPATIONS
CHAPTER VII:  DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b:  PROFESSIONS AND OCCUPATIONS

PART 1284
MASSAGE LICENSING ACT

Section
1284.10 Requirements for Licensure Under Section 20 of the Act (Grandfather)
1284.20 Approved Massage Therapy School
1284.30 Application for Licensure
1284.40 Endorsement
1284.50 Fees
1284.60 Renewals
1284.70 Inactive Status
1284.80 Restoration
1284.90 Continuing Education
1284.110 Granting Variances

AUTHORITY:  Implementing the Massage Licensing Act [225 ILCS 57] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].


Section 1284.50 Fees

The following fees shall be paid to the Division and are not refundable:

  a) Application Fees
     The fee for application for a license as a massage therapist is $175.

  b) Renewal Fees
     The fee for the renewal of a license shall be calculated at the rate of $87.50 per year.

  c) Sponsor Fees

     1) The fee for registration as a continuing education sponsor shall be $500.
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2) The fee for renewal as a continuing education sponsor shall be $250 every two years.

3) State agencies, State colleges and State universities in Illinois that are approved as continuing education sponsors shall be exempt from registration and renewal fees.

d) General Fees

1) The fee for the restoration of a license other than from inactive status is $20 plus payment of all lapsed renewal fees, not to exceed $470.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on Division records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is $20 plus any fees charged by the applicable testing service.

5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

6) The fee for a roster of persons licensed as massage therapists in this State shall be the actual cost of producing the roster.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1284.60  Renewals

a) Every massage therapy license issued under the Act shall expire on December 31 of each even numbered year. The holder of a license may renew the license during the month preceding the expiration date by paying the required fee and, beginning with the December 31, 2008 renewal and every renewal thereafter, completing continuing education (CE) in accordance with Section 1284.90.
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b) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to renew a license or pay the renewal fee.

c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 45 of the Act.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1284.70 Inactive Status

a) Licensed massage therapists who notify the Division, on forms provided by the Division, may place their licenses on inactive status and shall be excused from paying renewal fees until they notify the Division in writing of the intention to resume active practice.

b) Any licensed massage therapist seeking restoration from inactive status shall do so in accordance with Section 1284.80 and pay the current renewal fee.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1284.80 Restoration

a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees and, after December 31, 2008, providing proof of meeting the continuing education requirements of Section 1284.90 of this Part during the 2 years prior to restoration.

b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and, after December 31, 2008, providing proof of meeting the continuing education requirements of Section 1284.90 of this Part during the 2 years prior to restoration.

c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, including the applicant's work history since the license expired, and the required fee and proof of meeting continuing education requirements of Section 1284.90 of this Part during the 2 years prior to restoration. The person shall also submit one of the following:
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1) Certification of current licensure from another state or territory, completed by the appropriate state board, and proof of current active practice; or

2) An affidavit attesting to military service as provided in Section 70 of the Act. If application is made within 2 years of discharge, and if all other provisions of Section 70 of the Act are satisfied, the applicant shall pay the current renewal fee but will not be required to pay a restoration fee or any lapsed renewal fees.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1284.90 Continuing Education

a) Continuing Education Hours Requirements

1) Beginning with the December 31, 2008 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 24 hours of continuing education, including 2 hours on ethics.

2) A prerenewal period is the 24 months preceding December 31 of each even-numbered year.

3) One CE hour shall equal 50 minutes.

4) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.

5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

6) Massage therapists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

b) Approved Continuing Education (CE)
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1) CE hours shall be earned by verified attendance at (e.g., certificate of attendance or certificate of completion) or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor;

2) Up to 12 hours of CE credit per renewal may be earned as follows:

A) For completion of a self-study course that is offered by an approved sponsor who meets the requirements set forth in subsection (c). Each self-study course shall include an examination.

B) Credit may be earned for papers prepared and delivered before recognized massage therapy organizations; papers published in nationally recognized massage therapy journals; or a chapter published in a book on massage therapy, each appropriately verified.

C) First time presentation of an academic course or workshop, seminar, in-service, electronic or Web-based course. Speeches made at luncheons or banquets or any other presentation not within the guidelines of this Section are not eligible for CE credit.

c) Approved CE Sponsors and Programs

1) Sponsor shall mean:

A) Entities approved by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB);

B) Any approved massage therapy program or accredited school, college, university or State agency; and

C) Any other person, firm, or association that has been approved and authorized by the Division pursuant to subsection (c)(2) to coordinate and present continuing education courses and programs in conjunction with this Section.
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2) An entity seeking approval as a CE sponsor shall submit an application, on forms supplied by the Division, along with the fee set forth in Section 1284.50. The applicant shall certify to the following:

A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section. A sponsor shall be required to submit a CE program with course materials for review prior to being approved as a CE sponsor;

B) That the sponsor will be responsible for verifying attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);

C) That, upon request by the Division, the sponsor will submit evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.

3) All programs shall:

A) Contribute to the advancement, extension and enhancement of the professional skills and knowledge of the licensee in the practice of massage, which shall include, but not be limited to, ethical reasoning, critical reasoning, interpersonal abilities and performance skills;

B) Be developed and presented by persons with 2 years of education and/or experience in the subject matter of the program;

C) Specify the course objectives, course content and teaching methods to be used; and

D) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an
evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

5) An approved sponsor may subcontract with individuals and organizations to provide approved programs.

6) All programs given by approved sponsors shall be open to all licensed massage therapists and not be limited to members of a single organization or group.

7) To maintain approval as a licensed sponsor, each sponsor shall submit to the Division by each even-numbered year a renewal application, the renewal fee specified in Section 1284.50 of this Part, and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.

8) It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

   A) The name, address and license number of the sponsor;
   B) The name and license number of the participant;
   C) A brief statement of the subject matter;
   D) The number of hours attended in each program;
   E) The date and place of the program; and
   F) The signature of the sponsor or person responsible for the CE program.

9) The sponsor shall maintain attendance records for not less than 5 years.

10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
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11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at, or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.

12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements.

2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time, the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or within 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the
f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with the current CE requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1284.50.

g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee set forth in Section 1284.50, a statement setting forth the facts concerning noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds, from such affidavit or any other evidence submitted, that extreme hardship has been shown warranting granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

   A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
   
   B) An incapacitating illness documented by a statement from a currently licensed physician;
   
   C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
   
   D) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.
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(Source: Added at 30 Ill. Reg. _____, effective _____________)
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1) Heading of the Part: Pharmacy Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1330

3) Section Numbers: Proposed Action:
   1330.5  Amendment
   1330.91 Amendment
   1330.92 Amendment
   1330.97 New Section
   1330.98 Amendment

4) Statutory Authority: Pharmacy Practice Act of 1987 [225 ILCS 85]

5) A Complete Description of the Subjects and Issues Involved: Public Act 94-84 provided for the creation and licensing of Division VI pharmacies; this proposed rulemaking implements its provisions.

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

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

8) Does this rulemaking contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective (if applicable): This rulemaking has no effect 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
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All written comments received within 45 days after the publication of 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: Pharmacies

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

C) Types of professional skills necessary for compliance: Pharmacy skills are necessary for licensure.

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

The full text of the Proposed Amendments begins on the next page:
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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1330
PHARMACY PRACTICE ACT OF 1987

Section
1330.5 Definitions
1330.10 Application for Certificate of Registration as a Pharmacy Technician
1330.20 Approval of Pharmacy Programs
1330.30 Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20
1330.40 Application for Examination
1330.50 Examination for Licensure
1330.55 Application for Licensure on the Basis of Examination
1330.60 Endorsement
1330.65 Patient Counseling
1330.70 Definitions (Renumbered)
1330.75 Security Requirements
1330.76 Reporting Theft or Loss of Controlled Substances
1330.80 Violations
1330.90 Divisions of Pharmacy Licenses
1330.91 Division I Pharmacies
1330.92 Division II Pharmacies
1330.93 Division III Pharmacies
1330.94 Division IV Pharmacies
1330.95 Division V Pharmacies
1330.96 Nonresident Pharmacies
1330.97 [Division VI Pharmacies]
1330.98 Automated Dispensing and Storage Systems
1330.99 Parenteral Product Standards
1330.100 Application for a Pharmacy License
1330.110 Granting Variances
1330.120 Renewals
1330.130 Restoration
1330.140 Continuing Education

AUTHORITY: Implementing the Pharmacy Practice Act of 1987 [225 ILCS 85] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

Section 1330.5 Definitions

"Act" means the Pharmacy Practice Act of 1987 [225 ILCS 85].

"Authentication of Product History" means, but is not limited to, identifying the purchasing source, the ultimate disposition and any intermediate handling of any component of a radiopharmaceutical, diagnostic agent or device.

"Board" means the State Board of Pharmacy.

"Deliver" means the actual, constructive or attempted transfer of possession of a prescription medication.

"Director" means the Director of the Department of Financial and Professional Regulation - Division of Professional Regulation with the authority delegated by the Secretary.

"Dispense" means to interpret, verify computer entry of, select the prescribed product for, prepare and/or deliver a prescription medication to an ultimate consumer or to a person authorized to receive the prescription medication by or pursuant to the lawful order of a practitioner, including the compounding,
packaging, and/or labeling necessary for delivery and any recommending, advising and counseling concerning the contents, therapeutic values, uses and any precautions, warnings and/or advice concerning consumption. Dispense does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier or the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

"Distribute" means to deliver, other than by dispensing, a prescription medication.

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

"Division I pharmacy" is any pharmacy that engages in general community pharmacy practice and that is open to, or offers pharmacy service to, the general public.

"Division II pharmacy" is any pharmacy whose primary pharmacy service is provided to patients or residents of facilities licensed under the Nursing Home Care Act [210 ILCS 45] or the Hospital Licensing Act [210 ILCS 85], or the University of Illinois Hospital Act [110 ILCS 330] and that is not located in the facility it serves.

"Division III pharmacy" is any pharmacy that is located in a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act, or the University of Illinois Hospital Act or a facility that is operated by the Department of Human Services or the Department of Corrections, and that provides pharmacy services to residents or patients of the facility, as well as employees, prescribers and students of the facility.

"Division IV pharmacy" is any pharmacy that provides and/or offers for sale radiopharmaceuticals.

"Division V pharmacy" is any pharmacy that holds a license in Division II or Division III that also provides pharmacy services to the general public, or is any pharmacy that is located in or whose primary pharmacy service is to ambulatory care facilities or schools of veterinary medicine or other such institution or facility (e.g., a university infirmary).
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"Division VI pharmacy" is any pharmacy that provides pharmacy services to patients of institutions served by pharmacies with a Division II or Division III license, without using the Division VI pharmacy's own supply of drugs.

"Medication Order" means an order that is issued by a physician for a resident or patient of a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act.

"Nonresident Pharmacy" means a pharmacy that is located outside this State that ships, delivers, dispenses or distributes into Illinois by any means any drugs, medicines, pharmaceutical services or devices requiring a prescription.

"Nuclear Pharmacist" means a pharmacist who provides radiopharmaceutical services and has satisfied the requirements of Section 1330.94(i).

"On File" as used in Section 19 of the Act and this Part means the maintenance at the transferor pharmacy of the transferred prescription, whether previously filled or unfilled. For previously filled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of Section 18 of the Act. For previously unfilled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained in a readily retrievable format in a suitable book, file or recordkeeping system for a period of not less than 5 years. For previously filled and unfilled prescriptions at a transferor pharmacy located in a state other than Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of that state.

"Patient counseling" means the communication between a pharmacist or a student pharmacist under the direct supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. The offer to counsel shall be made by the pharmacist or the pharmacist's designee, and subsequent patient counseling by the pharmacist or the student pharmacist shall be made in a face-to-face communication with the patient or the patient's representative, unless, in the professional judgment of the pharmacist, a face-to-face communication is deemed inappropriate or unnecessary. In that instance, the offer to counsel or patient counseling may be made in a written communication, by telephone or in a manner determined by the pharmacist to be appropriate.

"Patient profiles" or "patient drug therapy record" means the obtaining, recording and maintenance of patient prescription and personal information.
"Pharmacist" means a currently licensed pharmacist or registered assistant pharmacist.

"Prospective drug review" or "drug utilization evaluation" means the screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

"Radiopharmaceutical" means any substance defined as a drug in Section 3(b) of the Pharmacy Practice Act that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds of potassium-containing salts that contain trace quantities of naturally occurring radionuclides. Radiopharmaceuticals include radioactive biological products as defined in the Federal Food, Drug and Cosmetic Act (21 USC 301 et seq. (1988)) and regulations promulgated under that Act.

"Radiopharmaceutical Quality Assurance" means, but is not limited to, the performance of appropriate chemical, biological, and physical tests on potential radiopharmaceuticals, and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment, authentication of product history and the keeping of proper records in these regards.

"Radiopharmaceutical Service" means the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals as determined by the Illinois Emergency Management Agency; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or required, of diagnostic and therapeutic values, hazards and use of radioactive pharmaceuticals; and the offering or performance of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a Division IV Pharmacy.

"Registrant" means a licensed pharmacist, registered assistant pharmacist, or a
registered pharmacy technician.

"Remote medication order processing" means receiving, interpreting or clarifying medication orders; data entry and transferring of medication order information; performing drug utilization review; interpreting clinical data; performing therapeutic interventions; and providing drug information concerning medication orders or drugs from a Division VI pharmacy.

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

"Student Pharmacist" is a person registered as a pharmacy technician who is enrolled in a pharmacy program and is designated as a "student pharmacist" pursuant to Section 9 of the Act.

"Ultimate consumer" means the person for whom a drug is intended.

"Unique identifier" means an electronic signature, handwritten signature or initials, thumb print, or other acceptable individual biometric or electronic identification process as approved by the Division.

"Unprofessional conduct" under Section 30 of the Act shall include, but not be limited to, any act or practice related to the practice of pharmacy that is willful, wanton, repeated, or flagrant and likely to result in harm to an individual. In determining what constitutes unprofessional conduct, the Board shall consider, but shall not be limited to, the following standards as they relate to the person who is the subject of the proposed disciplinary action:

Violations set forth in Section 30(a) of the Act;

Repeated commission of an act or acts that are of a flagrant and obvious nature so as to constitute conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

Repeated commission of an act or acts in a relationship with a patient so as to violate common standards of decency or propriety;

Willful violation or knowing assistance in the violation of any law relating to the use of habit-forming drugs;
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Willful preparation or signing false statements in order to induce payment for pharmacy services by the Department of Healthcare and Family Services, or any other local, state or federal department, agency or governmental body, or any private insurance program; and

Violating practice Standards of the American Pharmaceutical Association/American Association of Colleges of Pharmacy Standards of Practice for the Profession of Pharmacy, published March 1979, and the Principle of Practice for Pharmaceutical Care, 1996, which include no later editions or amendments, and which are herein incorporated by reference, in determining what is unprofessional conduct; however, non-compliance with these professional standards shall not alone be considered an act of unprofessional conduct unless these acts are of a flagrant, glaringly obvious nature constituting a substantial departure from these professional standards.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1330.91  Division I Pharmacies

a) Retail pharmacies which engage in general community pharmacy practice and are open to, or offer pharmacy service to, the general public shall, in addition to any other requirements of the Act and this Part, comply with Section 1330.91. A retail pharmacy which, in addition to offering pharmacy services to the general public, provides pharmacy services to an institution or facility listed in Sections 1330.92(a) need not register as a Division II pharmacy if the sales do not exceed 49% of total sales, but the pharmacy shall comply with requirements of Sections 1330.92(b), (c) and (d).

b) Recordkeeping Requirements for Filling Prescriptions

1) Every prescription filled or refilled shall contain the name, initials or other unique identifier of the pharmacist authorized to practice pharmacy under the provisions of the Pharmacy Practice Act who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the name, initials or other unique identifier of the pharmacist authorized to practice pharmacy in the State of Illinois who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.
2) Whenever a prescription is filled or refilled, by a registered pharmacy technician under the supervision of a pharmacist, the prescription shall contain the names, initials or other unique identifier of both the supervising pharmacist and the registered pharmacy technician who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the initials of the pharmacy technician and pharmacist.

3) Refilling a Prescription

A) Each refilling of a prescription shall be entered on the prescription or on another appropriate, uniformly maintained, readily retrievable record, which indicates by the number of the prescription the following information:

i) The name and dosage form of the drug;

ii) The date of each refilling;

iii) The quantity dispensed;

iv) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling; and

v) The total number of refills for the prescription.

B) If the pharmacist doesn't otherwise indicate in a uniformly maintained record, he/she shall be deemed to have dispensed a refill for the full face amount of the prescription.

4) Presentation of a written prescription copy or prescription label shall be for information purposes only and has no legal status as a valid prescription order. The recipient pharmacist of the copy or prescription label shall contact the prescribing practitioner to obtain a new prescription order.

5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the uniformly maintained record and record the date the copy is issued, to whom issued
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and his/her name, initials or unique identifier. Copies of prescriptions shall be marked "For Information Purposes Only" and require a new prescription from the prescriber.

6) Subject to Section 18 of the Act, any information which is required to be kept pursuant to this Section may be recorded and stored in a computerized pharmaceutical information system that meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and which contain no further amendments or editions, and shall include the capability to:

A) Retrieve the original prescription order information for those prescription orders currently authorized for refilling;

B) Retrieve the current prescription orders, including, at a minimum, name of drug, date of refill, quantity dispensed, name and identification code of the manufacturer in the case of a generically written prescription or a generic interchange, name or initials of the dispensing pharmacist and technician for each refill and the total number of refills dispensed to date;

C) Supply documentation of refill information entered by the pharmacist using the system by way of a hard copy printout of each day's refill data that has been verified for correctness. This printout must include for each prescription filled at least the following information:

i) The name and dosage form of the drug;

ii) The date of each refilling;

iii) The quantity dispensed;

iv) The name or initials of the pharmacist in each refilling and the pharmacy technician, if applicable;

v) The patient's name;

vi) The prescriber's name; and
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vii) The prescription number for the prescription.

In lieu of the printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in the dispensing shall sign a statement each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.

7) All refill data shall be maintained by the pharmacy on the premises for 5 years, in accordance with Section 18 of the Act. The pharmacy shall have the appropriate equipment on the premises to provide readily retrievable information in the course of an on-site inspection. A hard copy printout shall be provided to the Division, upon request, within 48 hours.

c) Transfer of Prescription Information

1) A prescription may be transferred between pharmacies for the purpose of original fill or refill dispensing provided that:

A) The transferor pharmacist invalidates the prescription on file and records to whom transferred, the date of issuance of such copy and the name of the transferor pharmacist issuing the transferred prescription order; and

B) The transferee pharmacist, upon receiving the prescription directly from another pharmacist, records the following:

i) The name, address and original prescription number of the pharmacy from which the prescription was transferred;

ii) All information constituting a prescription order including the following: name of the drug, original amount dispensed, date of original issuance of the prescription and number of valid refills remaining; and

C) The transferee pharmacist informs the patient that the original
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prescription has been cancelled at the pharmacy from which it has been transferred.

2) A prescription for Schedule III, IV and V drugs may be transferred only from the original pharmacy and only one time for the purpose of refill dispensing and may not be transferred further. However, a pharmacist who is electronically sharing real-time on line computerized systems may transfer up to the maximum refills permitted by law and the prescriber's authorization in accordance with CFR 1306.26(a).

3) Computerized systems must satisfy all information requirements of this subsection (c), including invalidation of the original prescription when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. If those systems that access the same prescription records have the capability of cancelling the original prescription, pharmacies using such a system are exempt from the requirements of this subsection (c) if the transferred prescription can always be tracked to the original prescription order from the prescribing practitioner and the original prescription can be produced.

d) Staffing of the Pharmacy

1) Whenever the hours of the pharmacy (prescription department) differ from those of the establishment in which the pharmacy is located, there shall be compliance with the following:

A) The schedule during which the practice of pharmacy is carried on in the pharmacy shall be conspicuously displayed.

B) Whenever an establishment housing a pharmacy is open and a pharmacist is not present and available to provide pharmaceutical services as defined in Section 3 of the Act, a sign shall be conspicuously displayed stating in all capital letters: PHARMACIST NOT ON DUTY; STATE LAW PROHIBITS FILLING OF PRESCRIPTIIONS IN THE ABSENCE OF A PHARMACIST.

C) No prescription may be dispensed when a pharmacist is not physically present in the establishment and on duty.
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2) The pharmacy must provide pharmaceutical services, as defined in Section 3 of the Act, to the public a minimum of 40 hours per week. A pharmacy is considered providing Pharmaceutical Services when a pharmacist is physically present in the establishment and available for consultation.

e) Pharmacist-in-Charge

1) No pharmacy shall be granted a certificate of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist shall be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:

A) Supervision of all activities of all employees as they relate to the practice of pharmacy;

B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed as set forth in Section 1330.75; and

C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.

2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.

3) Within 10 days after the change of a pharmacist-in-charge, the Division shall be so notified in writing by the departing pharmacist-in-charge.

4) In addition to notifying the Division within 10 days, the departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:

A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and

B) All other scheduled drugs, as defined in the Illinois Controlled
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Substance Act, by estimated count.

5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Department of Financial and Professional Regulation-Division of Professional Regulation, at its principal office, within 10 days after the change in the pharmacist-in-charge.

6) Failure on the part of a registrant to provide the information required in subsections (e)(4) and (5) shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of the Board.

7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division, because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:

A) Provide such information as may be necessary; and/or

B) Explain the relevance or completeness during an oral interview; or

C) Appear for an oral interview before the Board when the information available to the Board is insufficient to evaluate compliance with this Section.

f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons or medical devices except for:

1) Medical devices that can be properly sanitized prior to reuse, resale or rerent; and

2) Medications and medical devices that are dispensed and stored under
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conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeia (USP)/National Formulary or by the United States Pharmacopoeial Convention, Inc.

g) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.

h) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.

i) Pharmacies shall develop and implement a procedure to be utilized in the event of a drug recall that can be readily activated to assure that all drugs included on the recall are returned to the pharmacy for proper disposition.

j) Duty of Division I Pharmacy to Dispense Contraceptives

1) Upon receipt of a valid, lawful prescription for a contraceptive, a pharmacy must dispense the contraceptive, or a suitable alternative permitted by the prescriber, to the patient or the patient's agent without delay, consistent with the normal timeframe for filling any other prescription. If the contraceptive, or a suitable alternative, is not in stock, the pharmacy must obtain the contraceptive under the pharmacy's standard procedures for ordering contraceptive drugs not in stock, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. However, if the patient prefers, the prescription must be transferred to a local pharmacy of the patient's choice under the pharmacy's standard procedures for transferring prescriptions for contraceptive drugs, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. Under any circumstances an unfilled prescription for contraceptive drugs must be returned to the patient if the patient so directs.

2) For the purposes of this subsection (j), the term "contraceptive" shall refer to all FDA-approved drugs or devices that prevent pregnancy.

3) Nothing in this subsection (j) shall interfere with a pharmacist's screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious
interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, or clinical abuse or misuse, pursuant to 225 ILCS 85/3(q).

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1330.92 Division II Pharmacies

a) Pharmacies that are not located in the facilities they serve and whose primary service is to provide services to patients or residents of facilities licensed under the Nursing Home Care Act or the Hospital Licensing Act, or the University of Illinois Hospital Act shall, in addition to any other requirements of the Act and this Part, comply with this Section.

b) Recordkeeping Requirements for Filling Prescriptions or Orders

1) Every prescription or order dispensed shall be documented with the handwritten names, initials or other unique identifier of the pharmacist (and technician if one is used) authorized to practice pharmacy under the provisions of the Act who dispenses the prescription or order. For purposes of the Act, an authorized person is:

   A) A pharmacist licensed in the State of Illinois, or

   B) A registered pharmacy technician or registered student pharmacist, under the supervision of a pharmacist.

2) Each pharmacy must maintain a recordkeeping system for 5 years, which contains the information in subsection (b)(3). This information shall be readily retrievable and in a format that provides enforcement agents a concise, accurate and comprehensive method of monitoring drug distribution via an audit trail. This system may require two or more documents that, when read together, will provide all the information required by federal (e.g., the regulations of the Drug Enforcement Administration, 21 CFR 1300 et seq. (1998)) and State law (e.g., the Pharmacy Practice Act of 1987 and the Illinois Controlled Substances Act).

3) In addition to the recordkeeping requirements of subsection (b)(2), a
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uniformly maintained, readily retrievable hard copy record or back-up documentation of each prescription or order dispensed shall be maintained by the pharmacy for 5 years and shall include:

A) Name of resident;

B) Date of order;

C) Name, strength and dosage form of drug, or description of the medical device ordered;

D) Quantity dispensed (a separate record should be maintained when the quantity billed differs from the quantity dispensed, e.g., unit dose transfer systems);

E) Directions for use;

F) Quantity billed;

G) Prescriber's name;

H) Prescriber's signature and/or DEA number where required for controlled substances; and

I) The drug name and identification code or the manufacturer in case of a generically ordered medication or a generic interchange.

4) The label affixed to the drug container must indicate the initials or other unique identifier of the pharmacist who approves the dispensing of the medication order. However, if the pharmacy is utilizing a drug distribution system which re-issues the same label, a separate record must be maintained which identifies the pharmacist approving each dispensing of the prescription or medication order.

5) No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription or order by the prescriber.

6) Subject to Section 18 of the Act, any information required to be kept pursuant to this Section may be recorded and stored in a:
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A) computerized pharmaceutical information system that meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and that contain no further amendments or editions, and shall include the capability to:

i) Retrieve the original medication order information for those medication orders that are currently authorized;

ii) Retrieve the current history of medication orders that shall, at a minimum, include the name of drug, the date of filling, the quantity dispensed, the name and identification code of manufacturer in the case of a generically written prescription or a generic interchange, for each filling, and the total number of refills when read in conjunction with any off-line hard copy of the history of medication orders dispensed to date; and

iii) Supply documentation of the correctness of filling information entered into a system must be provided by the pharmacist using the system by way of a hard copy printout of each day's filling data which has been verified, dated and signed by the dispensing pharmacist; or

B) bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.

c) In the event the long term care facility changes pharmacy provider services, their new provider must obtain the orders from the long term care facility and verify the authenticity and accuracy of the orders with the prescriber.

d) Staffing of the Pharmacy

1) When the pharmacy is closed, the public and any employees not registered
under the Act are to be prohibited access to the filling and dispensing area;

2) The pharmacy must provide pharmaceutical services as defined in Section 3 of the Act a minimum of 40 hours per week. A pharmacy is considered to be providing pharmaceutical services when a pharmacist is on call and available for consultation.

e) Pharmacist-in-Charge

1) No pharmacy shall be granted a certification of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:

   A) Supervision of all activities of all employees as they relate to the practice of pharmacy;

   B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed, as set forth in Section 1330.75; and

   C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.

2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.

3) Within 10 days after the change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.

4) The departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:

   A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
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B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.

5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Division, at its principal office, within 10 days after the change in the pharmacist-in-charge.

6) Failure on the part of a registrant to provide the information required in subsections (e)(4) and (5) shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based upon the recommendation of the Board.

7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division, because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:

A) Provide such information as may be necessary; and/or

B) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information given or clear up any discrepancies of conflicts in information.

f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons, or medical devices except for:

1) Medical devices that can be properly sanitized prior to reuse, resale or rental; and

2) Medications and medical devices that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light,
moisture and air permeation as defined by the current United States Pharmacopoeial (USP)/National Formulary, or by the United States Pharmacopeial Convention, Inc.

g) Labeling Requirements

1) Medications for Future Use

A) Parenteral solutions to which a drug or diluent has been added or that are not in their original manufacturer's packaging, shall contain the following information on the outer label:

   i) Name, concentration and volume of the base parenteral solution;

   ii) Name and strength of drugs added;

   iii) Expiration date and date of the admixture. Expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date, shall be not later than the expiration date on the manufacturer's container or, one year from the date the drug is repackaged, or current federal (e.g., the federal Drug Administration Act) or USP requirements, whichever is earlier; and

   iv) Reference code to identify source and lot number of drugs added.

B) Non-Parenterals repackaged for future use, shall be identified with the following information:

   i) Trade and/or generic name;

   ii) Strength (if applicable);

   iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date, shall be not later than the expiration date on the manufacturer's container or, one year from the date the drug is repackaged, or current federal or USP requirements;
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whichever is earlier; and

iv) Reference code to identify source and lot number.

2) Medications prepared for Immediate Use

A) All medications prepared by the pharmacy for immediate dispensing to a specific resident or patient in the facility shall be dispensed in a container identified with:

i) Name of the resident;

ii) Resident's room and bed number;

iii) Dispensing date;

iv) Name, strength and dosage form of drug, or description of the medical device ordered;

v) Quantity dispensed;

vi) Directions for use;

vii) Prescriber's name; and

viii) Expiration date if less than 60 days from date of dispensing.

B) Pharmacies dispensing medications to a specific resident or patient in the facility via unit dose shall label each order with the following information:

i) Name of the resident;

ii) Resident's room and bed number;

iii) Date of order;

iv) Name, strength and dosage form of drug, or description of the medical device ordered;
v) Directions for use; and

vi) Prescriber's name.

h) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.

i) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1330.97 Division VI Pharmacies

a) Division VI pharmacies are pharmacies that provide remote medication order processing to patients of institutions that are serviced by pharmacies with a Division II or Division III license, but the Division VI pharmacy does not maintain a supply of drugs. Division VI pharmacies may provide pharmacy services only in cooperation with an institution's pharmacy or pharmacy provider.

1) Any nonresident pharmacy applying for a Division VI license shall first be registered in its resident state.

2) There shall be a secure, HIPAA compliant, electronic communication system that shall include but not be limited to computer, telephone and facsimile connections.

3) This system shall give remote access to the computer system of the Division II pharmacy or Division III pharmacy to allow the Division VI pharmacist to perform remote medication order processing and shall include all laboratory results and every patient's or resident's medication profile.

4) The secure electronic communication system shall be maintained on a daily basis. If this system malfunctions, the Division VI pharmacy shall cease operations related to the institution affected.
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5) **Nothing in this Section shall relieve the pharmacist-in-charge of Division II and Division III pharmacies of compliance with Sections 1330.92 and 1330.93, respectively.**

b) **Recordkeeping Requirements**

1) **A policy and procedure manual shall be maintained by a Division VI pharmacy pertaining to the pharmacy's operations. The manual shall:**

   A) **Be accessible to the Division VI pharmacy staff and the staff at the institution who are involved in remote medication order processing and dispensing:**

   B) **Be available for inspection by the Department:**

   C) **Outline the responsibilities of the Division VI pharmacy staff and the staff at the institution who are involved in remote medication order processing:**

   D) **Include a current list of the name, address, telephone number, and license number of each pharmacist involved in remote medication order processing:**

   E) **Include policies and procedures for:**

      i) **Protecting the confidentiality and integrity of patient information:**

      ii) **Ensuring that pharmacists performing prospective drug utilization review have access to appropriate drug information resources:**

      iii) **Ensuring that medical and nursing staff understand how to contact a pharmacist:**

      iv) **Maintaining records to identify the name, initials, or identification code of each pharmacist who performs any processing function for a medication order:**

      v) **Complying with federal and state laws and regulations:**
vi) Operating or participating in a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems;

vii) Reviewing the written policies and procedures and documenting the review annually.

2) Every pharmacist providing remote medication order processing services shall record on the order, in the computer system, or on another appropriate, unalterable, uniformly maintained and readily retrievable record the following information for every drug order or prescription processed on behalf of a Division II or III pharmacy:

A) The name, initials or other unique identifier of the pharmacist who verifies the drug order or prescription;

B) The name of the patient or resident;

C) The name, dose, dosage form, route of administration, and dosing frequency of the drug;

D) The date and time of verification;

E) The name of the prescribing/ordering physician;

F) Any other information that is required by the institution being served for use in its own records.

3) The records for medications entered at the Division VI pharmacy must be distinguishable and readily retrievable from those entered at the institution being served.

4) The pharmacist-in-charge of the Division VI pharmacy shall maintain and have access to the following records for a minimum of 5 years:

A) Records of medication orders processed;
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B) Records of the electronic communication system maintenance.

5) The Division VI pharmacy shall maintain a record containing the names and license numbers of all Division II and Division III pharmacies to which they are providing services and the number of hours per day the services are being provided.

c) Staffing of the Pharmacy

1) No pharmacy shall be granted a certificate of licensure for a Division VI pharmacy without a pharmacist being designated on the pharmacy license application as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:

A) Supervision of all the activities of all employees as they relate to the practice of pharmacy.

B) Establishment and supervision of the recordkeeping system for all the documents, electronic communication and all the transfers of information between the pharmacy and the institution that is being provided services.

C) The operation of the pharmacy and maintenance of security provisions for the records and the electronic communication system of the pharmacy. The owner of the Division VI pharmacy shall be equally responsible.

2) Within 10 days after the change of a pharmacist-in-charge, the Division shall be so notified in writing by the departing pharmacist-in-charge.

3) All Division VI pharmacists shall be licensed in Illinois.

4) Only licensed pharmacists at a Division VI pharmacy shall:

A) Have access to the electronic communication system;

B) Process medication orders.
Section 1330.98 Automated Dispensing and Storage Systems

a) This Section sets forth standards for Divisions I, II, III and V pharmacies whose practice includes the use of automated dispensing and storage systems. Automated dispensing and storage systems shall not be used in Division IV pharmacies.

b) Definitions
"Automated Dispensing and Storage Systems" include, but are not limited to, mechanical systems that perform operations or activities, other than counting, compounding, or administration, relative to the storage, packaging or dispensing of medications, and that collect, control, and maintain all transaction information.

c) Automated Dispensing and Storage Systems

1) Automated dispensing and storage systems may be utilized in Division I, Division II, Division III and Division V licensed pharmacies.

2) When automated dispensing systems are used in health care facilities licensed under the Hospital Licensing Act, Nursing Home Care Act, the University of Illinois Hospital Act, or facilities operated by the Illinois Department of Corrections or Department of Human Services, only persons properly licensed under Illinois laws who have authority to administer medications or persons working under the direct supervision of those individuals shall have access for removal of prescription medications for patient use. When the systems are used within a licensed pharmacy, a pharmacist shall be responsible for dispensing the product. Automated dispensing and storage systems shall not be used for direct patient access to prescription medications.

3) Documentation as to type of equipment, serial numbers, content, policies and procedures, and locations shall be maintained on-site in the pharmacy for review by the Division. Such documentation shall include, but not be limited to:

A) Name and address of the pharmacy or facility where the automated dispensing and storage system is operational;
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B) Manufacturer's name and model;

C) Quality assurance policy and procedures to determine continued appropriate use and performance of the automated device; and

D) Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention or archival, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance, medication security, quality assurance, medication inventory, staff education and training, system set-up and malfunction.

4) Automated dispensing and storage systems shall be used only in settings that ensure medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.

5) Automated dispensing and storage systems shall have adequate security systems and procedures, evidenced by written pharmacy policies and procedures, to:

A) Prevent unauthorized access or use;

B) Comply with any applicable federal and State regulations; and

C) Maintain patient confidentiality.

6) Records and/or electronic data kept by automated dispensing and storage systems shall meet the following requirements:

A) All events involving access to the contents of the automated dispensing and storage systems must be recorded electronically;

B) Records must be maintained by the pharmacy and must be readily available to the Division. Such records shall include:

i) identity of system accessed;

ii) identification of the individual accessing the system;
iii) type of transaction;

iv) name, strength, dosage form and quantity of the drug accessed;

v) name of the patient for whom the drug was ordered;

vi) identification of the registrants stocking or restocking and the pharmacist checking for the accuracy of the medications to be stocked or restocked in the automated dispensing and storage system; and

vii) such additional information as the pharmacist-in-charge may deem necessary.

7) The stocking or restocking of all medications in the automated dispensing and storage systems shall be accomplished by registrants under the Act.

8) All containers of medications stored in the automated dispensing and storage systems shall be packaged as a unit of use for single patient use (e.g., unit dose tab/cap, tube of ointment, inhaler, etc.) and labeled as specified in this subsection (c)(8):

   A) Parenteral solutions to which a drug or diluent has been added, or that are not in their original manufacturer's packaging, shall contain the following information on the outer label:

   i) Name, concentration and volume of the base parenteral solution;

   ii) Name and strength of drugs or diluent added;

   iii) Date and expiration date of the admixture. The expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date, shall be no later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal (e.g., the Federal Drug Administration Act) or USP requirements, whichever is earlier; and
iv) Reference code to identify source and lot number of drugs or diluent added.

B) Non-parenterals repackaged for future use shall be identified with the following information:

i) Trade and/or generic name;

ii) Strength (if applicable);

iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date shall be no later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal or USP requirements, whichever is earlier; and

iv) Reference code to identify source and lot number.

C) Exceptions to the "unit of use" requirements in subsections (c)(8)(A) and (B) are as follows:

i) Injectable medications stored in their original multi-dose vial (e.g., insulin, heparin) where the medication may be withdrawn into a syringe or other delivery device for single patient use; or

ii) Over-the-counter (OTC) products stored in their original multi-dose container (e.g., antacids, analgesics) where the medication may be withdrawn and placed into an appropriate container for single patient use.

9) For medication removed from the system for on-site patient administration, the system must document the following information:

A) Name of the patient or resident;

B) Patient's or resident's unique and permanent identifier, such as admissions number or medical records number;
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C) Date and time medication removed from the system;

D) Name, initials, or other unique identifier of the person removing the drug; and

E) Name, strength and dosage form of the drug or description of the medical device removed. The documentation may be on paper, via electronic media or via any other media or mechanisms as set forth by the Act or this Part or as approved by the Division.

10) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for medications once removed from and subsequently returned to the automated dispensing and storage systems (e.g., return bin). No medication or device shall be returned directly to the system for immediate reissue or reuse by a non-registrant under the Act. Medication or devices once removed shall not be reused or reissued except for:

A) Medical devices which can be properly sanitized prior to reuse or reissue; and

B) Medication that is dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current USP/National Formulary, or by the USP Conventions, Inc.

11) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for wasted medications or discarded medications.

12) The quality assurance documentation for the use and performance of the automated dispensing and storage systems shall include at least the following:

A) Safety monitors (e.g., wrong medications removed and administered to patient);

B) Accuracy monitors (e.g., filling errors, wrong medications removed); and
C) Security monitors (e.g., unauthorized access, system security breaches, controlled substance audits).

13) Errors in the use or performance of the automated dispensing and storage systems resulting in patient or resident death shall be reported to the Division by the pharmacist-in-charge within 30 days after acquiring knowledge of the incident.

14) Policy and procedures for the use of the automated dispensing and storage systems shall include a requirement for pharmacist review of the prescription or medication order prior to the system profiling and/or removal of any medication from the system for immediate patient administration. This does not apply to the following situations:

A) The system is being used as an after hours cabinet for medication dispensing in the absence of a pharmacist as defined in Section 1330.93(e)(1);

B) The system is being used in place of an emergency kit as defined in Section 1330.93(e)(2);

C) The system is being used to provide access to medication required to treat the immediate needs of a patient as defined in Section 1330.93(e)(3). A sufficient quantity to meet the immediate needs of the patient may be removed until a pharmacist is on duty and available to review the prescription or medication order. A pharmacist shall check such orders promptly once on duty (e.g., floor stock system, emergency department, surgery, ambulatory care or same day surgery, observation unit, etc.).

15) Policies and procedures for the use of the automated dispensing and storage systems shall include the following:

A) List of medications to be stored in each system;

B) List of medications qualifying for emergency or first dose removal without pharmacist prior review of the prescription or medication order; and
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C) List of medications qualifying for control purposes.

16) The pharmacist-in-charge shall maintain or have access to all records or documentation specified in this Section for 5 years or as otherwise required by law.

17) A copy of all pharmacy policies and procedures related to the use of an automated dispensing and storage system shall be maintained at all locations where the system is being used.

d) Duties and Responsibilities of the Pharmacist-in-Charge

1) The pharmacist-in-charge shall be responsible for:

A) Assuring that the automated dispensing and storage system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards;

B) Establishment of a quality assurance program prior to implementation of an automated dispensing and storage system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of the automated dispensing and storage system, which is evidenced by written policies and procedures developed by the pharmacy;

C) Providing the Division with written notice 30 days prior to the installation of or at the time of removal of an automated storage and dispensing system. Such notice must include, but is not limited to:

i) the name and address of the pharmacy;

ii) the address of the location of the automated dispensing and storage system, if different from the address of the pharmacy;

iii) the automated dispensing and storage system's manufacturer and model;
iv) the pharmacist-in-charge; and

v) a written description of how the facility intends to use the automated storage and dispensing system;

D) Determining and monitoring access to and the limits on access (e.g., security levels) to the automated storage and dispensing system. Such access shall be defined by policies and procedures of the pharmacy and shall comply with State and federal regulations.

2) Additional responsibilities of the pharmacist-in-charge or pharmacist designated by the pharmacist-in-charge shall include:

A) Authorizing the assigning of access to, discontinuing access to, or changing access to, the system;

B) Ensuring that access to the medications complies with State and federal regulations as applicable; and

C) Ensuring that the automated dispensing and storage system is stocked/restocked accurately and in accordance with established, written pharmacy policies and procedures.

(Source: Amended at 30 Ill. Reg. ______, effective _____________)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Child Support Enforcement

2) **Code Citation:** 89 Ill. Adm. Code 160

3) **Section Numbers:** Proposed Action:
   - 160.5 Amendment
   - 160.89 New Section

4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13], Public Act 94-89 and Public Act 94-90

5) **Complete Description of the Subjects and Issues Involved:** These proposed amendments are necessary to add new provisions under Public Act 94-89 and 94-90 regarding the assessment of interest on child support judgments. In Section 160.5, the definition on "Date of Collection" is being revised to accommodate situations in which child support is collected in month when due, but it is not received in the State Disbursement Unit until the following month. Since the date of collection affects the accrual of interest, this change will prevent the charging of improper interest. New Section 160.88 is being proposed to specifically detail when the Department shall assess interest on child support judgments.

6) **Will this rulemaking replace any emergency amendments 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?** Yes

<table>
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10) **Statement of Statewide Policy Objectives:** This rulemaking does not affect units of local government.

11) **Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking:** Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Joanne Scattoloni
201 South Grand Avenue East, Third Floor
Springfield, Illinois  62763-0002

(217)524-0081

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

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: January 2006

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the Illinois Register on page 5426:
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Water Use Designations and Site Specific Water Quality Standards

2) **Code Citation:** 35 Ill. Adm. Code 303

3) **Section Number:** 303.445

   **Proposed Action:** Added

4) **Statutory Authority:** Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b) and 27].

5) **A complete description of the subjects and issues involved:** A more complete description of this proposal may be found in the Board's opinion and order of March 2, 2006 in docket R06-24. This site-specific rulemaking proposal was filed with the Board by the ExxonMobil Oil Corporation (ExxonMobil) on February 7, 2006 for discharges of Total Dissolved Solids (TDS) from the ExxonMobil Joliet Refinery during the months of November through April in each year. The proposal would set 1,686 milligrams per Liter (mg/L) as the TDS levels for both Secondary Contact and Indigenous Aquatic life Use Waters General Use Waters. This 1,686 mg/L standard would apply instead of the general use standard of 1,000 mg/L found in 35 Ill. Adm. Code 302.208 and the secondary contact use standard of 1,500 mg/L found in 302.407. On March 2, 2006, the Board adopted the proposal as it appears below for first notice publication rulemaking without commenting on the merits of the proposal, in response to a joint motion to expedite this rulemaking made by ExxonMobil and the Illinois Environmental Protection Agency (Agency). The Board presently intends to schedule only one hearing during the 45-day first notice period.

   ExxonMobil owns and operates the Joliet Refinery (refinery) located in Channahon Township on a 1,300 acre tract of land in unincorporated Will County. The site is adjacent to Interstate 55 at the Arsenal Road exit, approximately 50 miles southwest of Chicago. The refinery employs more than 500 full-time employees, and approximately 100 additional ExxonMobil employees who provide regional support services are also located at the refinery.

   On October 11, 2005, ExxonMobil was a party to a consent decree involving the United States of America, as well as the States of Illinois, Louisiana, and Montana. Under that consent decree, ExxonMobil must, among other things, make substantial investments in air emissions reductions at the Joliet Refinery. The consent decree calls for the use of a wet gas scrubber in addition to added technology, which will contribute to additional sulfate and TDS to the wastewater treatment system.
POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

ExxonMobil has asserted that because of occasional observed TDS violations in the Des Plaines River and in light of 35 Ill. Adm. Code 302.102(b)(9), the Agency could not issue the wastewater construction permit needed by ExxonMobil. ExxonMobil and the Agency believe that Board adoption of the proposed 1,686 mg/L TDS standard would allow for issuance of a permit approvable by the United States Environmental Protection Agency.

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 amendments pending on this Part? No

10) Statement of statewide policy objectives: The proposed amendments do not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].

11) Time, place and manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R06-24 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

Address all questions to John Knittle, at 217/278-3111 or email at knittlej@ipcb.state.il.us.

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board’s Website at http:\www.ipcb.state.il.us.

12) Initial regulatory flexibility analysis:

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

NOTICE OF PROPOSED AMENDMENT

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: The Board did not include this rulemaking on either of the last two regulatory agendas because it had no advance notice that ExxonMobile would request this site-specific relief to allow it to comply with the October 11, 2005 federal consent decree.

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

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 303
WATER USE DESIGNATIONS AND SITE SPECIFIC WATER QUALITY STANDARDS

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303.352 Unnamed Tributary of Wood River Creek
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303.400 Bankline Disposal Along the Illinois Waterway/River
303.430 Unnamed Tributary to Dutch Creek
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303.441 Secondary Contact Waters
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303.444 Salt Creek, Higgins Creek, West Branch of the DuPage River, Des Plaines River

303.445 Total Dissolved Solids Water Quality Standard for the Lower Des Plaines River

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303.APPENDIX A References to Previous Rules
303.APPENDIX B Sources of Codified Sections

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b) and 27].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE
SPECIFIC WATER QUALITY STANDARDS

Section 303.445 Total Dissolved Solids Water Quality Standard for the Lower Des Plaines River

a) Beginning November 1 and continuing through April 30 of each year, the total dissolved solids (TDS) water quality standard for Secondary Contact and Indigenous Aquatic Life Use waters in 35 Ill. Adm. Code 302.407 does not apply to the portion of the Des Plaines River from the ExxonMobil refinery wastewater treatment plant discharge point located at I-55 and Arsenal Road (said point being located in Will County, T34N, R9E, S15, Latitude: 41°, 25” North, Longitude: 88°, 11', 20" West) and continuing to the I-55 bridge. TDS levels in these waters must instead meet a water quality standard for TDS (STORET Number 70300) of 1,686 mg/L.

b) Beginning November 1 and continuing through April 30 of each year, the TDS water quality standard for General Use Waters in 35 Ill. Adm. Code 302.208 does not apply to the Des Plaines River from the I-55 bridge to the confluence of the Des Plaines River with the Kankakee River. TDS levels in these waters must instead meet a water quality standard for TDS (STORET Number 70300) of 1,686 mg/L.

(Source: Added at 30 Ill. Reg. ______, effective ____________)
NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** State Vehicles and Garage

2) **Code Citation:** 44 Ill. Adm. Code 5040

3) **Section Numbers:**
   - 5040.130  Amendment
   - 5040.540  Amendment
   - 5040.550  Amendment
   - 5040.700  Amendment

4) **Statutory Authority:** Implementing and authorized by the Civil Administrative Code of Illinois [20 ILCS 405/405-285] and the State Vehicle Identification Act [30 ILCS 610/1 and 2].

5) **Effective Date of Amendments:** March 1, 2006

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, is on file in the agency’s principal office and is available for public inspection.

9) **Date Notice of Proposal was Published in the Illinois Register:** March 11, 2005; 29 Ill. Reg. 3393

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** In Subsection 5040.540(h), language relating to limits on, and exceptions for, CMS or Vendor Fleet Card purchases was expanded to identify examples of relative criteria and circumstances. In Subsection 5040.540(i), language relative to exception reporting by State agencies was expanded to provide more specific reporting criteria. Subsection 5040.540(j) was added to include more specific criteria relating to the required bi-annual report to CMS. All other nonsubstantive technical changes recommended by JCAR were made.

12) **Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement 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:** These amendments tell agencies how they must use the vehicle Vendor Fleet Cards to obtain fuel and repairs while conducting State business. Vendor Fleet Cards allow for better controls, requiring agencies to have adequate policies and procedures in place to safeguard the usage of the Vendor Fleet Cards. In addition, language has been changed relating to outdated rates and Vendor Fleet Card purchase limits.

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

    Gina Wilson  
    Illinois Department of Central Management Services  
    720 Stratton Office Building  
    Springfield IL  62706

    (217)785-1793

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:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE D: PROPERTY MANAGEMENT
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5040
STATE VEHICLES AND GARAGE

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5040.510  Insurance
5040.520  Accidents Report Procedures
5040.530  Tickets
5040.540  Credit Card
5040.550  Gasoline Purchase
5040.560  Charges
5040.570  Payment of Charges
5040.580  Credits
5040.590  Cost Information (Repealed)
5040.600  Designation of Vehicle Coordinator
5040.610  DCMS Annual Statement
5040.620  Required Forms and Information
5040.630  Agency Signature Authority
5040.700  Rate Schedule

AUTHORITY: Implementing Sections 405-280, 405-285, and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS


SUBPART A: GENERAL

Section 5040.130 Definitions

"Agency Head" – The top appointed or elected person within a State entity or the person authorized to act in his or her behalf.

"DCMS Fleet Card" – A card issued by DCMS as a means of identifying a particular piece of equipment used to purchase fuel, maintenance and repair goods and services.

"Equipment" – Any motorized implement or vehicle used to perform official State business.

"Executive Department" – All departments, boards, commissions, and agencies of the State of Illinois subject to the Governor.

"State Employee" – Any person who is paid on a State warrant or providing a service to the State and who has permission from the "agency head" may use a State vehicle.

"Vehicle" – Any automobile, truck, or other conveyance capable of independent locomotion on the roads and highways of the State other than special mobile equipment as defined in Section 1-100 of the Illinois Vehicle Code [625 ILCS 5/1-100].

"Vendor Fleet Card" – A card issued by a private vendor, under contract with DCMS, as a means of identifying a particular piece of equipment and used to purchase fuel, maintenance and repair goods and services.

(Source: Amended at 30 Ill. Reg. 4587, effective March 1, 2006)

SUBPART E: MISCELLANEOUS

Section 5040.540 Credit Card

All costs (State garage or private vendor) incurred for the operation of a state-owned vehicle (gasoline, oil, parts, labor, etc.) shall be charged to the official Vehicle Equipment Credit Card.
assigned to that vehicle, except where an emergency situation requires payment by a means other than the official credit card or where use of the credit card is not feasible. All gasoline, repair or other charges shall be promptly reported by the employee to his agency.

a) DCMS Fleet Cards are utilized for fuel purchases and repairs performed at DCMS garage and fueling sites. DCMS Fleet Cards or DCMS approved Vendor Fleet Cards are utilized for outside purchases of full tanks of fuel. Repairs and maintenance require prior DCMS approval. Exceptions to the above are minor repairs and services including lube, oil and filter; windshield wiper replacements; light bulbs and headlights; and vehicle washes. Additionally, emergency towing and/or emergency tire repair are approved purchases. Emergency repairs and maintenance require authorization by DCMS the next business day. All official credit cards for state-owned vehicles will be prepared and assigned to the respective vehicle by the Division of Vehicles prior to the vehicle being placed in service. The initial credit card will be issued at no charge. Replacement cards needed due to normal wear and tear will also be issued at no charge. Other replacement cards shall be issued for the charge shown in the Rate Schedule (see Section 5040.700).

b) DCMS Fleet Cards are assigned to equipment when placed in service by the Division of Vehicles. DCMS will recover the cost of administering Fleet Card services in its rates. An official Vehicle Equipment Card shall be assigned to each state-owned vehicle and shall only be used for purchases related to that vehicle. Unauthorized use of the credit card makes the user subject to discipline and/or prosecution.

c) Any State employee involved in the unauthorized use of a DCMS or a Vendor Fleet Card may be subject to discipline or criminal prosecution, or both. If a situation necessitates payment of costs associated with the operation of a vehicle by means other than an official Vehicle Credit Card, the driver must submit a written report to DCMS stating:

1) The date and place of service.
2) The exact nature and cost of service.
3) The reason necessitating payment by a means other than by official Vehicle Credit Card.

d) Agency Vehicle Coordinators are responsible for ordering Vendor Fleet Cards
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

and for maintaining inventory control of Vendor Fleet Cards for agency equipment, utilizing DCMS' vendor on-line systems and formats. In the event a Vehicle Credit Card is lost or damaged, the individuals responsible for that vehicle will notify the Agency Vehicle Coordinator. The Vehicle Coordinator will make a written request to DCMS for a replacement card detailing the circumstances of the loss, identifying the lost card by number and telling DCMS of known legitimate outstanding charges.

e) Personal Identification Numbers (PIN) for Vendor Fleet Cards are required for accountability and to prevent theft and abuse. A PIN is required for each vehicle or driver that maximizes the vendor's system security capabilities.

1) Vehicle credit cards may be used without prior DCMS authorization for purchases outside DCMS facilities for gasoline, oil, oil changes/lubrication, washing, towing, and tire repair not to exceed:

   $ 50.00 cars/trucks through 1 ton

   $200.00 trucks over 1 ton.

2) Minor mechanical repairs not to exceed $50.00 (cars/light trucks) and $100.00 (other vehicles) may be charged to this card without DCMS approval only in emergency situations. All other mechanical repairs require DCMS authorization.

f) Drivers are responsible for accurate mileage information on all Fleet Card transactions.

g) Lost, Stolen or Damaged Fleet Cards

1) Drivers are responsible for the appropriate use of and security of both the DCMS and Vendor Fleet Cards once received. Drivers are also responsible for reporting damaged, lost or stolen DCMS and Vendor Fleet Cards to their Agency Vehicle Coordinator immediately. Upon receipt of replacement cards, drivers are responsible for sending the original expired or damaged card back to the Agency Vehicle Coordinator.

2) Agency Vehicle Coordinators must document to DCMS a vehicle's lost, stolen or damaged DCMS Fleet Card for replacement.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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3) The Agency Vehicle Coordinator must notify the Fleet Card vendor immediately to cancel a Vendor Fleet Card that is lost or stolen.

h) DCMS may, from time to time, establish limits on DCMS and Vendor Fleet Card purchases based on criteria such as tank capacity, historic and anticipated needs, and market rates for fuel and service. Exceptions may be granted on a case-by-case basis for reasons such as extraordinary operating needs, extraordinary economic circumstances and emergency use.

i) Agencies are required to utilize Vendor Fleet Card exception report capabilities and establish internal procedures for addressing issues identified through these reports. Exception report capabilities, as applicable, can include, but are not limited to, purchases that exceed transaction limits, fuel purchases greater than fuel tank capacities, excessive number of purchase transactions per day, and purchases of a fuel type inconsistent with the vehicle being operated. In addition, agencies are required to use any other available exception report capabilities that prevent theft and abuse.

j) DCMS establishes twice annual reporting criteria, including card abuse reporting, for this purpose. Agencies shall report the results of exceptions review to DCMS on July 1 and January 1 of each year, in the form specified by DCMS. Agencies shall report the division, date, time, equipment number, license number, driver's name, merchant's name, merchant city, transaction amount, exception issue and the resolution.

(Source: Amended at 30 Ill. Reg. 4587, effective March 1, 2006)

Section 5040.550 Gasoline Purchase

a) Purchases of fuel, oil, and related items for the operation of State-owned vehicles must be made from the most economical source. Unleaded gasoline (with ethanol blended in, often called Gasohol) shall, however, be used where available. In determining the most economical source, drivers of State vehicles shall consider all factors, including price and route of travel. Employees are required to use E-85 (85% ethanol) and bio-diesel when operating flexible fueled and diesel powered vehicles in the State fleet, whenever practical.

b) If there is a State-owned garage or service station within a reasonable distance, the driver should make purchases at this source. This should be considered a guideline and does not
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS


c) If a State-owned state-owned garage or State-owned state-owned service station is not conveniently located, an appropriately located privately operated station with a self-service island shall be the source of purchase, except when the driver is physically unable to operate a self-service pump. (a list of service stations accepting a State credit card is shown in the Vehicle Operator's Instructions). Except that this shall not apply where:

1) The vehicles may require services such as oil, air, or water check, which must be performed by a station attendant.

2) The driver of the vehicle is physically unable to operate a self-service pump.

3) The privately operated station with a self-service gasoline island does not accept the official State Vehicle Credit Card.

(Source: Amended at 30 Ill. Reg. 4587, effective March 1, 2006)

Section 5040.700 Rate Schedule

a) The following rates shall be fixed and shall not change except by amendment to this Part.

1) Failure to return motor pool vehicles as scheduled (See Section 5040.380(b)(2)(C)) $2.00 per hour

2) Failure to cancel reservation at least four hours in advance (See Section 5040.380(c)(3)) $10.00

3) One way trip fee (See Section 5040.380(d)(2)) $15.00

4) Late payment fee (See Section 5040.570) 5%

5) Replacement card fee (See Section 5040.540(a)) $5.00

b) Rates for the following are published by DCMS annually or as changes occur through distribution to Agency Vehicle Coordinators. Categories are posted at garage and motor pool
locations or sent to each agency vehicle coordinator. These rates may fluctuate based upon daily market changes.

a) Motor pool rental charge

b) Vehicle lease charge

c) Labor rates

d) Parts costs

e) Fuel, oil and anti-freeze

(Source: Amended at 30 Ill. Reg. 4587, effective March 1, 2006)
NOTICE OF ADOPTED RULES

1) **Heading of the Part:** Financial Incentive for Non-Medicare State Employees Retirement System Annuities Who Opt Out of the State Employees Group Health Plan

2) **Code Citation:** 80 Ill. Adm. Code 2106

3) **Section Numbers:**
   - 2106.110 New Section
   - 2106.120 New Section
   - 2106.130 New Section
   - 2106.140 New Section
   - 2106.150 New Section
   - 2106.210 New Section
   - 2106.220 New Section
   - 2106.310 New Section
   - 2106.320 New Section
   - 2106.330 New Section

4) **Statutory Authority:** Implementing and authorized by the State Employees Group Insurance Act [5 ILCS 375].

5) **Effective Date of Rules:** March 1, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** Yes

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Date Notice of Proposal was Published in the Illinois Register:** October 21, 2005; 29 Ill. Reg. 15753

10) **Has JCAR issued a Statement of Objection to these rules?** No

12) **Differences between proposal and final version.** The Department originally submitted these amendments in conjunction with companion emergency rules. At its meeting on November 15, 2005, JCAR objected to the emergency rulemaking because the language inferred that Department policies, pamphlets and memoranda prevailed over governing statute, and the rulemaking did not specify the amount of the financial incentive to be offered under the rule. In response to this Objection, the emergency rulemaking was
modified. Therefore, these rules reflect the same modifications. All references to Department publications, pamphlets, policies and memoranda were removed under sections 2106.110, 2106.210 and 2106.330. Section 2106.140 has been deleted and subsequent sections renumbered accordingly. Subsection 2106.310a) has been changed to reflect the financial incentive amount. In addition, minor technical changes that were recommended by JCAR were made.

12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect? Yes

16) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: These rules cite the governing authority and provide for administration of financial incentive for Non-Medicare eligible State Employee Retirement System Annuities who opt out of the program of health benefits under the State Employees Group Insurance Program.

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

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL  62706

(217)785-1793

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 Rules begins on the next page:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE F: EMPLOYEE BENEFITS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2106
FINANCIAL INCENTIVE FOR NON-MEDICARE STATE EMPLOYEES RETIREMENT SYSTEM ANNUITANTS WHO OPT OUT OF THE STATE EMPLOYEES GROUP HEALTH PLAN

SUBPART A: GENERAL

Section
2106.110 Governing Authority
2106.120 Purpose
2106.130 Definitions of Terms
2106.140 Records and Certifications
2106.150 Severability

SUBPART B: RESPONSIBILITY FOR ADMINISTRATION OF THE OPT OUT INCENTIVE

Section
2106.210 CMS Responsibility
2106.220 Member Responsibility

SUBPART C: OPT OUT INCENTIVE REQUIREMENTS AND BENEFITS

Section
2106.310 Eligibility Requirements
2106.320 Participation Limits
2106.330 Enrollment

AUTHORITY: Implementing and authorized by Section 8(d-5) of the State Employees Group Insurance Act [5 ILCS 375/8(d-5)].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 15976, effective October 5, 2005, for a maximum of 150 days; modification of emergency rulemaking to meet the objection of the Joint Committee on Administrative Rules at 30 Ill. Reg. 138, effective December 22, 2005 and not to exceed the 150-day time limit of the original rulemaking; adopted at 30 Ill. Reg. 4597, effective March 1, 2006.
Section 2106.110  Governing Authority

The financial incentive for non-Medicare State Employees Retirement System (SERS) annuitants to opt out of the State Employees Group Insurance Health Plan will be governed by Public Act 94-0109, the State Employees Group Insurance Act [5 ILCS 375/8(d-5)], as amended in 375/8(d-5), and this Part.

Section 2106.120  Purpose

The purpose of this Part is to provide for administration of an Opt Out Incentive for non-Medicare SERS annuitants who elect not to participate in the Health Plan provided by the State Employees Group Insurance Act [5 ILCS 375/8(d-5)].

Section 2106.130  Definitions of Terms

Unless the context otherwise requires, the following words and phrases as used in the Act shall have the following meanings for the purpose of implementing and administering the Opt Out Incentive:

"Act" means the State Employees Group Insurance Act [5 ILCS 375].

"Benefit Choice Period" means a designated time when members may change benefit coverage elections.

"CMS" means the Illinois Department of Central Management Services.

"Director" means the Director of CMS.

"Health Plan" means the health, dental and vision benefits offered by the program to eligible persons.


"Member" means an employee, annuitant, retired employee or survivor, as defined in the Act.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

"Opt Out/In Qualifying Change in Status" means an event that affects eligibility for Health Plan coverage, including but not limited to the following: Member becomes eligible for non-State administered health benefits coverage; marriage; loss or gain of Medicare for any reason; coordination of spouse's open enrollment period; spouse gains or loses non-State administered health benefits.

"Opt Out Incentive" means the State Employees Retirement System retiree/annuitant insurance opt out incentive authorized by Section 8(d-5) of the Act, which provides a financial incentive for each State Employees Retirement System retiree/annuitant who is not eligible for benefits under the federal Medicare health insurance program who elects not to participate in the Health Plan on or after January 1, 2006 under Section 8(d-5) of the Act.

"Program" means the group life insurance, health and other benefits designed and/or contracted for by CMS and/or HFS that are provided under the Act.

"SERS" means the State Employees Retirement System.

"SERS Annuitant" means a retiree or annuitant who is receiving a pension from the State Employees Retirement System.

"Special Enrollment Period" means a designated time period defined by the Director of CMS for certain Members to change specific benefit coverage elections when special circumstances occur that affect only those Members.

Section 2106.140  Records and Certifications

Records and other necessary certifications will be furnished to the Director as may be necessary for the administration of this Opt Out Incentive. These records and certifications will be retained and provided as necessary by SERS and CMS.

Section 2106.150  Severability

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

SUBPART B: RESPONSIBILITY FOR ADMINISTRATION OF THE OPT OUT INCENTIVE
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED RULES

Section 2106.210  CMS Responsibility

CMS will be responsible for administering the Opt Out Incentive and shall:

a) Develop and distribute materials and information to Members, including any and all necessary forms with requirements, policies and procedures related to the Opt Out Incentive.

b) Maintain eligibility for the Opt Out Incentive in a centralized, computerized file, properly storing and retrieving confidential information, processing updates and administering security access in accordance with confidentiality laws.

c) Authorize payments to Members participating in the Opt Out Incentive. No partial monthly or retroactive payments will be made.

d) Assist Members with Opt Out Incentive questions and/or issues, and respond to oral and written inquiries concerning the Opt Out Incentive.

e) Comply with the federal Health Insurance Portability and Accountability Act (HIPAA), where applicable.

f) Enroll and terminate Members in compliance with this Part.

g) Identify and collect Opt Out Incentive payments paid in error to Members and deposit the money into the Health Insurance Reserve Fund.

Section 2106.220  Member Responsibility

The Member will be responsible to:

a) Furnish proof of health coverage from a source other than CMS.

b) Report Medicare eligibility changes timely.

c) Report all eligibility status changes within 60 days after the event, including but not limited to Medicare eligibility.

d) Return to CMS all payments made in error or for fraudulent acts. Failure to repay payments as required will result in termination of the financial incentive and
disallowance of future coverage in the Health Plan. Fraudulent acts include, but are not limited to, the following:

1) failure to timely report changes and/or Opt Out/In Qualifying Changes in Status;

2) falsifying information in order to receive Opt Out Incentive payments.

SUBPART C: OPT OUT INCENTIVE REQUIREMENTS AND BENEFITS

Section 2106.310 Eligibility Requirements

Opt Out Incentive administration shall be in compliance with Section 8(d-5) of the Act and shall:

a) Allow SERS annuitants who elect not to participate in the Health Plan to receive a financial incentive of $150 per month if all of the following conditions are met:

1) the Member is enrolled in the Health Plan at the time of a Special Enrollment Period or subsequent Benefit Choice Periods, or an Opt Out/In Qualifying Change in Status occurs; and

2) the Member is not eligible for and/or receiving benefits under the federal Medicare health insurance program (42 USC § 1395 et seq.).

b) Provide for a Special Enrollment Period from November 1 through November 30, 2005 for SERS annuitants enrolled in the Health Plan to elect to participate in the Opt Out Incentive. The Opt Out Incentive elected by SERS annuitants during this Special Enrollment Period will have an effective date of January 1, 2006.

c) Provide that SERS annuitants who previously elected not to participate in the Health Plan may choose to enroll in the Health Plan during the Benefit Choice Period or with an Opt Out/In Qualifying Change in Status. Once enrolled, they may take advantage of the Opt Out Incentive during a subsequent Benefit Choice Period or with a subsequent Opt Out/In Qualifying Change in Status. Participants will not be permitted to enroll and opt out during the same Benefit Choice Period or based on the same Opt Out/In Qualifying Change in Status.

Section 2106.320 Participation Limits

Opt Out Incentive participation ceases when the non-Medicare SERS annuitant:
a) reaches age 65, unless written proof of Medicare ineligibility is submitted to CMS;

b) becomes Medicare eligible for any reason; or

c) elects to participate in the Health Plan.

Section 2106.330 Enrollment

Eligible Members participating in the Health Plan may enroll in the Opt Out Incentive during the Special Enrollment Period, the Benefit Choice Period, or with an Opt Out/In Qualifying Change in Status by completing appropriate forms and furnishing proof of eligibility as outlined in Section 2106.310 of this Part.
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Disadvantaged Students Funds Plan/Districts Between 1,000 and 50,000 ADA

2) Code Citation: 23 Ill. Adm. Code 201

3) Section Numbers: Adopted Action:
   201.10    Repeal
   201.20    Repeal
   201.30    Repeal
   201.40    Repeal
   201.50    Repeal

4) Statutory Authority: 105 ILCS 5/18-8.05(H)

5) Effective Date of Repealer: February 28, 2006

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

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 7, 2005; 29 Ill. Reg. 14614

10) Has JCAR issued a Statement of Objection to this repealer? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: This Part has set forth requirements pertaining to supplemental general State aid for school districts located outside of the city of Chicago. These requirements will now be contained in new Part 203.
16) **Information and questions regarding this adopted repealer shall be directed to:**

Donna Luallen  
Accountability  
Illinois State Board of Education  
100 North First Street, E-230  
Springfield, Illinois 62777-0001  

(217) 782-2948
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED REPEALER

1) **Heading of the Part**: Disadvantaged Students Funds Plan/Districts Over 50,000 ADA

2) **Code Citation**: 23 Ill. Adm. Code 202

3) **Section Numbers**: Adopted Action:
   - 202.10 Repeal
   - 202.20 Repeal
   - 202.30 Repeal
   - 202.40 Repeal
   - 202.44 Repeal
   - 202.46 Repeal
   - 202.50 Repeal
   - 202.60 Repeal

4) **Statutory Authority**: 105 ILCS 5/18-8.05(H)

5) **Effective Date of Repealer**: February 28, 2006

6) **Does this repealer contain an automatic repeal date?** No

7) **Does this repealer contain incorporations by reference?** No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register**: October 7, 2005; 29 Ill. Reg. 14620

10) **Has JCAR issued a Statement of Objection to this repealer?** No

11) **Differences between proposal and final version**: None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were requested by JCAR, and no agreements letter was issued.

13) **Will this repealer replace any emergency repealer currently in effect?** No

14) **Are there any amendments pending on this Part?** No
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED REPEALER

15) **Summary and Purpose of Repealer:** This Part has set forth requirements pertaining to supplemental general State aid for City of Chicago School District 299. These requirements will now be contained in new Part 203.

16) **Information and questions regarding this adopted repealer shall be directed to:**

   Donna Luallen  
   Accountability  
   Illinois State Board of Education  
   100 North First Street, E-230  
   Springfield, Illinois 62777-0001  
   (217) 782-2948
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

1) **Heading of the Part:** Low-Income Students Funds Plan

2) **Code Citation:** 23 Ill. Adm. Code 203

3) **Section Numbers:**

   - 203.10 New Section
   - 203.20 New Section

4) **Statutory Authority:** 105 ILCS 5/18-8.05(H)

5) **Effective Date of Rules:** February 28, 2006

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 rules, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** October 7, 2005; 29 Ill. Reg. 14637

10) **Has JCAR issued a Statement of Objection to these rules?** No

11) **Differences between proposal and final version:**

   The proposed title of the new Part was changed from "Disadvantaged Students Funds Plans" to "Low-Income Students Funds Plan".

   The word "pupils" in the title of Section 203.10 in the Table of Contents and in the section heading was capitalized, i.e., "Pupils".

   In Section 203.20(a)(2)(F), "has" was changed to "have".

   In Section 203.20(b)(2)(F)(iii), "out-of-state" was changed to "out-of-State".

   In Section 203.20(b)(4), commas were added after "give" and after the phrase "insofar as possible".

   In Section 203.20(b)(4), a second closing parenthesis was added after "(42 USC 1751 et seq.)".
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED 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 these rules replace any emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Part 203 combines two existing Parts (Part 201 and Part 202) and strips away all but the essential components necessary for the development and submission of plans for the use of supplemental general State aid (SGSA). For school districts outside of Chicago, the rules allow districts that have described in their district improvement plans proposed strategies and programs for meeting the educational needs of their low-income students to use the improvement plans for SGSA purposes rather than to develop a separate plan.

For Chicago, the rules incorporate those data elements that the district currently provides in its plan and the expenditure report for the previous school year. The rules also require that any modifications or amendments to the plan be described at the time the expenditure report is submitted. Additionally, the rules streamline the requirements for compliance monitoring.

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

Donna Luallen
Accountability
Illinois State Board of Education
100 North First Street, E-230
Springfield, Illinois 62777-0001

(217) 782-2948

The full text of the Adopted Rules begins on the next page:
TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER e: INSTRUCTION

PART 203
LOW-INCOME STUDENTS FUNDS PLAN

Section 203.10 School Districts with an Average Daily Attendance of More than 1,000 and Fewer than 50,000 Pupils

Each school district with an average daily attendance of more than 1,000 and fewer than 50,000 pupils that qualifies for supplemental general State aid (SGSA) pursuant to Section 18-8.05(H)(2.10) of the School Code [105 ILCS 5/18-8.05(H)] shall submit a plan to the State Board of Education prior to October 30 of each year in accordance with this Section.

a) The plan shall include the following.

1) The identification of strategies for the improvement of instruction that give priority to meeting the educational needs of low-income students (i.e., students who are eligible for free or reduced-price meals under the Child Nutrition Act of 1966 (42 USC 1771 et seq.) or the National School Lunch Act (42 USC 1751 et seq.)).

2) The relevant budget information to describe the manner in which SGSA shall be used to support the district improvement plan strategies that give priority to meeting the educational needs of low-income students.

b) The plan may be submitted either:
1) As part of the district improvement plan developed pursuant to 23 Ill. Adm. Code 1.85(b), in which case the district shall, in its submission to the State Board, identify the specific sections of the district improvement plan that meet the requirements of this Section; or

2) As a separate document.

Section 203.20 School Districts with an Average Daily Attendance of 50,000 or More Pupils

Each school district with an average daily attendance of 50,000 or more pupils that qualifies for supplemental general State aid (SGSA) pursuant to Section 18-8.05(H)(2.10) of the School Code shall submit a plan to the State Board of Education prior to July 15 of each year for the expenditure of no less than $261,000,000 of its SGSA in accordance with this Section.

a) The plan required by this Section shall include the following information:

1) For the district as a whole:

A) The SGSA allocation, as determined by the State Board of Education pursuant to Section 18-8.05(H)(2.10) of the School Code;

B) If applicable, the amount to be allocated from the district's general State aid payment necessary to bring the total SGSA allocation to at least $261,000,000 (i.e., $261,000,000 minus the amount specified in subsection (a)(1)(A) of this Section);

C) The unexpended SGSA to be carried over from the fiscal year previous to the school year in which the plan is being provided;

D) The total SGSA to be distributed to all attendance centers in the school year in which the plan is being provided;

E) The number of students enrolled who were eligible to receive free or reduced-price lunches or breakfasts under the federal Child Nutrition Act of 1966 (42 USC 1771 et seq.) or the National School Lunch Act (42 USC 1751 et seq.) as of December 1 of the immediately preceding school year; and

F) The SGSA per-pupil allocation to be used to determine the distribution of SGSA to each attendance center, consisting of the
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NOTICE OF ADOPTED RULES

amount specified in subsection (a)(1)(D) of this Section divided by the amount specified in subsection (a)(1)(E) of this Section.

2) For each attendance center in the district to which SGSA is being allocated:

A) The total number of students enrolled in the attendance center as of the last school day in September of the immediately preceding school year;

B) The total number of pupils enrolled who were eligible to receive free or reduced-price lunches or breakfasts under the federal Child Nutrition Act of 1966 (42 USC 1771 et seq.) or the National School Lunch Act (42 USC 1751 et seq.) as of December 1 of the immediately preceding school year;

C) The district's allocation of basic funds to each attendance center for the school year for which the plan is being submitted, to include the total appropriation from local funds, such as the General Fund, Tort Fund, Public Building Commission Fund, and Operations and Maintenance Fund;

D) The district's allocation of other categorical funds to the attendance center for the school year for which the plan is being submitted, consisting of all appropriations from any other local, State or federal funds;

E) The district's allocation of the SGSA to the attendance center, consisting of the amount specified in subsection (a)(1)(F) of this Section multiplied by the amount specified in subsection (a)(2)(B) of this Section;

F) The SGSA funds allocated to the attendance center in prior fiscal years that have not been spent;

G) The total SGSA entitlement, consisting of the SGSA allocation and the carryover amount;

H) The sum of the basic funds, other categoricals and SGSA for the school year for which the plan is being provided; and
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

I) The per-pupil spending amount, consisting of the amount specified in subsection (a)(2)(H) of this Section divided by the amount specified in subsection (a)(2)(A) of this Section.

b) By submitting the plan, the district certifies to the State Board of Education that, through a process of review of the school expenditure plans developed in accordance with Section 34-2.3(4) of the School Code [105 ILCS 5/34-2.3(4)], the district has determined the following.

1) The plan is consistent with the decisions of local school councils concerning the school expenditure plans.

2) SGSA shall be used by each attendance center solely for the following types of programs and services:

   A) early childhood education;
   B) reduced class size or improved adult-to-student classroom ratio;
   C) enrichment programs;
   D) remedial assistance;
   E) attendance improvement; or
   F) other educational beneficial expenditures that supplement the regular and basic programs of the school. These other expenditures cannot include expenditures for:

      i) political activities, as defined in Section 1-5 of the State Officials and Employees Ethics Act [5 ILCS 430/1-5];
      ii) any activities associated with inducing federal, State or local legislators to vote in a certain manner, or any expenditures to support or oppose any statute, administrative rule or ordinance;
      iii) out-of-State travel; or
      iv) interscholastic sports equipment or uniforms.
STATE BOARD OF EDUCATION

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3) Each program and service described in subsection (b)(2) of this Section constitutes a supplemental, as opposed to a regular and basic, program. For purposes of this subsection (b)(3), a "regular and basic program" means any program, including capital expenditures, that is generally available to students in district attendance centers of the same type (e.g., elementary, secondary, vocational, magnet) or that is made available through a categorical program because of a student's special needs (e.g., programs for students with disabilities or programs for limited English proficiency students).

4) The plan components give, insofar as possible, priority to meeting the educational needs of low-income students (i.e., students who are eligible for free or reduced-price meals under the Child Nutrition Act of 1966 (42 USC 1771 et seq.) or the National School Lunch Act (42 USC 1751 et seq.)).

5) The distribution of SGSA among attendance centers is not compensated for or contravened by adjustments of the total of other funds appropriated to any attendance center [105 ILCS 5/18-8.05(H)(4)(b)].

c) The State Superintendent of Education shall review the plan to determine whether it complies with the requirements of this Section and Section 18-8.05(H)(4) of the School Code.

1) Within 60 days after receipt of the plan, the State Superintendent of Education shall provide written notification to the district of whether the plan is accepted or rejected. If the plan is rejected, then the State Superintendent of Education shall specify in the written notification the basis for rejection.

2) Within 15 days after receiving the rejection notice, the district shall submit written notice to the State Superintendent of Education of its intent to modify its plan.

3) Within 30 days after the date of the district's notice of intent to modify the plan, the district shall submit a modified plan responding to the State Superintendent's basis for rejection.

d) The district is required to file with the State Superintendent of Education by December 1 of each year a report of expenditure data for the preceding school year. The filing of the report of expenditure data also shall constitute a
certification by the district that the determinations set forth in subsection (b) of this Section made at the time of the filing of the plan for the preceding school year remain true and correct. Each report of expenditure data for the preceding school year shall provide:

1) For the district, the information required by subsection (a)(1) of this Section; and

2) For each attendance center:
   A) The information required by subsection (a)(2) of this Section;
   B) The amount of SGSA expended in the year for which the report is being submitted; and
   C) The amount by which the SGSA allocated to the attendance center reported was less or more than the amount of SGSA that was expended.

3) For the current school year, the final plan for SGSA that provides the information required by subsections (a)(1) and (a)(2) of this Section and that describes in a narrative or other format any modifications made to the plan in accordance with subsection (c) of this Section or amendments approved pursuant to subsection (e) of this Section.

e) The State Superintendent of Education shall review the expenditure report and modifications submitted pursuant to subsection (f) of this Section to determine whether they comply with the expenditure provisions of this Section and Section 18-8.05(H)(4) of the School Code.

1) Within 60 days after receipt of the report, the State Superintendent of Education shall provide written notification to the district and any affected local school council if its review determines that there has been contravention or supplanting.

2) Within 45 days after receiving the written notification, the district shall submit written notice to the State Board of Education of the remedial or corrective action to be taken, whether by amendment of the current plan, if feasible, or by adjustment in the plan for the following year (see Section 18-8.05(H)).
f) The district must seek an amendment of the plan whenever the amount of SGSA allocated to an attendance center is to be changed by more than $1,000 or 20 percent (whichever is larger).

1) All requests for plan amendments shall be approved by the principal, local school council and district to the same extent required for the plan itself.

2) Any requested plan amendment shall be submitted to the State Superintendent of Education for review to determine whether it complies with the requirements of this Section and Section 18-8.05(H)(4) of the School Code.

A) Within 30 days after its receipt of the amendment, the State Superintendent of Education shall provide written notification to the district of whether the plan is accepted or rejected. If the amendment is rejected, then the State Superintendent of Education shall specify in the written notification the basis for rejection.

B) If the requested amendment is rejected, then the district shall either withdraw the amendment request or, within 30 days after receipt of a rejection notice, submit a modified plan amendment request responding to the State Superintendent's basis for rejection.

g) The district and each attendance center shall retain all records and documentation necessary to demonstrate compliance with Section 18-8.05(H) of the School Code and this Part. The records and documentation shall be made available to the State Board of Education for inspection. Failure to produce the records and documentation may affect the district's recognition status, pursuant to 23 Ill. Adm. Code 1.20.
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Preschool Educational and Coordinated Model Preschool Educational Programs

2) Code Citation: 23 Ill. Adm. Code 235

3) Section Numbers: Adopted Action:
   235.10    Repeal
   235.20    Repeal
   235.30    Repeal
   235.40    Repeal
   235.45    Repeal
   235.50    Repeal
   235.60    Repeal
   235.100   Repeal
   235.110   Repeal
   235.120   Repeal
   235.130   Repeal
   235.135   Repeal
   235.140   Repeal
   235.150   Repeal

4) Statutory Authority: 105 ILCS 5/2-3.71

5) Effective Date of Repealer: February 28, 2006

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

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted repealer, 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: November 4, 2005; 29 Ill. Reg. 17902

10) Has JCAR issued a Statement of Objection to this repealer? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR, and no agreements letter was issued.
13) Will this repealer replace an emergency repealer currently in effect? No

14) Are there any amendments pending on this Part? No

15) **Summary and Purpose of Repealer:** Article 1C of the School Code establishes the Early Childhood Block Grant, to be comprised of three existing programs: preschool education, prevention initiative and parental training programs. Funds for these programs are to be awarded on a competitive basis to eligible entities, and the basis for application and award are to be included in administrative rules.

Part 235, however, only sets forth requirements for one of the programs (preschool program for at-risk children ages 3 to 5 years old). Therefore, existing Part 235 is repealed, and a new Part 235 adopted in this issue of the *Illinois Register* addresses the block grant program and incorporates changes made by P.A. 94-506, effective August 8, 2005, which amended the underlying statutes for each of the programs.

16) **Information and questions regarding this adopted repealer shall be directed to:**

   Kay Henderson  
   Early Childhood Division  
   Illinois State Board of Education  
   100 North First Street, E-225  
   Springfield, Illinois 62777-0001

   (217) 524-4835
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Early Childhood Block Grant

2) Code Citation: 23 Ill. Adm. Code 235

3) Section Numbers: Adopted Action:
   235.10    New Section
   235.20    New Section
   235.30    New Section
   235.40    New Section
   235.50    New Section
   235.60    New Section
   235.70    New Section
   235.APPENDIX A  New Section
   235.APPENDIX B  New Section

4) Statutory Authority: 105 ILCS 5/1C-2, 2-3.71, 2-3.71a, and 2-3.89

5) Effective Date of Rules: February 28, 2006

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 rules, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 4, 2005; 29 Ill. Reg. 17877

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: Corrections were made in the main source note.

   In Section 235.10(b), added a period after "families" in the first sentence.

   In Section 235.10(b), deleted the phrase "and that holds the appropriate licensure in accordance with rules promulgated by the Illinois Department of Children and Family Services (see 89 Illinois Administrative Code, Chapter III: Department of Children and Family Services, Subchapter e: Requirements for Licensure).".
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In Section 235.10(b), added after "families." the following statement: "If the Early Childhood Block Grant program is operated in or by a child care center subject to the licensure requirements of the Illinois Department of Children and Family Services (DCFS), then that child care center must hold the appropriate licensure in accordance with rules promulgated by DCFS (see 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes), 405 (Licensing Standards for Day Care Agencies), 406 (Licensing Standards for Day Care Homes), 407 (Licensing Standards for Day Care Centers) and 408 (Licensing Standards for Group Day Care Homes))."

In Section 235.20(c)(8), added "program administrators," after "indicating that".

In Section 235.20(c)(8), moved the last sentence and parenthetical reference to new subsection (A).

After new subsection (A), added new subsection (B) to read as follows: "B) By July 1, 2014, noncertificated staff employed to assist in instruction provided to children ages 3 to 5 years shall meet the requirements set forth in 23 Ill. Adm. Code 25.510(c)."

In Section 235.20(c)(11), deleted the word "leasing" and after the word "arrangement" added ", size of classrooms and other areas to be used by the program".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these rules replace any emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: Article 1C of the School Code establishes the Early Childhood Block Grant, to be comprised of three existing programs: preschool education, prevention initiative and parental training programs. Funds for these programs are to be awarded on a competitive basis to eligible entities, and the basis for application and award are to be included in administrative rules.

Existing Part 235, however, sets forth requirements for only one of the programs (preschool program for at-risk children ages 3 to 5 years old). Therefore, the existing Part 235 has been repealed in this issue of the Illinois Register and the new Part 235 addresses the block grant program and incorporates changes made by P.A. 94-506, effective August 8, 2005, which amended the underlying statutes for each of the programs to:
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- Allow entities other than school districts to apply for preschool and parental training programs; the State Board is to define the eligibility criteria for these other entities;
- Eliminate grants to fund preschool education programs to conduct research into effective programs;
- Beginning July 1, 2006, roll parental training program services and activities either into the preschool program or prevention initiative program rather than having them be offered as a separate grant program; and
- Require that prevention initiative programs be based on research and provide comprehensive services, as defined by the State Board of Education.

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

Kay Henderson
Early Childhood Division
Illinois State Board of Education
100 North First Street, E-225
Springfield, Illinois 62777-0001

(217) 524-4835

The full text of the Adopted Rules begins on the next page:
Section 235.10  Purpose; Eligible Applicants

This Part establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing early childhood education programs funded through the Early Childhood Block Grant authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2]. The Early Childhood Block Grant program shall include:

1) preschool education for at-risk children ages 3 years old to kindergarten enrollment age as defined in Section 10-20.12 of the School Code [105 ILCS 5/10-20.12], to include those programs and activities that meet the requirements of Section 2-3.71(a) of the School Code [105 ILCS 5/2-
3.71(a)] and parental training activities as authorized under Section 2-3.71a of the School Code [105 ILCS 5/2-3.71a]; and

2) prevention initiative for at-risk children from birth to age 3 and their families, to include those programs and activities that meet the requirements of Section 2-3.89 of the School Code [105 ILCS 5/2-3.89] and parental training activities as authorized under Section 2-3.71a of the School Code.

3) For the purposes of this Part, "at risk" is defined as those children who because of their home and community environment are subject to such language, cultural, economic and like disadvantages that they have been determined, as a result of screening procedures (to be carried out in conformance with Section 235.20(c)(5)) to be at risk of academic failure. (Section 2-3.71(a)(4) of the School Code)

b) Eligible applicants for Early Childhood Block Grant programs include any public or private not-for-profit or for-profit entity with experience in providing educational, health, social and/or child development services to young children and their families. If the Early Childhood Block Grant program is operated in or by a child care center subject to the licensure requirements of the Illinois Department of Children and Family Services (DCFS), then that child care center must hold the appropriate licensure in accordance with rules promulgated by DCFS (see 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes), 405 (Licensing Standards for Day Care Agencies), 406 (Licensing Standards for Day Care Homes), 407 (Licensing Standards for Day Care Centers) and 408 (Licensing Standards for Group Day Care Homes)).

c) Joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (b) of this Section.

1) If a joint application is submitted, then an administrative agent shall be designated.

2) A school district or other eligible applicant shall only participate in one proposal for a specific program.

d) Eligible applicants may subcontract with a private school, not-for-profit or for-profit corporation, or other governmental agency that would otherwise be eligible
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under subsection (b) of this Section to conduct an Early Childhood Block Grant program.

e) Parental training programs funded under Section 2-3.71a of the School Code prior to July 1, 2006, are not subject to the requirements of this Part, but may be awarded continuation funding in accordance with the requirements of Section 235.60 of this Part.

Section 235.20 Application Procedure and Content for New or Expanding Programs

Each applicant that is proposing a program that has not received funding in the year previous to the current application or is seeking additional funds to expand its currently funded program shall submit to the State Board of Education a proposal that includes the components specified in this Section. For purposes of this Section, an "expanded" program includes one in which the applicant is proposing to serve additional children and their families or to offer initiatives not provided under its currently funded program.

a) Grants for new or expanded programs shall be offered in years in which the level of available funding is such that one or more new or expanded programs can be supported, along with those currently funded programs that seek continuation funding in accordance to Section 235.60 of this Part.

b) When sufficient funding is available, the State Superintendent of Education shall issue one or more Requests for Proposals (RFP) specifying the information that applicants shall include in their proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 45 calendar days in which to submit proposals.

c) All proposals submitted in response to an RFP shall include 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 or official authorized to submit the proposal or, in the case of a joint application, by the superintendent from each of the school districts and each authorized official of other eligible entities participating in the joint proposal.

2) For applicants other than public school districts, a description that includes the following:
A) the applicant's mission statement, organizational structure, and goals or policies regarding early childhood programs;

B) the applicant's existing competencies to provide early childhood education programs, to include a list of any early childhood accreditations that have been achieved; and

C) in the case of a joint application, the goals and objectives of the collaboration and a brief description of each partner's experience in providing services similar to those to be provided under the Early Childhood Block Grant program.

3) A description of the need for the program, which shall include:

A) current demographic or descriptive information regarding the community in which the families and children reside (including information on the prevalence of homelessness); and

B) the process that was used to determine the need for the program in the community in relation to other similar services that may be operating in the same geographic area.

4) A description of the population to be served, as defined in Section 235.10(a) of this Part, for each program to be funded under the Early Childhood Block Grant. This description shall include:

A) how the eligible population will be recruited;

B) the geographic area to be served; and

C) the estimated number of children and/or families to be enrolled.

5) A description of the procedures to be used to screen children and their families to determine their need for services. Results of the screening shall be made available to the program staff and parents of the children screened. All screening procedures shall include:

A) criteria to determine at what point performance on the screening instrument indicates that children are at risk of academic failure as
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well as to assess other environmental, economic and demographic information that indicates a likelihood that the children would be at risk;

B) screening instruments/activities related to and able to measure the child's development in at least the following areas (as appropriate for the age of the child): vocabulary, visual-motor integration, language and speech development, English proficiency, fine and gross motor skills, social skills and cognitive development;

C) written parental permission for the screening;

D) parent interview (to be conducted in the parents' home language, if necessary), including at least the following:

i) for preschool education programs, a summary of the child's health history and social development; or

ii) for prevention initiative programs, information about the parents, such as age, educational achievement and employment history;

E) vision and hearing screening, in accordance with 77 Ill. Adm. Code 685 (Vision Screening) and 675 (Hearing Screening); and

F) where practicable, provision for the inclusion of program teaching staff in the screening process.

6) A description of the parent education and training component that will be provided, to meet at least all of the requirements of Section 2-3.71a of the School Code.

7) A description of how the program will coordinate with other programs, as specified in the RFP, that are in operation in the same area and that are concerned with the education, welfare, health and safety needs of young children.

8) A description of the full-time and part-time professional and nonprofessional staff to be paid by the program, indicating that program
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Administrators, early childhood teachers, counselors, psychologists, psychiatrists and social workers are appropriately qualified.

A) Teachers of children ages 3 to 5 years must hold either an Initial or Standard Early Childhood Certificate. (See Section 2-3.71(a)(3) of the School Code.)

B) By July 1, 2014, noncertificated staff employed to assist in instruction provided to children ages 3 to 5 years shall meet the requirements set forth in 23 Ill. Adm. Code 25.510(c).

9) A description of staff development assessment procedures and ongoing professional development activities to be conducted.

10) A description of the required program components, as set forth in either Section 235.30 or 235.40 of this Part.

11) Other information, as specified in the RFP, such as daily schedules (including the number of hours per day and days per week the program will operate), classroom locations, facility information (i.e., owner's name, terms of the lease arrangement, size of classrooms and other areas to be used by the program), if applicable.

12) The plan for ensuring that the program provides either a snack, in the case of a half-day program, or a meal, in the case of a full-day program, for participating children.

13) Budget information, provided on forms supplied by the State Board of Education. The budget shall specify that no more than 5 percent of the total grant award shall be used for administrative and general expenses not directly attributed to program activities, except that a higher limit not to exceed 10 percent may be negotiated with an applicant that has provided evidence that the excess administrative expenses are beyond its control and that it has exhausted all available and reasonable remedies to comply with the limitation.

14) A description of how the applicant will ensure that no fees will be charged of parents or guardians and their children who are enrolled and participate in Early Childhood Block Grant programs.
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15) A plan for evaluating the proposed programs and activities to be included in the Early Childhood Block Grant, which shall correspond to the applicable specifications set forth in the RFP.

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

Section 235.30 Additional Program Components for Preschool Education Proposals

In addition to the requirements set forth in Section 235.20, applications for funding for preschool education programs and activities, as defined in Section 235.10(a)(1) of this Part, must provide:

a) a description of how the comprehensive services to be provided are aligned with the Illinois Early Learning Standards as set forth in Appendix A of this Part;

b) a description of how the proposed educational program is developmentally appropriate for each child, which shall:

1) be accepted based upon evidence in the proposal that the results of the individualized assessment profile for each child will be the basis for determining that child's educational program;

2) address the domains of development specified in Section 235.20(c)(5)(B) and how a language and literacy development program shall be implemented for each child based on that child's individual assessment; and

3) address how student progress will be assessed and documented to ensure that the educational program meets the needs of the student and provides a system whereby that student's parents are routinely advised of their child's progress;

c) the maximum number of children to be screened for program eligibility and, for those children that are screened, the maximum to be served by the educational program. The maximum number must be served in each classroom if, following completion of screening, the program has a waiting list of eligible children;

d) the child/staff ratio for each classroom, which shall not exceed a ratio of 10 children to one adult, with no more than 20 children being served in each classroom; and
Section 235.40 Additional Program Components for Prevention Initiative Proposals

In addition to the requirements set forth in Section 235.20, applications for funding for prevention initiative programs and activities, as defined in Section 235.10(a)(2) of this Part, must provide:

a) evidence that the program is derived from research on successful prevention services for at-risk families, including specific references to research that discusses the types of services and strategies to be offered by the program as effective in addressing the needs of the families to be served;

b) a description of how the comprehensive services to be provided are aligned with the Illinois Birth to Three Program Standards set forth in Appendix B of this Part;

c) the steps to be taken to ensure that the program will serve those children and families most in need of prevention initiative activities and services;

d) the steps to be taken to coordinate services in the area, including a description of how the community will be involved and how case management services will be used;

e) a description of how services will be targeted to family needs, to include how a family needs assessment will be conducted and used to implement an individual family service plan for each family served in the program;

f) a description of the intensity of services that will be offered (e.g., the number of hours that are available for families to participate in activities and services);

g) the steps to be taken to encourage families to attend regularly and remain in the program a sufficient time to make sustainable changes; and

h) a referral system to place 3-year-old children in other early childhood education programs and the services to be provided to ensure a successful transition into those other programs.

Section 235.50 Proposal Review and Approval for New or Expanding Programs
a) Proposals submitted for funding to establish a new program or expand an existing program shall be evaluated in accordance with the following criteria.

1) Population to be Served (30 points)

   A) The proposal clearly indicates that the area to be served has a high number of children and families determined to be the most in need of the services provided by the Early Childhood Block Grant program, as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, such as the school district's rate of dropouts, retention, truancy, teenage pregnancies and homeless students, high rates of infant mortality, birth trauma, low birth weight or prematurity, and high rates of child abuse and neglect.

   B) Criteria and indicators for identifying children and families who are eligible for the program are clearly established and likely to target those children and families most in need of services.

   C) Effective recruitment strategies are proposed that are likely to ensure that the maximum number of eligible children and families are enrolled in the program.

2) Quality of Proposed Program (40 points)

   A) The proposed program and activities will sufficiently meet the identified needs of the population to be served and include child and parent activities designed to enhance child development and parent effectiveness and, ultimately, school readiness.

   B) The program proposal provides for effective linkages among parents, education, health and social service agencies, and child care providers and includes a plan for coordination of services with other educational programs serving young children and their families.

   C) The proposed program is built upon effective research about early childhood education and aligned to the applicable Illinois early learning standards (see Appendices A and B of this Part).
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D) The evaluation strategies include measurable outcomes for children and families that are designed to effectively gauge the success of the program and yield sufficient data that can be used to improve the program.

3) Experience and Qualifications (20 points)

A) Proposed staff hold the appropriate certifications and/or licenses for their positions and have the qualifications and experience necessary to successfully implement a high-quality early childhood program.

B) The staff development plan adequately addresses the needs of the project staff, offers a varied and full range of staff development experiences and provides sufficient opportunities for learning so as to allow staff to incorporate the training into program delivery activities.

C) In addition, an eligible applicant other than a school district has presented evidence that it:

i) holds the appropriate licensure to operate as a day care facility;

ii) holds early childhood accreditations or has other relevant experience that demonstrates success in implementing and administering programs similar to the ones funded under the Early Childhood Block Grant Program; and

iii) has a successful track record with similar grants or contracts.

4) 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. (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 school districts and communities with varying demographic characteristics.
c) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Superintendent of Education in a particular RFP.

d) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:

1) the total amount of funds available for the Early Childhood Block Grant; and

2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (a), (b) and (c) of this Section.

Section 235.60 Application Content and Approval for Continuation Programs

The requirements of the Section shall apply to those applicants seeking funding to continue preschool education and prevention initiative programs beyond the initial grant period and for programs offering parental training services under Section 2-3.71a of the School Code that were first funded previous to school year 2006-07.

a) In order to continue to operate an Early Childhood Block Grant Program, a grantee each year shall electronically submit an application for continuation. The application shall include at least the following:

1) an overview of the program, addressing:

   A) the program components outlined in Section 235.20 of this Part and either Section 235.30 or Section 235.40 of this Part, as applicable for preschool education or prevention initiative programs; or

   B) the requirements of Section 2-3.71a of the School Code for parental training programs;

2) budget information for the year in which the application is being made; and

3) the certifications and assurances referred to in Section 235.20(c)(16) of this Part applicable to the renewal period.

b) An Early Childhood Education Block Grant Program shall be approved for continuation provided that:
1) a need continues to exist for the program, as evidenced by the number or proportion of children and families to be served;

2) the program components proposed will be effective in assisting at-risk children and families;

3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and

4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Part.

Section 235.70 Terms of the Grant

a) Expenditure reports must be filed electronically with the Division of Funding and Disbursements four times a year.

b) Each grantee shall submit evaluation information on forms provided by the State Board of Education, specifying:

1) descriptive statistics on the population served, eligibility, screening procedures and staff qualifications and training;

2) descriptive information, including type and quality of the educational program, amount and extent of interagency collaboration, and parent education and involvement;

3) the extent to which program objectives have been accomplished; and

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

c) An annual program review shall be conducted for each new project to ensure program quality, to assist in program improvement and to provide technical assistance.

d) All equipment purchased by the grantee for the program with Early Childhood Block Grant funds must be documented on a form supplied by the State Board of Education and be maintained in the grantee's files.
e) A time distribution worksheet shall be kept for any staff member in a part-time position.

f) Grantees shall use funds provided under the Early Childhood Block Grant to supplement, not supplant, funds received from any other source. (Sections 2-3.71 and 2-3.89 of the School Code)
Section 235. APPENDIX A  Illinois Early Learning Standards

The Illinois Early Learning Standards for 3- and 4-year-olds are broad statements that provide teachers and caregivers useful information that is directly needed as part of their daily classroom work. The standards are organized to parallel content in the Illinois State Goals for Learning (see 23 Ill. Adm. Code 1.Appendix D).

Language Arts

Standards:

Understand that pictures and symbols have meaning and that print carries a message.

Understand that reading progresses from left to right and top to bottom.

Identify labels and signs in the environment.

Identify some letters, including those in own name.

Make some letter-sound matches.

Predict what will happen next using pictures and content for guides.

Begin to develop phonological awareness by participating in rhyming activities.

Recognize separable and repeating sounds in spoken language.

Retell information from a story.

Respond to simple questions about reading material.

Demonstrate understanding of literal meaning of stories by making comments.

Understand that different text forms, such as magazines, notes, lists, letters, and story books, are used for different purposes.

Show independent interest in reading-related activities.
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Use scribbles, approximations of letters, or known letters to represent written language.

Dictate stories and experiences.

Use drawing and writing skills to convey meaning and information.

Listen with understanding and respond to directions and conversations.

Speak effectively using language appropriate to the situation and audience.

Communicate needs, ideas and thoughts.

Seek answers to questions through active exploration.

Relate prior knowledge to new information.

Communicate information with others.

Mathematics

Standards:

Use concepts that include number recognition, counting and one-to-one correspondence.

Count with understanding and recognize "how many" in sets of objects.

Solve simple mathematical problems.

Explore quantity and number.

Connect numbers to quantities they represent using physical models and representations.

Make comparisons of quantities.

Demonstrate a beginning understanding of measurement using non-standard units and measurement words.
Construct a sense of time through participation in daily activities.

Show understanding of and use comparative words.

Incorporate estimating and measuring activities into play.

Sort and classify objects by a variety of properties.

Recognize, duplicate and extend simple patterns, such as sequences of sounds, shapes and colors.

Begin to order objects in series or rows.

Participate in situations that involve addition and subtraction using manipulatives.

Describe qualitative change, such as measuring to see who is growing taller.

Recognize geometric shapes and structures in the environment.

Find and name locations with simple words, such as "near".

Represent data using concrete objects, pictures, and graphs.

Gather data about themselves and their surroundings.

Science

Standards:

Use senses to explore and observe materials and natural phenomena.

Collect, describe and record information.

Use scientific tools such as thermometers, balance scales and magnifying glasses for investigation.

Become familiar with the use of devices incorporating technology.

Investigate and categorize living things in the environment.
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Show an awareness of changes that occur in themselves and their environment. Describe and compare basic needs of living things.

Make comparisons among objects that have been observed.

Describe the effects of forces in nature (e.g., wind, gravity and magnetism).

Use common weather-related vocabulary (e.g., rainy, snowy, sunny, windy).

Identify basic concepts associated with night/day and seasons.

Begin to understand basic safety practices.

Express wonder and ask questions about their world.

Begin to be aware of technology and how it affects their lives.

Social Science

Standards:

Recognize the reasons for rules.

Participate in voting as a way of making choices.

Develop an awareness of roles of leaders in their environment.

Identify community workers and the services they provide.

Begin to understand the use of trade to obtain goods and services.

Recall information about the immediate past.

Locate objects and places in familiar environments.

Express beginning geographic thinking.

Recognize similarities and differences in people.

Understand that each of us belongs to a family and recognize that families vary.
Physical Development and Health

Standards:

Engage in active play using gross motor skills.

Engage in active play using fine motor skills.

Coordinate movements to perform complex tasks.

Follow simple safety rules while participating in activities.

Participate in developmental activities related to physical fitness.

Exhibit increased endurance.

Follow rules and procedures when participating in group physical activities.

Demonstrate ability to cooperate with others during group physical activities.

Participate in simple practices that promote healthy living and prevent illness.

Identify body parts and their functions.

Act independently in caring for personal hygiene needs.

Use appropriate communication skills when expressing needs, wants and feelings.

Use socially acceptable ways to resolve conflict.

Participate in activities to learn to avoid dangerous situations.

Fine Arts

Standards:

Investigate the elements of dance, drama, music and the visual arts.

Describe or respond to their own creative work or the creative work of others.
Participate in dance, drama, music and visual arts activities.

Use creative arts as an avenue for self-expression.

Foreign Languages

Standards:

Maintain the native language for use in a variety of purposes.

Use and maintain the native language in order to build upon and develop transferable language and literacy skills.

Social/Emotional Development

Standards:

Describe self by using several basic characteristics.

Exhibit eagerness and curiosity as a learner.

Exhibit persistence and creativity in seeking solutions to problems.

Show some initiative and independence in actions.

Use appropriate communication skills when expressing needs, wants and feelings.

Begin to understand and follow rules.

Manage transitions and begin to adapt to change in routines.

Show empathy and caring for others.

Use the classroom environment purposefully and respectfully.

Engage in cooperative group play.

Begin to share materials and experiences and take turns.
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Respect the rights of self and others.

Develop relationships with children and adults.
Section 235. APPENDIX B  Illinois Birth to Three Program Standards

The Illinois Birth to Three Program Standards are broad statements that reflect current knowledge, research findings and shared beliefs about high-quality, developmentally appropriate early childhood care and education in the context of programs for infants and toddlers and their families.

Program Goal I:  Organization

Standards:

All birth to three programs must have a mission statement based on shared beliefs and goals.

Scheduling practices and intensity of services are tailored to the individual strengths and needs of children birth to three and their families.

The strengths and needs of the children and families, as well as research on best practice, determine the ratio of participants to staff and the size of program groups.

The program meets the needs of children and families of varying abilities, as well as diverse cultural, linguistic, and economic backgrounds.

The physical environment of the program is safe, healthy, and appropriate for children's development and family involvement.

The administration promotes and practices informed leadership and supervision.

The administration participates in and encourages ongoing staff development, training, and supervision.

All birth to three programs must follow mandated reporting laws for child abuse and neglect and have a written policy statement addressing staff responsibilities and procedures regarding implementation.

The program budget is developed to support quality program service delivery.

Program Goal II:  Curriculum and Service Provision
Standards:

The curriculum reflects the centrality of adult/child interactions in the development of infants and toddlers.

The curriculum reflects the holistic and dynamic nature of child development.

The curriculum prioritizes family involvement while respecting individual parental choices.

The curriculum supports and demonstrates respect for the families' unique abilities, as well as for their ethnic, cultural, and linguistic diversity.

The curriculum promotes a framework that is nurturing, predictable, and consistent, yet flexible.

Program Goal III: Developmental Monitoring and Program Accountability

Standards:

The program staff regularly monitors children's development.

Leadership conducts regular and systematic evaluation of the program and staff to assure that the philosophy is reflected and goals of the program are being fulfilled.

Program Goal IV: Personnel

Standards:

The program leadership is knowledgeable about child development and best practice for quality birth to three programs.

The program leadership is effective in explaining, organizing, implementing, supervising, and evaluating birth to three programs.

The program leadership hires qualified staff who are competent in working with infants and toddlers and their families.

The program leadership provides ongoing supervision that promotes staff development and enhances quality service delivery.
The program leadership provides opportunities for ongoing professional growth and development.

The program leadership promotes continuity in staffing through provision of a supportive work environment, competitive wages and benefits, and opportunities for advancement.

The program leadership and staff are knowledgeable about programs and agencies in the community that provide services for children and their families.

Program Goal V: Family and Community Partnerships

Standards:

The child is viewed in the context of the family and the family is viewed in the context of its culture and community.

The program leadership and staff seek and facilitate family participation and partnerships.

The program assures that families have access to comprehensive services.

The program develops a partnership with families in which the family members and staff determine goals and services.

The program takes an active role in community and system planning and establishes ongoing collaborative relationships with other institutions and organizations that serve families.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** The Illinois Landscape Architecture Act of 1989

2) **Code Citation:** 68 Ill. Adm. Code 1275

3) **Section Numbers:**
   - 1275.20 Amendment
   - 1275.30 Amendment
   - 1275.40 Amendment
   - 1275.60 Amendment
   - 1275.70 Amendment
   - 1275.75 Amendment
   - 1275.80 Amendment
   - 1275.90 Amendment

4) **Statutory Authority:** Illinois Landscape Architecture Act of 1989 [225 ILCS 315]

5) **Effective Date of Amendments:** March 2, 2006

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) **Date Notice of Proposal Published in Illinois Register:** August 12, 2005; 29 Ill. Reg. 12320

10) **Has JCAR issued a Statement of Objection to these amendments?** Yes.

   A) **Statement of Objection:** December 30, 2005; 29 Ill. Reg. 21173

   B) **Agency Response:** March 17, 2006; 30 Ill. Reg. 5453

   C) **Date Agency Response Submitted for Approval to JCAR:** February 28, 2006

   The Statement of Objection was published in the December 30, 2005 Illinois Register at 29 Ill. Reg. 21173.

11) **Differences between proposal and final version:** The amendments to Section 1275.55 have been withdrawn in response to the Objection raised by JCAR.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
NOTICE OF ADOPTED AMENDMENTS

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Section 1275.30 provides further clarification on the professional work experience requirement. References have been changed from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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

   Department of Financial and Professional Regulation
   Division of Professional Regulation
   Attention: Barb Smith
   320 West Washington, 3rd Floor
   Springfield, Illinois  62786

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

The full text of the Adopted Amendments begins on the next page:
Section 1275.20  Approved Programs

a) The Department of Financial and Professional Regulation—Division of Professional Regulation (Division) shall approve a landscape architecture program if it meets the following minimum criteria:

1) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the landscape architecture degree.

2) Has a faculty which comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled.
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The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions.

3) Has a designated program director.

4) Has an undergraduate first-professional baccalaureate degree which is at least 4 academic years in duration and/or has a graduate first-professional master's degree which is at least 3 academic years in duration.

5) Has a designated title and degree description incorporating the term "Landscape Architecture."

6) Has a curriculum which shall include, but not be limited to, the following:
   A) Landscape Architecture History
   B) Professional Practice
   C) Landscape Design, Planning and Management
   D) Design Implementation

7) The Division or Landscape Architect Registration Board may require additional information in order to evaluate the program.

b) In determining whether a program shall be approved, the Division shall take into consideration, but not be bound by, accreditation or approval by the Landscape Architecture Accreditation Board.

c) The Division has determined that all landscape architecture programs accredited or approved by the Landscape Architecture Accreditation Board as of January 1, 1998 meet the minimum criteria set forth in this Section and are, therefore, approved.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)

Section 1275.30 Experience

a) Verification, on forms provided by the Division, of 2 years of
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professional experience in landscape architecture practice as defined in Section 3(f) of the Act.

b) Satisfactory experience in the practice of landscape architecture shall include, but not be limited to:

1) Work in a landscape architect's office or work in the office or government agency where an architect or engineer is legally authorized to practice in the jurisdiction in which he or she is located;

2) Teaching landscape architecture in an approved program;

3) Conducting or participating in research in landscape architecture in an approved program as described in Section 1275.20; or

4) Work in the office of an architect who is authorized to practice in the jurisdiction in which he is located; work in the office of an engineer who is authorized to practice in the jurisdiction in which he is located; work in a government agency.

c) All experience shall be under the direct supervision of a landscape architect, architect or engineer.

d) One year of experience credit is defined as full-time employment for 52 weeks with a minimum of 30 hours per week. An applicant shall not receive experience credit for overtime.

e) Part-time employment shall be counted as one half week for each 15 hours of employment per week.

f) Employment with one employer of less than 2 months shall not be counted toward fulfillment of the experience requirement.

g) Experience credit shall be acquired only after completion of the third year of a landscape architecture program/curriculum provided however, that no experience credit can be acquired if the individual is receiving educational credit for such experience.

h) At least one year of full-time experience shall be obtained after graduation from an approved program.
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A master's degree in landscape architecture from an approved program shall be accepted in lieu of one year of practical experience.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)

Section 1275.40 Application for Examination

a) An applicant for examination shall file an application, on forms supplied by the
   Department, at least 120 days prior to an examination date. The application shall include:

   1) Certification of graduation from an approved landscape architecture program as set forth in Section 1275.20 of this Part;
   2) Two years of experience as defined in Section 1275.30 of this Part completed prior to application with the Department;
   3) A complete work history since graduation; and
   4) The fees required by Section 1275.75 of this Part.

b) The Department shall accept CLARB certification verifying passage of the Landscape Architect Registration Examination (L.A.R.E.).

b)e) Any person who is currently registered in good standing in Illinois shall not be admitted to an examination in Illinois. However, in no way shall this limit the Division's ability to require reexamination for restoration or enforcement purposes.

c) If an applicant has been licensed in another state, certification, on forms provided by the Division, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:

   1) The time during which the applicant was licensed;
   2) Whether the file of the applicant contains any record of any disciplinary actions taken or pending; and
   3) Examinations taken and examination scores received.
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d) In lieu of the certification required in subsection (a)(1), the Division shall accept certification from the Council of Landscape Architectural Registration Boards.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)

Section 1275.60 Endorsement

a) An applicant for registration as a landscape architect who is registered under the laws of another state or territory of the United States shall file an application with the Division, on forms provided by the Division, that includes:

1) Certification, on forms provided by the Division, of a landscape architecture degree from a program approved by the Division in accordance with Section 1275.20 of this Part;

2) Certification, on forms provided by the Division, of professional experience as set forth in Section 1275.30 of this Part;

3) In lieu of the certifications required in subsections (a)(1) and (a)(2), the Division shall accept certification from the Council of Landscape Architectural Registration Boards;

4) Certification, on forms provided by the Division, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:

A) The time during which the applicant was licensed;

B) Whether the file of the applicant contains any record of any disciplinary actions taken or pending; and

C) Examinations taken and examination scores received;

5) A complete work history; and

6) The required fee as set forth in Section 1275.75.

b) The Division may require additional information to determine if the
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requirements in the state or territory were substantially equivalent to the
requirements then in effect in Illinois at the time of application to determine
whether the requirements of another state or territory, together with education and
professional experience qualifications of the applicant, are substantially
equivalent to the requirements in Illinois at the time of application. The
DivisionDepartment, upon recommendation of the Board, shall determine
substantial equivalency based on, but not limited to, certification from the
CLARB; education, training, and experience, including, but not limited to,
whether the applicant has achieved special honors or awards, has had articles
published in professional journals, or has written textbooks relating to landscape
architecture; and any other attribute the Director of the Department of Financial
and Professional Regulation-Division of Professional Regulation (Director)
accepts as evidence that the applicant has outstanding and proven ability in
landscape architecture. The DivisionDepartment shall either issue a registration
by endorsement to the applicant or notify the applicant in writing of the reasons
for the denial of the application.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)

Section 1275.70 Renewal

a) Every license issued under the Act shall expire on August 31 of odd numbered
years. The holder of a registration may renew such registration during the month
preceding the expiration date thereof by paying the required fee.

b) It is the responsibility of each registrant to notify the DivisionDepartment of any
change of address. Failure to receive a renewal form from the
DivisionDepartment shall not constitute an excuse for failure to pay the renewal
fee or to renew one's registration.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)

Section 1275.75 Fees

The following fees shall be paid to the DivisionDepartment and are not refundable:

a) Application Fees. The fee for application for a certificate of registration as a
landscape architect is $100. In addition, applicants for an examination shall be
required to pay, either to the DivisionDepartment or to the designated testing
service, a fee covering the cost of determining an applicant's eligibility and
providing the examination. Failure to appear for the examination on the
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scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a certificate shall be calculated at the rate of $30 per year.

c) General Fees.

1) The fee for the restoration of a certificate other than from inactive status is $20 plus payment of all lapsed renewal fees, not to exceed $200.

2) The fee for the issuance of a duplicate certificate, for the issuance of a replacement certificate for a certificate that has been lost or destroyed or for the issuance of a certificate with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on records when no duplicate certificate is issued.

3) The fee for a certification of a registrant's record for any purpose is $20.

4) The fee to have the scoring of an examination reviewed and verified by the Division is $20 plus any fees charged by the applicable testing service.

5) The fee for a wall certificate showing registration shall be the actual cost of producing the certificate.

6) The fee for a roster of persons registered as landscape architects in this State shall be the actual cost of producing the roster.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)

Section 1275.80 Restoration

   a) A person seeking restoration of a license which has expired for less than five years shall have the license restored upon payment of $20 plus all lapsed renewal fees, as set forth in Section 1275.75.

   b) A person seeking restoration of a license which has been placed on inactive status for less than five years shall have the license restored upon payment of the
c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than five years shall file an application, on forms supplied by the Department, together with the fee required by Section 1275.75 and may be scheduled for an interview before the Board. The person shall also submit either:

1) Certification of active practice in another jurisdiction. Such certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or

2) An affidavit attesting to military service as provided in Section 12 of the Act; or

3) Proof of passage of the L.A.R.E. examination during the period the license was lapsed or on inactive status.

d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 12 of the Act will be required to pay only the current renewal.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the coursework or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appeal for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information. Upon the recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)

Section 1275.90 Granting Variances
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a) The Director of the Division shall grant variances from these rules in individual cases when he finds that:

1) The provision from which the variance is granted is not statutorily mandated;

2) No party will be injured by the granting of the variance; and

3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Illinois Landscape Architect Board in writing of the granting of such variance, and the reasons for the variance, at the next meeting of the Board.

(Source: Amended at 30 Ill. Reg. 4646, effective March 2, 2006)
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1) **Heading of the Part:** Nursing and Advanced Practice Nursing Act – Advanced Practice Nurse

2) **Code Citation:** 68 Ill. Adm. Code 1305

3) **Section Numbers:**

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4) **Statutory Authority:** Nursing and Advanced Practice Nursing Act [225 ILCS 65].

5) **Effective Date of Amendments:** March 1, 2006

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) **Date Notice of Proposal Published in Illinois Register:** December 2, 2005; 29 Ill. Reg. 19426

10) Has JCAR issued a Statement of Objection to these amendments? No
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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 agreement letter issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking implements PA 94-348, which provides that an applicant seeking licensure in more than one advanced practice nursing category need not possess multiple graduate degrees, as long as they meet specified criteria, including holding a current national certification from the appropriate national certifying body for that additional advanced practice nursing category. Makes various non-substantive changes, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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

Department of Financial and Professional Regulation
Division of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois  62786

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

The full text of the Adopted Amendments begins on the next page:
NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1305
NURSING AND ADVANCED PRACTICE NURSING ACT – ADVANCED PRACTICE NURSE

Section
1305.10 Definitions
1305.15 Application for Licensure Prior to July 1, 2001 (Repealed)
1305.20 Application for Licensure Beginning July 1, 2001
1305.25 Fees
1305.30 Written Collaborative Agreements
1305.35 Medical Direction
1305.40 Prescriptive Authority
1305.45 Delivery of Anesthesia Services by a Certified Registered Nurse Anesthetist
1305.50 Practice Agreement for Certified Registered Nurse Anesthetist
1305.60 Renewals
1305.70 Advertising
1305.75 Mandatory Reporting of Impaired Advanced Practice Nurses by Health Care Institutions
1305.80 Fines
1305.85 Public Access to Records and Meetings
1305.90 Refusal to Issue a Nurse License based on Criminal History Record
1305.95 Granting Variances
1305.100 Continuing Education
1305.APPENDIX A Additional Certifications Accepted for Licensure as an Advanced Practice Nurse
1305.EXHIBIT A Sample Written Collaborative Agreement
1305.EXHIBIT B Sample Practice Agreement for Office Based Anesthesia Services

AUTHORITY: Implementing the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

Section 1305.10 Definitions

"Act" means the Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"APN Board" or "Board" means the Advanced Practice Nursing Board.

"Advanced practice nurse" or "APN" means a person who:

- is licensed as a registered professional nurse under the Act;
- meets the requirements for licensure as an advanced practice nurse under Section 15-10 of the Act;
- except as provided in Section 15-25 of the Act, has a written collaborative agreement with a collaborating physician in the diagnosis of illness and management of wellness and other conditions as appropriate to the level and area of his or her practice in accordance with Section 15-15 of the Act; and

cares for patients:

- by using advanced diagnostic skills, the results of diagnostic tests and procedures ordered by the advanced practice nurse, a physician assistant, a dentist, a podiatrist, or a physician, and professional judgment to initiate and coordinate the care of patients;
- by ordering diagnostic tests, prescribing medications and drugs in accordance with Section 15-20 of the Act, and administering medications and drugs; and
- by using medical, therapeutic, and corrective measures to treat illness and improve health status.

Categories include Certified Nurse Midwife (CNM), Certified Nurse Practitioner (CNP), Certified Registered Nurse Anesthetist (CRNA), or Certified Clinical Nurse Specialist (CNS). (Section 15-5 of the Act)
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"Collaborating physician" means a physician who works with an advanced practice nurse and provides medical direction as documented in a written collaborative agreement required under Section 15-15 of the Act. (Section 15-5 of the Act)

"Department" means Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation – Division of Professional Regulation.

"Physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987. (Section 15-5 of the Act)

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

"Temporary practice" means, pursuant to Section 15-13 of the Act, the practice by a graduate of an advanced practice nursing program as a certified clinical nurse specialist, certified nurse midwife, certified nurse practitioner or certified registered nurse anesthetist who has applied to the Division in accordance with Section 1305.20.

Temporary practice shall not exceed 6 months from date of application to the Division.

Temporary practice does not include prescriptive authority.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.20 Application for Licensure Beginning July 1, 2001

a) An applicant for licensure as an advanced practice nurse shall file an application on forms provided by the Division. The application shall include:

1) Current Illinois registered nurse license number.

2) Proof of current national certification, which includes completion of an examination, from one of the following:
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A) Nurse Midwife certification from:
   i) the American College of Nurse Midwives (ACNM); or
   ii) the American Midwifery Certification Board.

B) Nurse Practitioner certification from:
   i) American Academy of Nurse Practitioners Certification Program as a Nurse Practitioner;
   ii) American Nurses Credentialing Center as a Nurse Practitioner;
   iii) The National Certification Board of Pediatric Nurse Practitioners & Nurses as a Nurse Practitioner;
   iv) The National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties as a Nurse Practitioner; or
   v) The Certification Board for Urologic Nurses and Associates as a Urologic Nurse Practitioner.

C) Registered Nurse Anesthetist certification from:
   i) Council on Certification of the American Association of Nurse Anesthetists; or

D) Clinical Nurse Specialist certification from:
   i) American Nurses Credentialing Center (ANCC) as a Clinical Nurse Specialist (acceptable certifications are listed in Appendix A);
   ii) American Association of Critical Care Nurses as a Clinical
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Nurse Specialist;

iii) Rehabilitation Nursing Certification Board as a Certified Rehabilitation Registered Nurse-Advanced;

iv) Oncology Nursing Certification Corporation as an Advanced Oncology Nurse (AOCN);

v) Certification Board for Urologic Nurses and Associates as Urologic Clinical Nurse Specialist; or

vi) Other certifications listed in Appendix A.

3) The Board, in addition to the certification listed in subsection (a)(2), may review and make a recommendation to the Division to accept a certification if the certifying body meets the following requirements (certifications are listed in Appendix A):

A) is national in the scope of credentialing;

B) has no requirement for an applicant to be a member of any organization;

C) has an examination that represents a specialty practice category;

D) has an examination that evaluates knowledge, skills and abilities essential for the delivery of safe and effective specialty nursing care;

E) has an examination whose content and distribution are specified in a test plan;

F) has examination items reviewed for content validity, cultural sensitivity and correct scoring, using an established mechanism, both before use and periodically;

G) has an examination evaluated for psychometric performance;

H) has a passing standard established using acceptable psychometric methods and is reevaluated periodically;
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I) has examination security maintained through established procedures;

J) issues a certification based upon passing the examination;

K) has mechanisms in place for communication to boards of nursing for timely verification of an individual's certification status, changes in certification status and changes in the certification program, including qualifications, test plan and scope of practice; and

L) has an evaluation process to provide quality assurance in its certification program.

4) Proof of successful completion of a graduate degree appropriate for national certification in the clinical advanced practice nursing specialty or a graduate degree or post-master's certificate from a graduate level program in a clinical advanced practice nursing specialty or master's program or higher appropriate for certification as a Nurse Midwife, Nurse Practitioner, Clinical Nurse Specialist or Nurse Anesthetist.

5) An applicant seeking licensure in more than one advanced practice nursing category shall have met the requirements for at least one advanced practice nursing specialty; and

A) Submit proof of possession of an additional graduate education that results in a certificate for another clinical advanced practice nurse category and that meets the requirements for the national certification from the appropriate nursing specialty; and

B) Submit proof of a current, national certification from the appropriate certifying body for that additional advanced practice nursing category.

6) A complete work history for the last 5 years.

7) Verification of licensure as an advanced practice nurse from the state in which an applicant was originally licensed, current state of licensure and any other state in which the applicant has been actively practicing as an advanced practice nurse within the last 5 years, if applicable, stating:
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A) The time during which the applicant was licensed in that state, including the date of the original issuance of the license; and

B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

87) The fee required in Section 1305.25 of this Part.

b) An applicant for licensure as an advanced practice nurse may apply to the DivisionDepartment, on forms provided by the DivisionDepartment, to practice as an advanced practice nurse pending the issuance of the license.

1) The application shall include:

A) A completed, signed application for licensure, as set forth in subsection (a);

B) Documentation from an approved certifying body set forth in subsection (a)(2) and Appendix A indicating the date the applicant is scheduled to sit for the examination. Upon successful completion of the examination, proof of certification shall be submitted to the DivisionDepartment from the certifying body;

C) A certifying statement from a collaborating physician indicating that the individual has completed a proposed collaborative agreement as required by Section 15-15 of the Act or a certifying statement from a physician, dentist or podiatrist indicating that a CRNA has a practice agreement as required by 15-25 of the Act. A CRNA who will be practicing in a hospital setting or ambulatory surgical treatment center is not required to have a collaborative or practice agreement pursuant to Section 15-25 of the Act;

D) The processing fee set forth in Section 1305.20.

2) The DivisionDepartment will provide a letter to each applicant indicating the ability to practice license pending.

3) Practice pending licensure shall be terminated upon:

A) the issuance of a permanent license;
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B) failure to complete the application process within 6 months from the date of application;

C) a finding by the Division that the applicant has violated one or more of the grounds for discipline set forth in Section 10-45 or 15-50 of the Act;

D) a finding by the Division that the applicant has had a license or permit related to the practice of advanced practice nursing revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois, within the last 5 years; or

E) a finding by the Division that the applicant does not meet the licensure requirements as set forth in this Section.

The Division shall notify the applicant in writing of such termination and shall notify the applicant by certified or registered mail of the intent to deny licensure.

c) Notwithstanding any other provisions of this Section, an applicant for licensure as a CRNA who does not have a graduate degree may, prior to December 31, 2006, file an application as provided in Section 15-10(b-5) of the Act, on forms provided by the Division, to include:

1) Current Illinois registered nurse license number.

2) Proof of current national certification, which includes completion of an examination, from the following:

   A) Council on Certification of the American Association of Nurse Anesthetists; and


3) Proof of successful completion of a post-basic advanced practice formal education program in the area of nurse anesthesia prior to January 1, 1999.

4) A complete work history for the last 5 years.
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5) Verification of licensure as an advanced practice nurse from the state in which an applicant was originally licensed, current state of licensure and any other state in which the applicant has been actively practicing as an advanced practice nurse within the last 5 years, if applicable, stating:

A) The time during which the applicant was licensed in that state, including the date of the original issuance of the license; and

B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

6) The fee required in Section 1305.25 of this Part.

d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:

1) Provide information as may be necessary; and/or

2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

e) An advanced practice nurse license may be issued when the applicant meets the requirements set forth in this Section.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.25 Fees

The following fees shall be paid to the Division and are not refundable:

a) Application Fees.

1) The fee for application for a license as an advanced practice nurse is $125.

2) The fee for processing an application for practice license pending as an advanced practice nurse is $25.
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3) The fee for application as a continuing education sponsor is $500.

b) Renewal Fees.

1) The fee for the renewal of a license as an advanced practice nurse shall be calculated at the rate of $40 per year.

2) The fee for renewal of continuing education sponsor approval is $250 for a 2 year license.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status is $20 plus payment of all lapsed renewal fees.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address other than during the renewal period, is $20. No fee is required for name and address changes on Division records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

4) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

5) The fee for a roster of persons licensed as advanced practice nurses in this State shall be the actual cost of producing the roster.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.30 Written Collaborative Agreements

a) A written collaborative agreement shall describe the working relationship of the advanced practice nurse with the collaborating physician and shall authorize the categories of care, treatment, or procedures to be performed by the advanced practice nurse. (Section 15-15(b) of the Act)

b) The agreement shall be defined to promote the exercise of professional judgment by the advanced practice nurse commensurate with his or her education and
experience. The services to be provided by the advanced practice nurse shall be services that the collaborating physician generally provides to his or her patients in the normal course of his or her clinical medical practice. The agreement need not describe the exact steps that an advanced practice nurse must take with respect to each specific condition, disease, or symptom, but must specify which authorized procedures require a physician’s presence as the procedures are being performed. The collaborative relationship under an agreement shall not be construed to require the personal presence of a physician at all times at the place where services are rendered. Methods of communication shall be available for consultation with the collaborating physician in person or by telecommunications in accordance with established written guidelines as set forth in the written agreement. (Section 15-15(b) of the Act)

c) A copy of the signed, written collaborative agreement must be available to the Division upon request from both the advanced practice nurse and the collaborating physician and shall be annually updated. An advanced practice nurse shall inform each collaborating physician of all collaborative agreements he or she has signed and provide a copy of these to any collaborating physician, upon request. (Section 15-15(d) of the Act)

d) Pursuant to Section 15-25 of the Act, a certified registered nurse anesthetist is not required to possess prescriptive authority or a written collaborative agreement to provide anesthesia services ordered by a licensed physician, dentist or podiatrist. However, a certified registered nurse anesthetist may be delegated limited prescriptive authority under Section 15-20 of the Act in a written collaborative agreement.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.35 Medical Direction

a) Physician medical direction shall be adequate with respect to collaboration with Certified Nurse Practitioners, Certified Nurse Midwives, and Clinical Nurse Specialists if a collaborating physician:

1) participates in the joint formulation and joint approval of orders or guidelines with the advanced practice nurse and periodically reviews those orders and the services provided patients under those orders in accordance with accepted standards of medical practice and advanced practice nursing practice;
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2) is on site at least once a month to provide medical direction and consultation. On site is defined in the collaborative agreement; and

3) is available through telecommunications for consultation on medical problems, complications, or emergencies or patient referral. [225 ILCS 60/54.5(b)]

b) Medical direction for a certified registered nurse anesthetist shall be in accordance with Section 54.5(b-5) of the Medical Practice Act of 1987 [225 ILCS 60/54.5(b-5)].

c) In the absence of the collaborating physician, another physician shall be available for consultation.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.40 Prescriptive Authority

a) A collaborating physician who delegates limited prescriptive authority to an advanced practice nurse shall include that delegation in the written collaborative agreement. The prescriptive authority may include prescription and dispensing of legend drugs and legend controlled substances categorized as Schedule III, IV, or V controlled substances, as defined in the Illinois Controlled Substances Act [720 ILCS 570]. The authority to prescribe Schedule II controlled substances may not be delegated by the collaborating physician.

b) An APN who has been given controlled substances prescriptive authority shall be required to obtain an Illinois mid-level practitioner controlled substance license in accordance with 77 Ill. Adm. Code 3100. The physician shall file a notice of delegation of prescriptive authority with the DivisionDepartment. The delegation of authority form shall be submitted to the DivisionDepartment prior to the issuance of a controlled substance license.

c) The APN may only prescribe and dispense within the scope of practice of the collaborating physician.

d) All prescriptions written and signed by an advanced practice nurse shall indicate the name of the collaborating physician. The collaborating physician's signature is not required. The advanced practice nurse shall sign his/her own name.

e) An APN may receive and dispense samples per the collaborative agreement.
Medication orders shall be reviewed periodically by the collaborating physician.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.45 Delivery of Anesthesia Services by a Certified Registered Nurse Anesthetist

a) A licensed certified registered nurse anesthetist may provide anesthesia services pursuant to the order of a licensed physician, licensed dentist, or licensed podiatrist in a licensed hospital, a licensed ambulatory surgical treatment center, or the office of a licensed physician, the office of a licensed dentist, or the office of a licensed podiatrist. For anesthesia services, an anesthesiologist, physician, dentist, or podiatrist shall participate through discussion of and agreement with the anesthesia plan and shall remain physically present and be available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions, unless hospital policy adopted pursuant to Section 10.7(3)(B) of the Hospital Licensing Act [210 ILCS 85/10.7(3)(B)] or ambulatory surgical treatment center policy adopted pursuant to Section 6.5(3)(B) of the Ambulatory Surgical Treatment Center Act [210 ILCS 5/6.5(3)(B)] provides otherwise. (Section 15-25(a) of the Act)

b) A certified registered nurse anesthetist who provides anesthesia services in a hospital shall do so in accordance with Section 10.7 of the Hospital Licensing Act and, in an ambulatory surgical treatment center, in accordance with Section 6.5 of the Ambulatory Surgical Treatment Center Act. (Section 15-25(b) of the Act)

c) A certified registered nurse anesthetist is not required to possess prescriptive authority or a written collaborative agreement meeting the requirements of Section 15-15 of the Act to provide anesthesia services ordered by a licensed physician, dentist, or podiatrist. Certified registered nurse anesthetists are authorized to select, order, and administer drugs and apply the appropriate medical devices in the provision of anesthesia services under the anesthesia plan agreed with by the anesthesiologist or the physician in accordance with hospital alternative policy or the medical staff consulting committee policies of a licensed ambulatory surgical treatment center. In a physician's office, dentist's office, or podiatrist's office, the anesthesiologist, operating physician, operating dentist, or operating podiatrist shall agree with the anesthesia plan, in accordance with the written practice agreement. (Section 15-25(d) of the Act)

d) A certified registered nurse anesthetist may be delegated limited prescriptive
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authority under Section 15-20 of the Act in a written collaborative agreement meeting the requirements of Section 15-15 of the Act. (Section 15-25(e) of the Act)

e) In a physician's office, the certified registered nurse anesthetist may only provide anesthesia services if the physician has training and experience in the delivery of anesthesia services to patients. The physician's training and experience shall be documented in the written practice agreement and the training and experience shall meet the requirements set forth in 68 Ill. Adm. Code 1285.340.

f) In addition, in a physician's office, any certified registered nurse anesthetist and physician who enter into a practice agreement shall obtain ACLS certification by December 31, 2002, and shall thereafter maintain current Advanced Cardiac Life Support (ACLS) certification.

g) In a dentist's office, the certified registered nurse anesthetist may only provide those services the dentist is authorized to provide pursuant to the Illinois Dental Practice Act [225 ILCS 25] and rules (68 Ill. Adm. Code 1220). Licensed dentists are required to hold permits to administer anesthesia pursuant to 68 Ill. Adm. Code 1220: Subpart D.

h) In a podiatrist's office, the certified registered nurse anesthetist may only provide those services the podiatrist is authorized to provide pursuant to the Podiatric Medical Practice Act of 1987 [225 ILCS 100] and rules (68 Ill. Adm. Code 1360). Podiatrists may not administer general anesthetics.

i) A CRNA providing anesthesia services in a physician, dental or podiatrist office shall do so with the active participation, approval, presence and availability of the physician, dentist or podiatrist as well as in accordance with Standards 1-11 of the "Standards for Office Based Anesthesia Practice", American Association of Nurse Anesthetists, 222 South Prospect Avenue, Park Ridge, Illinois 60068 (1999), which are hereby incorporated by reference, with no later editions or amendments. If there is a conflict between the Nursing and Advanced Practice Nursing Act or this Part and the Standards for Office Based Anesthesia Practice of the American Association of Nurse Anesthetists, the Act and this Part shall prevail.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.50 Practice Agreement for Certified Registered Nurse Anesthetist
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A certified registered nurse anesthetist who provides anesthesia services in a physician office, dental office, or podiatric office shall enter into a written practice agreement with an anesthesiologist or the physician licensed to practice medicine in all its branches, the dentist, or the podiatrist performing the procedure. The agreement shall describe the working relationship of the certified registered nurse anesthetist and anesthesiologist, physician, dentist, or podiatrist and shall authorize the categories of care, treatment, or procedures to be performed by the certified registered nurse anesthetist. In a dentist’s office, the certified registered nurse anesthetist may only provide those services the dentist is authorized to provide pursuant to the Illinois Dental Practice Act and rules (68 Ill. Adm. Code 1220). In a podiatrist's office, the certified registered nurse anesthetist may only provide those services the podiatrist is authorized to provide pursuant to the Podiatric Medical Practice Act of 1987 and rules (68 Ill. Adm. Code 1360). For anesthesia services, an anesthesiologist, physician, dentist, or podiatrist shall participate through discussion of and agreement with the anesthesia plan and shall remain physically present and be available on the premises for diagnosis, consultation and treatment of emergency medical conditions. (Section 15-25(c) of the Act)

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.60 Renewals

a) Every license issued under the Act shall expire on May 31 of each even numbered year. The first renewal of an advanced practice nurse license is 2004. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee. Beginning with the May 31, 2006 renewal and every renewal thereafter, a renewal applicant will be required to complete 50 hours of continuing education as set forth in Section 1305.100 of this Part. A licensee's registered nurse license shall be renewed in order to renew the advanced practice nurse license.

b) It is the responsibility of each licensee to notify the Division Department of any change of address. Failure to receive a renewal form from the Division Department shall not constitute an excuse for failure to pay the renewal fee.

c) Practice on a license that has expired is the unlicensed practice of advanced practice nursing and shall be grounds for discipline pursuant to Section 15-50 of the Act.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.70 Advertising
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a) Advertising shall contain all information necessary to make the communication informative and not misleading. Advertising shall identify the type of license held by the licensee whose services are being promoted. The form of advertising shall be designed to communicate the information to the public in a direct, dignified and readily comprehensible manner.

b) If an advertisement is communicated to the public over television or radio, it shall be prerecorded and approved for broadcast by the advanced practice nurse and a recording of the actual transmission, including videotape, shall be retained for at least 3 years by the advanced practice nurse.

c) Advertising shall otherwise comply with Section 15-40 of the Act.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.75 Mandatory Reporting of Impaired Advanced Practice Nurses by Health Care Institutions

a) Section 15-55 of the Act requires that the chief administrator or executive officer of any health care institution licensed by the Department of Public Health report to the APN Board concerning impaired advanced practice nurses. All instances in which a person licensed under the Act is impaired by reason of age, drug or alcohol abuse, or physical or mental impairment, is under supervision, and where appropriate, is in a program of rehabilitation, must be reported to the APN Board. The reports must contain sufficient current information to enable the APN Board to evaluate the impairment and determine the appropriateness of the supervision or the program of rehabilitation. If the Board finds the supervision or treatment plan submitted by the institution is not sufficient to meet the needs of the individual, the Board may direct the facility to work with the Division to revise the plan or treatment to meet the specific objections.

b) Contents of Reports. Reports of impaired persons shall be submitted in writing on forms provided by the Division that shall include but not be limited to the following information:

1) The name, address, telephone number and title of the person making the report;

2) The name, address, telephone number and type of health care institution where the maker of the report is employed;
3) The name, address, telephone number and professional license number of the person who is the subject of the report;

4) A means of identification used by the institution of any patient or patients whose treatment is a subject of the report, provided, however, no medical records may be revealed without the written consent of the patient or patients; and further provide that the APN Board may require disclosure of the name, address, and telephone number of any patient if it deems the information necessary to an evaluation of the impairment or a determination of the appropriateness of the supervision or program of rehabilitation;

5) The nature of the impairment and brief description of the facts that gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report;

6) The terms and conditions of the supervision under which the subject of the report is conducting his activities or practice, including the date supervision commenced; the term of the supervision; the name, address and telephone number of the person in charge of the subject's supervision; and a written consent executed by the subject of the report authorizing the APN Board, or designated representative of the APN Board, to contact the person in charge of the subject's supervision for information, including written documentation, in order to evaluate the progress of the subject's supervision pursuant to subsection (g)(2);

7) If the subject of the report is in a program of rehabilitation, the name, address, and telephone number of the program and the name and position of any individual in charge of the program; and

8) Any other information deemed by the reporting person to be of assistance to the APN Board in evaluating the report, including, but not limited to, the following items: drug screens being used and their status; relapses and actions taken; attendance at work; observations of recovery status and level of cooperation in recovery; other psychopathology or known related physical and mental illnesses; involvement of the family and others in treatment or supervision; and a copy of the aftercare agreement.

c) Reports of impaired persons shall be submitted to the APN Board in a timely manner. The initial report shall be submitted on forms provided by the
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Division Department within 60 days after it is determined that a report is necessary under the Act and this Section. Periodic reports (which evidence written documentation of the progress of supervision or rehabilitation) shall be submitted to the APN Board every 6 months, commencing with the time of the filing of the initial report. A copy of each report shall be sent by the person making the report to the impaired person.

d) Confidentiality

1) The contents of any report shall be strictly confidential, except as otherwise provided in this subsection (d), and exempt from public disclosure, but may be reviewed by:

A) Members of the APN Board or their designees;

B) The APN Board's designated attorneys;

C) Administrative personnel assigned to open mail containing reports, to process and distribute the reports to authorized persons, and to communicate with senders of reports; and

D) The person who is the subject of the report, his attorney or his authorized representative (as evidenced by a written authorization signed by the person who is the subject of the report).

2) The reports may also be handled or processed by other designated persons in a limited manner necessary to implement reports required under this Act by computer, word processing equipment or other mechanical means. The data record shall be limited to the name and address of the originator of the report, the date the initial report was received, the date of the most recent report and the professional license number of the subject of the report.

3) The contents of the confidential reports relating to impaired persons shall not be used or made available in any other administrative proceedings before the Division Department of Professional Regulation or any other department; however, violations of the treatment or supervision plan will result in a review of the person's status by the Board or its designees for possible discipline or revision in the treatment or supervision plan. Reports shall not be disclosed, made available or subject to subpoena or discovery proceedings in any civil or criminal court proceedings.
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e) Upon a determination by the Board that a report or reports on an impaired person no longer require review and consideration, the Board shall notify the maker of the reports to cease sending the reports and the Board and Division Department records shall be purged of information contained in the reports. Such determinations shall be based on, but not limited to: the type of rehabilitation program, length of supervision, occurrence of any relapses and present status of license.

f) Whenever any chief administrative or chief executive officer of any health care institution who makes a report or provides other information to the Board, or assists the Board concerning an impaired person, acts in good faith and not in a willful and wanton manner, that chief administrative or chief executive officer, and the health care institution employing him, shall not, as a result of such actions, be subject to criminal prosecution or civil damages (Section 15-55(c) of the Act).

g) Definitions

1) "Impaired" means the inability to practice advanced practice nursing with reasonable skill and safety due to physical or mental disabilities, as evidenced by a written evaluation or clinical evidence that reveals a deterioration of the advanced practice nurse's ability to deliver competent care, due to problems related to aging, loss of motor skill, abuse of drugs or alcohol, or mental illness.

2) "Under supervision" means that the performance of the impaired person's clinical privileges and status of the person's impairment is being observed and monitored under the authority of a written directive issued in accordance with a health care institution's or medical staff's bylaws or rules and regulations.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.80 Fines

Fines, not to exceed $5000 for each violation, shall be primarily used in cases not involving patient care. In addition, fines may be imposed in conjunction with other forms of disciplinary actions, but fines shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury of a patient.
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(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.85 Public Access to Records and Meetings

a) All investigative procedures, information arising out of the investigation of complaints, and informal conferences shall be confidential. All other proceedings and documents, beginning with the filing of a formal complaint, shall be open to the public.

b) All meetings of the APN Board shall also be open to the public in accordance with the Open Meetings Act.

(Source: Amended at 30 Ill. Reg. 4657, effective March 2, 2006)

Section 1305.90 Refusal to Issue a Nurse License based on Criminal History Record

a) For purposes of this Part, criminal history record information is defined as information collected by criminal justice agencies (defined in 20 ILCS 2630) on individuals consisting of identifiable descriptions and notations of arrests, detention, indictments, information, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision and release. The individual records must contain both information sufficient to identify the subject of the record and notations regarding any formal criminal justice transaction involving the identified individual.

b) In determining whether an applicant for a nurse license is unfit for licensure because of criminal history record information, the Division Department shall consider the following standards:

1) Whether the crime was one of armed violence [720 ILCS 5/Art. 33A] or moral turpitude. Moral turpitude consists of:

   A) Crimes involving dishonesty, false statement or some other element of deceit, untruthfulness or falsification (including, but not limited to, perjury, inducement of perjury, false statement, criminal fraud, embezzlement, false pretense, forgery, counterfeiting and theft).

   B) Drug offenses, including, but not limited to, violations of the Illinois Controlled Substances Act [720 ILCS 570] and Federal Drug Enforcement Laws, 21 USC 801 et seq.
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C) Sex offenses, including, but not limited to, all crimes listed in Article 11 of the Criminal Code of 1961 [720 ILCS 5/Art. XI].

2) Whether the crime is related to the nursing profession.

3) Whether more than 10 years have elapsed since the date of completion of imposed sentence.

4) Whether the conviction was from a city ordinance violation or a conviction for which a jail sentence was not imposed.

5) Whether the applicant has been sufficiently rehabilitated to warrant the public trust. The Department shall consider, but not be bound by, the following in considering whether an applicant has been presumed to be rehabilitated:

   A) Completion of probation;

   B) Completion of parole supervision; or

   C) If no parole was granted, a period of 10 years has elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.

c) If any one of the following factors exists, this outweighs the presumption of rehabilitation as defined in subsection (c) above:

1) Lack of compliance with terms of punishment (i.e., failure to pay fines or make restitution, violation of the terms of probation or parole);

2) Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;

3) Falsification of an application for licensure with the Department;

4) Failure to furnish to the Department additional information or failure to appear for an interview or meeting with the Department in relation to the applicant's application for licensure.

d) The following criminal history records shall not be considered in connection with
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an application for licensure:

1) Juvenile adjudications;

2) Records of arrest not followed by a conviction;

3) Convictions overturned by a higher court;

4) Convictions that have been the subject of a pardon or expungement.

e) Notification of denial, revocation, suspension, or intent to refuse to renew; request for hearing.

1) If the determination is made that the applicant or licensee is unfit for licensure, the Division shall send notice of denial, revocation, suspension, or intent to refuse to renew by certified mail, return receipt requested, to the applicant or licensee at the address stated on the applicant's or licensee's last known address or by personal delivery to the applicant or licensee. All such notices will include a statement of the reason for the Division's action.

2) An applicant or licensee may request a hearing to contest the Division's action pursuant to 68 Ill. Adm. Code 1110. The request shall be in writing, and must be received by the Division not later than 20 days after the date the Division mailed or personally delivered the notice of its action to the applicant or licensee.

3) After receipt of a request for hearing and prior to any such hearing, the Division shall schedule an informal conference with the applicant or licensee in an attempt to resolve issues in controversy consensually. The Division shall notify the applicant or licensee of the informal conference at least 20 days prior to the hearing. Failure by the applicant or licensee to attend the informal conference shall act as a withdrawal of the applicant's or licensee's request for a hearing.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.95 Granting Variances

a) The Director may grant variances from this Part in individual cases where he or
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she finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the APN Board of the granting of a variance, and the reasons for the variance, at the next meeting of the APN Board.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)

Section 1305.100 Continuing Education

The Division shall adopt rules of continuing education for persons licensed under this Part that require 50 hours of continuing education per 2-year license renewal cycle. The rules shall not be inconsistent with requirements of relevant national certifying bodies or State or national professional associations. The rules shall also address variances for illness or hardship. The continuing education rules shall assure that licensees are given the opportunity to participate in programs sponsored by or through their State or national professional association, hospitals, or other providers of continuing education. Each licensee is responsible for maintaining records of completion of continuing education and shall be prepared to produce the records when requested by the Division. (Section 15-45 of the Act)

a) Continuing Education Hours Requirements

1) Beginning with the May 31, 2006 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 50 contact hours of continuing education.

2) The following time equivalencies shall apply:

\[
\begin{align*}
1 \text{ CEU} & = 10 \text{ contact hours} \\
1 \text{ contact hour} & = 1 \text{ CEU} \\
1 \text{ contact hour} & = 50 \text{ minutes} \\
1 \text{ academic semester hour} & = 15 \text{ contact hours} \\
1 \text{ academic quarter hour} & = 12.5 \text{ contact hours} \\
1 \text{CME} & = 60 \text{ minutes or } 1.2 \text{ contact hours}
\end{align*}
\]
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1 AMA = 60 minutes or 1.2 contact hours

3) A prerenewal period is the 24 months preceding May 31 of each even-numbered year.

4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

5) APNs licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

6) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

7) An APN holding more than one APN license is required to complete 50 contact hours total per license renewal period.

b) Approved Continuing Education (CE)

1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3), and (4).

2) Independent study that is approved for continuing education credits as set forth in subsection (c) may be used, i.e., home study programs, articles from journals, and other health discipline independent study modules.

3) Academic credits may be used to fulfill CE requirements if the course content is applicable to the certification area. CE hours are awarded as outlined in subsection (a)(4).

A) College/university courses that are audited may not be used for CE credit.

B) Degree "core" or general education credits such as English, Literature, History, Math, Music and Physical Education may not be used.
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4) Presenter/lecturer presentations made to other health professionals on topics related to the certification area may be used for CE credit. Each different individual, non-repetitive 60-minute lecture may be used for 5 CE hours. Full-time educators may not use presentations/lectures that are part of their job expectations, but may use guest lectures and other presentations made outside the duties of their job.

5) CE hours may be earned for authoring papers, publications, dissertations, book chapters or research projects. These must be applicable to the certification area. The research project must be completed during the prerenewal period. Authoring a paper or publication article may be used for 10 CE hours. Authoring a book chapter, dissertation or research project may be used for 20 CE hours.

6) CE hours may be earned through preceptorship of an APN student. Preceptors must provide clinical supervision and education to the APN student. Documentation must be provided from the school of nursing in which the student is enrolled. Precepting one student for an academic semester or quarter may be used for 10 CE hours. Not more than 20 CE hours in each renewal period may come from precepting.

7) Successful completion, during the prerenewal period, of a recertification exam in the APNS area of specialty as recognized in Section 1305.20 may be used for 50 CE hours.

e) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

A) Approved providers of recognized certification bodies as outlined in Section 1305.20.

B) Any conference that provides approved Continuing Medical Education (CME) as authorized by the Illinois Medical Practice Act.

C) ANCC accredited or approved providers.

D) Illinois Society for Advanced Practice Nursing (ISAPN).

E) American College of Nurse Practitioners.
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F) American Academy of Nurse Practitioners.

G) Nurse Practitioner Association for Continuing Education (NPACE).

H) American Association of Nurse Anesthetists.

I) National Association of Clinical Nurse Specialists (NACNS).

J) Any other accredited school, college or university, State agency, or any other person, firm or association that has been approved and authorized by the Division Department pursuant to subsection (c)(2) of this Section to coordinate and present continuing education courses and programs.

2) An entity seeking approval as a CE sponsor, not specifically listed in subsection (c)(1), shall submit an application, on forms supplied by the Division Department, along with the application fee specified in Section 1305.25. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:

A) Certification

i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) and all other criteria in this Section;

ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);

iii) That upon request by the Division Department, the sponsor shall submit evidence (e.g., certificate of attendance or course material) as is necessary to establish compliance with this Section. Evidence shall be required when the Division Department has reason to believe that there is not full compliance with the statute.

B) A copy of a sample program with faculty, course materials and syllabi.
3) All programs shall:
   A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of advanced practice nursing;
   B) Foster the enhancement of general or specialized advanced practice nursing practice and values;
   C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
   D) Specify the course objectives, course content and teaching methods to be used; and
   E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program/presentation, or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

5) An approved sponsor may subcontract with individuals or organizations to provide approved programs. All advertising, promotional materials and certificates of attendance must identify the approved sponsor and the sponsor's state approval number. The presenter of the program may also be identified, but should be identified as a presenter. When an approved sponsor subcontracts with a presenter, the sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

6) To maintain approval as a sponsor, each sponsor shall submit to the Division Department by May 31 of each even-numbered year a renewal application, the renewal fee specified in Section 1305.25 and a list of courses and programs offered within the last 24 months. The list shall
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include a brief description, location, date and time of each course given by the sponsor and by any subcontract.

7) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

A) The sponsor's name and, if applicable, sponsor approval number;
B) The name of the participant;
C) A brief statement of the subject matter;
D) The number of hours attended in each program;
E) The date and place of the program; and
F) The signature of the sponsor.

8) The sponsor shall maintain attendance records for not less than 5 years.

9) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

10) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE attendance at or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.

11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
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2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificates of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant or retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or with 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

2) If a licensee fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request for with the $25 processing fee plus $50 per hour late fee not to exceed $300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

f) Restoration of Nonrenewed License

Upon satisfactory evidence of compliance with CE requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1305.25.

g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee set forth in Section 1305.25, a statement setting forth the facts concerning
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noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
   A) Full-time service in the armed forces of the United States during a substantial part of the prerenewal period;
   B) An incapacitating illness documented by a statement from a currently licensed health care provider;
   C) A physical inability to travel to the sites of approved programs documented by a currently licensed health care provider; or
   D) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)
Section 1305. APPENDIX A  Additional Certifications Accepted for Licensure as an Advanced Practice Nurse

Pursuant to Section 1305.20(a)(3), the Division Department, upon recommendation of the Board, has approved the following certifications. Acceptance of these certifications is based on the absence of an advanced practice nurse examination in the area of the nursing specialty. If the certifying body develops and offers an advanced practice nurse examination in the area of the nursing specialty, then an applicant as an APN would be required to pass the advanced practice nurse examination rather than the generalist examination in order for the Division Department to accept the certification for licensure.

Clinical Nurse Specialists
American College of Cardiovascular Nursing
American Association of Critical Care Nurses
American Association of Neuroscience Nurses
American Board of Occupational Health Nurses, Inc.
American Holistic Nurses Association
American Nurses Credentialing Center
Clinical Specialists in Community Health Nursing
Clinical Specialists in Gerontology Nursing
Clinical Specialists in Home Health Nursing
Clinical Specialists in Pediatric Nursing
Clinical Specialists in Psychiatric and Mental Health Nursing - Adults
Clinical Specialists in Psychiatric and Mental Health Nursing - Adolescent
Psychiatric and Mental Health Nursing
Cardiac and Vascular Nurse
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College Health Nurse
Perinatal Nurse
Ambulatory Care Nursing
Diabetes
American Society of Perianesthesia Nurses
American Society of Plastic Reconstructive Surgical Nurses
Association of Nurses in AIDS Care
Board of Certification of Emergency Nurses
Certification Board of Perioperative Nurses, Inc.
Certification of Pediatric Oncology Nurses
Certification Board of Gastroenterology Nurses
Dermatology Nurse Certification Board
International Board of Lactation Consultants
International Nurses Society of Addictions
IV Nurses Certification Corporation
National Association of School Nurses, Inc.
National Board of Certification of Hospice and Palliative Nurses
National Certification Board for Diabetes Educators
National Certification Board of Pediatric Nurse Practitioners/Nurses
National Certification Corporation for the Obstetric, Gynecological and Neonatal Nursing Specialties
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National Certifying Board for Ophthalmic Registered Nurses

Nephrology Nursing Certification Board

Oncology Nursing Certification Corporation

Orthopedic Nurses Certification Board

Rehabilitation Nursing Certification Board

Vascular Nursing Certification Board

Wound, Ostomy, and Continence Society

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)
A. ADVANCED PRACTICE NURSE INFORMATION

1. NAME: ________________________________________________________________

2. ILLINOIS RN LICENSE NUMBER: _________________________________________
   ILLINOIS APN LICENSE NUMBER: _________________________________________
   ILLINOIS MID-LEVEL PRACTITIONER LICENSE NUMBER: ______________________
   FEDERAL MID-LEVEL PRACTITIONER DEA NUMBER: __________________________

3. AREAS OF CERTIFICATION: _____________________________________________

4. CERTIFYING ORGANIZATION: ___________________________________________

5. CERTIFICATION EXPIRATION DATE: ______________________________________

6. CERTIFICATION NUMBER: ______________________________________________

7. PRACTICE SITES: See Attachment A.

8. CONTACT NUMBER: _____________________________________________________
   FACSIMILE NUMBER: ___________________________________________________
   EMERGENCY CONTACT NUMBERS: _________________________________________
   (e.g., pager, answering service)

9. ATTACHMENTS:
   Copy of Certification/Recertification
   Copies of RN & APN License
   Copy of Certificate of Insurance
   Copy of Mid-Level Practitioner License

B. COLLABORATING PHYSICIAN INFORMATION

1. NAME: __________________________________________________________________

2. ILLINOIS LICENSE NUMBER: ____________________________________________

3. PRACTICE AREA OR CONCENTRATION: ________________________________

4. BOARD CERTIFICATION (if any): ________________________________________
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5. CERTIFYING ORGANIZATION: ________________________________

6. PRACTICE SITES: See Attachment:

7. CONTACT NUMBER: ________________________________
   FAXIMILE NUMBER: ________________________________
   EMERGENCY CONTACT NUMBERS: ________________________________
   (e.g., pager, answering service)

C. ADVANCED PRACTICE NURSE COLLABORATING PHYSICIAN WORKING RELATIONSHIP

1. SCOPE OF PRACTICE

Under this agreement, the advanced practice nurse will work with the collaborating physician in an active practice to deliver health care services to ______________. This includes, but is not limited to, the diagnosis, treatment and management of acute and chronic health problems; ordering, interpreting and performing laboratory and radiology tests; prescribing medications, including controlled substances, to the extent delegated; receiving and dispensing stock and sample medications; performing other therapeutic or corrective measures as indicated.

If applicable, the advanced practice nurse shall maintain allied health personnel privileges at the following hospitals for the designated services:

Hospitals: ________________________________

This written collaborative agreement shall be reviewed and updated annually. A copy of this written collaborative agreement shall remain on file at all sites where the advanced practice nurse renders service and shall be provided to the Illinois Department of Financial and Professional Regulation upon request. Any joint orders or guidelines are set forth or referenced in Attachment B.

2. MEDICAL DIRECTION

Physician medical direction shall be adequate with respect to collaboration with Certified Nurse Practitioners, Certified Nurse Midwives, and Certified Clinical Nurse Specialists if a collaborating physician:

(A) participates in the joint formulation and joint approval of orders or guidelines
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with the advanced practice nurse and periodically reviews those orders and the services provided patients under those orders in accordance with accepted standards of medical practice and advanced practice nursing practice;

(B) is on site at least once a month to provide medical direction and consultation; and

(C) is available through telecommunications for consultation on medical problems, complications, or emergencies or patient referral. (See 225 ILCS 60/54.5(6).)

The written collaborative agreement shall be for services the collaborating physician generally provided to his or her patients in the normal course of clinical practice. Medical direction for a Certified Registered Nurse Anesthetist shall be adequate if:

(A) an anesthesiologist or a physician participates in the joint formulation and joint approval of orders or guidelines and periodically reviews those orders and the services provided patients under those orders; and

(B) for anesthesia services, the anesthesiologist or physician participates through discussion of and agreement with the anesthesia plan and is physically present and available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions. Anesthesia services in a hospital shall be conducted in accordance with Section 10.7 of the Hospital Licensing Act and in an ambulatory surgical treatment center in accordance with Section 6.5 of the Ambulatory Surgical Treatment Center Act. (See 225 ILCS 60/54.5(b-5).)

3. COMMUNICATION, CONSULTATION AND REFERRAL

The advanced practice nurse shall consult with the collaborating physician by telecommunication or in person as needed. In the absence of the designated collaborating physician, another physician shall be available for consultation.

The advanced practice nurse shall inform each collaborating physician of all written collaborative agreements he or she has signed with other physicians, and provide a copy of these to any collaborating physician upon request.

4. DELEGATION OF PRESCRIPTIVE AUTHORITY

As the collaborating physician, any prescriptive authority delegated to the advanced practice nurse is set forth in Attachment C.
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NOTE: ADVANCED PRACTICE NURSE MAY ONLY PRESCRIBE CONTROLLED SUBSTANCES UPON RECEIPT OF AN ILLINOIS MID-LEVEL PRACTITIONER CONTROLLED SUBSTANCE LICENSE.

WE THE UNDERSIGNED AGREE TO THE TERMS AND CONDITIONS OF THIS WRITTEN COLLABORATIVE AGREEMENT.

Collaborating Physician
Signature/Date

Advanced Practice Nurse
Signature/Date

(Physician's Typed Name)  (Advanced Practice Nurse's Typed Name)
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ATTACHMENT A

PRACTICE SITES
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ATTACHMENT B

JOINT ORDERS OR GUIDELINES
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ATTACHMENT C
DELEGATION OF PRESCRIPTIVE AUTHORITY

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)
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Section 1305.EXHIBIT B  Sample Written Practice Agreement for Office Based Anesthesia Services

WRITTEN PRACTICE AGREEMENT FOR OFFICE-BASED ANESTHESIA SERVICES

[A WRITTEN PRACTICE AGREEMENT IS REQUIRED AT A MINIMUM FOR A CERTIFIED REGISTERED NURSE ANESTHETIST TO PRACTICE IN AN OFFICE OF A LICENSED PHYSICIAN, LICENSED DENTIST OR LICENSED PODIATRIST. A WRITTEN COLLABORATIVE AGREEMENT MAY ALSO BE USED IN THESE SETTINGS. HOWEVER, A CERTIFIED REGISTERED NURSE ANESTHETIST IS NOT REQUIRED TO POSSESS PRESCRIPTIVE AUTHORITY OR A WRITTEN COLLABORATIVE AGREEMENT TO PROVIDE ANESTHESIA SERVICES ORDERED BY A LICENSED PHYSICIAN, DENTIST OR PODIATRIST.]

A. CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA) INFORMATION

1. Name: ________________________________________________________________

2. Certification/Recertification #: ________________________________

3. Illinois RN License #: _____________________________________________

4. Illinois APN License #: _____________________________________________

5. Contact Number: _________________________________________________
   Facsimile Number: _________________________________________________
   Emergency Contact Numbers: ________________________________________
   (e.g., pager, answering service)

6. Attachments:
   Copy of CRNA Certification/Recertification
   Copies of RN & APN License
   Copy of Certificate of Insurance

7. ACLS Certification: _________________________________________________

B. ANESTHESIOLOGIST, PHYSICIAN, DENTIST OR PODIATRIST INFORMATION

1. Name: ______________________________________________________________

2. Illinois License #: __________________________________________________

3. Practice Area or Concentration: ______________________________________

4. Board Certification (if any): _________________________________________
5. Certifying Organization: 

6. ACLS Certification: 

7. Continuing Medical Education (CME):
   8 hours of CME for conscious sedation:
   34 hours of CME for general anesthesia, deep conscious sedation and regional anesthesia, including conscious sedation: 
   OR

   Clinical privileges to provide anesthesia services:
   Hospital: 
   Ambulatory Surgical Treatment Center: 

8. Practice Site: 

9. Contact Number 
   Facsimile Number: 
   Emergency Contact Numbers: (e.g., pager, answering service)

C. WORKING RELATIONSHIP OF THE PARTIES

Under this agreement, the CRNA will deliver anesthesia services to designated patients in an active practice working with the anesthesiologist, physician, dentist or podiatrist pursuant to a mutually agreed upon anesthesia plan.

1. A licensed certified registered nurse anesthetist may provide anesthesia services pursuant to the order of a licensed physician, licensed dentist, or licensed podiatrist in the office of a licensed physician, the office of a licensed dentist, or the office of a licensed podiatrist. For anesthesia services, an anesthesiologist, physician, dentist, or podiatrist shall participate through discussion of and agreement with the anesthesia plan and shall remain physically present and be available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions. (See 225 ILCS 65/15-25(a).)

2. A certified registered nurse anesthetist is not required to possess prescriptive authority or a written collaborative agreement meeting the requirements of Section 15-15 of the Act to provide anesthesia services ordered by a licensed physician, dentist, or podiatrist. (See 225 ILCS 65/15-25(d).) Certified registered
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nurse anesthetists are authorized to select, order, and administer drugs and apply the appropriate medical devices in the provision of anesthesia services under the anesthesia plan agreed with by the anesthesiologist, physician, dentist or podiatrist. In a physician's office, dentist's office, or podiatrist's office, the anesthesiologist, operating physician, operating dentist, or operating podiatrist shall agree with the anesthesia plan, in accordance with the written practice agreement. (See 225 ILCS 65/15-25(d).)

3. In a physician's office, the certified registered nurse anesthetist may only provide anesthesia services if the physician has training and experience in the delivery of anesthesia services to patients. (See 68 Ill. Adm. Code 1305.50(e)).

4. In a dentist's office, the Certified Registered Nurse Anesthetist may only provide those services the dentist is authorized to provide pursuant to the Illinois Dental Practice Act and 68 Ill. Adm. Code 1220rules. Licensed dentists are required to hold permits to administer anesthesia pursuant 68 Ill. Adm. Code 1220: Subpart D.

5. In a podiatrist's office, the certified registered nurse anesthetist may only provide those services the podiatrist is authorized to provide pursuant to the Podiatric Medical Practice Act of 1987 and 68 Ill. Adm. Code 1360rules. Podiatrists may not administer general anesthetics. (See 68 Ill. Adm. Code 1305.45(f)).

6. A CRNA providing anesthesia services in a physician, dental or podiatrist office shall do so with the active participation, approval, presence and availability of the physician, dentist or podiatrist as well as in accordance with Standards 1-11 of the "Standards for Office Based Anesthesia Practice", American Association of Nurse Anesthetists, 222 South Prospect Avenue, Park Ridge, Illinois 60068 (1999), which are hereby incorporated by reference, with no later editions or amendments. If there is a conflict between the Nursing and Advanced Practice Nursing Act or this Part and the Standards for Office Based Anesthesia Practice of the American Association of Nurse Anesthetists, the Act and this Part shall prevail.

D. CATEGORIES OF CARE, TREATMENT OR PROCEDURES TO BE PERFORMED

A licensed Certified Registered Nurse Anesthetist may provide anesthesia services pursuant to the order of a licensed physician, licensed dentist, or licensed podiatrist in the office of a licensed physician, the office of a licensed dentist, or the office of a licensed podiatrist. For anesthesia services, an anesthesiologist, physician, dentist, or podiatrist shall participate through discussion of and agreement with the anesthesia plan and shall
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remain physically present and be available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions. (See 225 ILCS 65/15-25(a).)

A Certified Registered Nurse Anesthetist is not required to possess prescriptive authority or a written collaborative agreement meeting the requirements of Section 15-15 of the Act to provide anesthesia services ordered by a licensed physician, dentist, or podiatrist. (See 225 ILCS 65/15-25(d).) Certified registered nurse anesthetists are authorized to select, order, and administer drugs and apply the appropriate medical devices in the provision of anesthesia services under the anesthesia plan agreed with by the anesthesiologist, physician, dentist or podiatrist. In a physician's office, dentist's office, or podiatrist's office, the anesthesiologist, operating physician, operating dentist, or operating podiatrist shall agree with the anesthesia plan, in accordance with the written practice agreement. (See 225 ILCS 65/15-25(d).)

In a physician's office, the certified registered nurse anesthetist may only provide anesthesia services if the physician has training and experience in the delivery of anesthesia services to patients. (See 68 Ill. Adm. Code 1305.45(e).)

In a dentist's office, the Certified Registered Nurse Anesthetist may only provide those services the dentist is authorized to provide pursuant to the Illinois Dental Practice Act and 69 Ill. Adm. Code 1220 rules. Licensed dentists are required to hold permits to administer anesthesia pursuant 68 Ill. Adm. Code 1220: Subpart D. In a podiatrist's office, the Certified Registered Nurse Anesthetist may only provide those services the podiatrist is authorized to provide pursuant to the Podiatric Medical Practice Act of 1987 and 68 Ill. Adm. Code 1360 rules. Podiatrists may not administer general anesthetics. (See 68 Ill. Adm. Code 1305.45(e).)

The anesthesia service that the CRNA may provide in the anesthesiologist's, physician's, dentist's or podiatrist's office setting shall be set forth in the attached pages.

Signature of CRNA/Date

CRNA's Typed Name

Signature of Anesthesiologist, Physician, Dentist or Podiatrist/Date
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Anesthesiologist's, Physician's, Dentist's or Podiatrist's Typed Name

(Source: Amended at 30 Ill. Reg. 4657, effective March 1, 2006)
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1) Heading of the Part: Podiatric Medical Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1360

3) Section Numbers: Adopted Action:
   1360.20   Amendment
   1360.30   Amendment
   1360.40   Amendment
   1360.45   Amendment
   1360.50   Amendment
   1360.55   Amendment
   1360.60   Amendment
   1360.65   Amendment
   1360.70   Amendment
   1360.75   Amendment
   1360.85   Amendment
   1360.86   Amendment
   1360.90   Amendment
   1360.95   Amendment

4) Statutory Authority: Podiatric Medical Practice Act of 1987 [225 ILCS 100]

5) Effective Date of Amendments: March 1, 2006

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) Date Notice of Proposal Published in Illinois Register: November 4, 2005; 29 Ill. Reg. 17930

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 agreement letter issued by JCAR? Yes
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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: Section 1360.86 is being amended in response to an audit finding to clarify the entities required to file mandatory reports on impaired podiatric physicians with the Division. Additional non-substantive changes are being made to the entire Part by changing references from "Department" to “Division” to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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

   Department of Financial and Professional Regulation
   Division of Professional Regulation
   Attention: Barb Smith
   320 West Washington, 3rd Floor
   Springfield, Illinois 62786

   217/785-0813  Fax: 217/782-7645

The full text of the Adopted Amendments begins on the next page:
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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1360
PODIATRIC MEDICAL PRACTICE ACT OF 1987

Section
1360.10 Statutory Authority (Repealed)
1360.20 Approved Colleges of Podiatry
1360.30 Application for Examination
1360.40 Examination
1360.45 Application for Licensure on the Basis of Examination
1360.50 Endorsement
1360.55 Renewals
1360.60 Restoration
1360.65 Temporary Licenses
1360.70 Continuing Education
1360.75 Visiting Professor Permits
1360.80 Definition of "Human Foot" (Repealed)
1360.85 Advertising
1360.86 Mandatory Reporting of Impaired Podiatric Physicians by Health Care Institutions
1360.90 Granting Variances
1360.95 Dishonorable, Unprofessional and Unethical Conduct Standards
1360.APPENDIX A Curriculum Requirements (Repealed)
1360.APPENDIX B Clinical Training Requirements (Repealed)

AUTHORITY: Implementing the Podiatric Medical Practice Act of 1987 [225 ILCS 100] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

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Section 1360.20 Approved Colleges of Podiatry

a) The Department of Financial and Professional Regulation (Division) shall, upon the recommendation of the Podiatric Medical Licensing Board (the "Board"), approve a school or college of podiatric medicine as reputable and in good standing if it meets the following minimum criteria:

1) A Dean or a designated officer, employed on a full-time basis, is responsible for coordination of student affairs and administration of the curriculum.

2) A faculty is comprised of instructors with specialty degrees in the subjects they teach from recognized professional colleges or institutions, and organized into departments, each of which has a director or chairman.

3) Has a curriculum with four academic years of instruction that contains at least the following subjects:

A) Epidemiology and Biostatistics
B) Anatomical Sciences
C) Biochemistry
D) Pharmacology
E) Microbiology
F) Physiology
G) Pathology
H) Dermatology
I) Community Health
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J) Clinical Experience

K) Medical, Surgical and Physical Therapeutic Procedures

4) Accepts only graduates of a four-year high school or other preparatory school who have satisfactorily completed a minimum of 90 semester hours of general college work at one or more accredited colleges or universities.

5) Maintains permanent records showing the credentials for admission, attendance and grades of each student and specifying in detail the clinical training of each student as required in subsection (a)(8), below.

6) Maintains a library of modern podiatric and medical texts, periodicals, and reference books.

7) Maintains suitable facilities for instruction in all areas of podiatric medicine, including an x-ray diagnostic laboratory.

8) Provides clinical training to students, identified as such, to treat patients:

A) Training shall be in a facility affiliated with an approved podiatric medical college and licensed by the appropriate state hospital licensing authority, or a facility operated by a governmental unit; and in the presence and under the direct personal supervision of a registered podiatrist or licensed physician who is lawfully authorized to provide the treatment required by the patients.

B) TrainingSuch training shall include general diagnosis (history taking, physical examination, clinical laboratory procedures, diagnostic radiology); therapeutics (pharmacological, physical medicine, orthotic and prosthetics); surgery and anesthesiology; and operative procedures.

b) In determining whether a school or college should be approved, the DivisionDepartment shall take into consideration, but not be bound by, accreditation by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

c) Withdrawal of Approval

1) The Director of the Division (Director) may, upon a written
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recommendation submitted by the Board, withdraw, suspend or place on
probation the approval of a podiatric medical college for any of the
following causes:

A) A violation of any provision of the Act;
B) A violation of this Part or these Rules; or
C) Fraud or dishonesty in applying for approval of a podiatry college.

2) A podiatric medical college whose approval is being reconsidered by the
Division shall be given written notice prior to any
recommendation by the Board and may either submit written comments or
request a hearing before the Board.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.30 Application for Examination

An applicant for the National Board of Podiatric Medical Examiners (NBPME) PM Lexis
test examination for licensure as a podiatric physician shall file an application with the
Division or its designated testing service, on forms supplied by the
Division, at least 60 days prior to an examination date. The application shall include:

a) A complete work history indicating all employment since graduation from an
approved podiatric medical program which meets the requirements set forth in
Section 1360.20;

b) Certification of graduation from an approved podiatric medical program;

c) Proof of passage of Part I and Part II of the examination given by the National
Board of Podiatric Medical Examiners (NBPME) by NBPME standards. The
applicant shall have the scores submitted to the Division or its
designated testing service directly from NBPME;

d) Certification, on forms provided by the Division, from the
jurisdictions of the United States in which the applicant was originally licensed
and is currently licensed, if applicable, stating:

1) The time during which the applicant was licensed in that jurisdiction,
including the date of the original issuance of the license; and
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2) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

e) The required fee as provided for in Section 18(a)(1) of the Act.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.40 Examination

a) Each applicant for licensure as a podiatric physician in the State of Illinois shall be required to take the PM Lexis examination administered by the Division or its designated testing service.

b) A passing grade on the PM Lexis examination is 75.

(Source: Amended at 30 Ill. Reg. 4704, effective March 2, 2006)

Section 1360.45 Application for Licensure on the Basis of Examination

a) Each applicant for licensure as a podiatric physician in the State of Illinois, pursuant to the Podiatric Medical Practice Act of 1987 [225 ILCS 100] (the Act), shall file an application with the Division that includes:

1) A complete work history indicating all employment since graduation from an approved podiatric medical program that meets the requirements set forth in Section 1360.20;

2) Certification of graduation from an approved podiatric medical program;

3) Proof of passage of Part I and Part II of the examination given by the NBPME by NBPME standards. The applicant shall have the scores submitted to the Division directly from NBPME;

4) Proof of successful completion of the PM Lexis examination in accordance with Section 1360.40 of this Part;

5) Proof of successful completion of one year of postgraduate training approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association (APMA) which includes residency and preceptorship programs;
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6) Certification, on forms provided by the Division Department, from the jurisdictions in which the applicant was originally licensed and is currently licensed, if applicable, stating:

A) The time during which the applicant was registered in that jurisdiction, including the date of the original issuance of the license; and

B) Whether the file on the applicant contains any record of disciplinary actions taken or pending; and

7) The required fee set forth in Section 18(a)(1) of the Act.

b) An applicant who has successfully completed in another jurisdiction a written clinical competency examination recognized by the Division Department pursuant to Section 1360.40 shall have the examination scores submitted directly to the Division Department by the reporting entity.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.50 Endorsement

a) An applicant for licensure as a podiatric physician who is licensed under the laws of another jurisdiction shall file an application with the Division that Department which shall include:

1) A certification from the jurisdiction of original licensure and current licensure, stating:

A) The time during which the applicant was licensed in that jurisdiction; and

B) Whether the file on the applicant contains any record of disciplinary actions taken or pending;

2) A complete work history indicating all employment since graduation from a program which meets the requirements set forth in Section 1360.20;

3) Certification of successful completion of Parts I and II of the examination given by the NBPME or any other examination which was a requirement
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of original licensure;

4) Verification of successful completion of one year of post-graduate training which is approved by the Council on Podiatric Medical Education of the APMA and includes a residency or preceptorship for individuals who were licensed after January 1, 1992;

5) Passage of the written clinical competency examination set forth in Section 1360.40;

6) The required fee set forth in Section 18(a)(1) of the Act; and

7) The Division may, in individual cases, upon recommendation of the Director, waive the written clinical competency examination set forth in Section 1360.40 for an applicant by endorsement after full consideration of his/her podiatric education, training and experience, including, but not limited to, whether he/she has achieved special honors or awards, has had articles published in professional journals, has participated in writing textbooks relating to podiatric medicine, and any other attribute that the Division accepts as evidence that such applicant has outstanding and proven ability in podiatry.

b) The Division shall examine each endorsement application to determine whether the requirements in such jurisdiction at the date of licensing were substantially equivalent to the requirements then in force in this State and whether the applicant has otherwise complied with the Act. A copy of the Act and/or rules that were in effect in the jurisdiction of original licensure may be requested to determine equivalency. The Division shall, within a reasonable time, either issue a certificate of registration by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.55 Renewals

a) Every license issued under the Act shall expire on January 31 of each odd numbered year. The holder of a license may renew such license during the month preceding the expiration date thereof by paying the required fee and meeting the continuing education requirements set forth in Section 1360.70.

b) It is the responsibility of each registrant to notify the Division of any
change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee and to renew the license in a timely manner.

c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 24 of the Act.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.60 Restoration

a) A person seeking restoration of a license that has expired for 5 years or less shall have the license restored upon payment of $100 plus all lapsed renewal fees required by Section 18(a)(4) of the Act and proof of 50 hours of continuing education, as defined in Section 1360.70 of this Part, earned within the 2 years preceding restoration of the license.

b) A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and proof of 50 hours of continuing education, as defined in Section 1360.70 of this Part, earned within 2 years preceding the restoration of the license.

c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section 18(a)(4) of the Act, and be scheduled for an interview before the Board. The person shall also submit either:

1) Certification of active practice in another jurisdiction and proof of 50 hours continuing education as defined in Section 1360.70 of this Part during the 2 years prior to restoration. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the applicant was authorized to practice during the term of active practice; or

2) Proof of successful completion of the PM Lexis examination in accordance with Section 1360.40 within one year before applying for restoration.

d) Pursuant to Section 15(D) of the Act, anyone applying for restoration of a license
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that has expired or been placed on inactive status while in military service shall submit an affidavit attesting to that service. If the application is made within 2 years after discharge and if all other provisions of Section 15(D) are met, the applicant will only be required to pay the current renewal fee and will not be required to submit proof of continuing education.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration of a license shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon the recommendation of the Board and approval by the Division, an applicant's license shall be restored.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.65 Temporary Licenses

a) An applicant for a temporary license to pursue postgraduate training shall file an application with the Division, on forms provided by the Division, that which includes the following:

1) A complete work history indicating all employment since graduation from an approved podiatric medical program that meets the requirements set forth in Section 1360.20.

2) Either:

   A) Certification of graduation from an approved podiatric medical program; or

   B) Certification that the applicant will graduate from an approved podiatric medical program before entering into the postgraduate training. This certification shall be signed by the director or registrar of the applicant's podiatric medical program.
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3) Proof of passage of Part I and Part II of the examination given by the NBPME by NBPME standards. The applicant shall have his or her scores submitted to the Division or its designated testing service, directly from NBPME.

4) Proof that the applicant has been accepted or appointed to a position in a postgraduate program approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association which includes residencies and preceptorships.

5) Certification, on forms provided by the Division, from the jurisdictions in which the applicant was originally licensed and is currently licensed, if applicable, stating:

   A) The time during which the applicant was registered in that jurisdiction, including the date of the original issuance of the license; and

   B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

6) The required fee set forth in Section 18(a)(1) of the Act.

b) A temporary license shall be valid for one year.

c) Temporary licenses may be renewed one time in the following situations:

   1) Serving full-time in the Armed Forces;

   2) An incapacitating illness documented by a currently licensed physician; or

   3) Proof of continuance of a postgraduate training program.

 d) A licensee applying for renewal of a temporary certificate shall pay to the Division the fee set forth in Section 18(a)(3) of the Act.

e) If a temporary license holder terminates or is discharged from a residency or preceptorship program, the temporary license shall be null and void. If the licensee changes his/her preceptorship or residency program, he/she shall reapply for a new temporary license.
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f) If the licensee applies for a permanent podiatric physician license while holding a temporary license, no permanent license shall be issued until the temporary license is returned to the Department.  

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.70 Continuing Education

a) Continuing Education Hour Requirements

1) Every renewal applicant who applies for renewal of a license as a podiatric physician must complete 50 hours of continuing education (CE) relevant to the practice of podiatric medicine.

2) A prerenewal period is the 24 months preceding January 31 of each odd-numbered year.

3) A renewal applicant is not required to comply with CE requirements for the first renewal.

4) Podiatric physicians licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.

b) Approved Continuing Education

1) All continuing education hours must be earned by verified attendance at or participation in a program or course sponsored, approved or given by a sponsor approved by the Council on Podiatric Medical Education; sponsored by the Illinois Podiatric Medical Association; or which is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below, except for those activities provided in subsections (b)(2), (3), (4), (5), and (6) below.

2) A maximum of 18 hours of credit per prerenewal period may be earned through postgraduate training programs (i.e., extern, residency, or fellowship programs) approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association as provided for in Section 5(G) of the Act.

3) A maximum of 18 hours per prerenewal period may be earned for verified teaching in an approved podiatric medical college which meets the
standards set forth in Section 1360.20 and/or as an instructor of continuing education through an approved sponsor. One hour of credit will be granted for actual presentation, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course, and will only be allowed for additional study or research.

4) Up to 15 total credit hours per prerenewal period may be claimed for papers, publications, books, presentations and exhibits. The preparation of each published paper, book chapter or audio-visual presentation dealing with Podiatric Medicine which is made available to health professionals may be claimed as 5 hours of credit. A presentation or exhibit must be before a professional audience of podiatrists or other health professionals. Five credit hours may be claimed for only the first time the information is published or presented.

5) Up to 15 total credit hours per prerenewal period may be earned through nonsupervised individual activities in the following areas:

A) Self-Instruction – Up to 3 hours of credit may be claimed for the use of audio-visual materials, programmed education materials, electronic teaching devices and the individual reading of podiatric medical literature.

B) Patient Care Review – Up to 3 hours may be claimed for time spent in programs concerned with the review and evaluation of patient care. This includes such activities as peer review.

C) Self-assessment – Up to 3 hours of credit may be claimed for time spent in self-assessment programs. These would include, for example, quizzes completed by the podiatrist after reading professional publications of a scientific or patient-care oriented nature, or completion of aptitude questionnaires provided by various organizations and societies.

D) Specialty Board or Specialty Organization Preparation – Up to 6 hours may be claimed for nonsupervised individual activities carried out in preparation for an examination or to satisfy other requirements for membership in a specialty organization. No additional credit may be claimed for taking and/or passing an examination given by the board or organization.
6) Up to 10 hours of credit per prerrenewal period may be claimed for verified formal learning experiences sponsored by hospitals, agencies, organizations or other institutions which are not approved continuing education sponsors, in subjects that facilitate the podiatrist's performance, such as courses in computerized patient-record systems, practice management, risk management or training – including advanced degree programs in education, health administration, and similar subjects.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean the Council on Podiatric Medical Education and its approved sponsors, the Illinois Podiatric Medical Association, or a person, firm, association, corporation, or any other group which has been approved and authorized by the Board and validated by the Illinois Podiatric Medical Association Continuing Education Committee to coordinate and present continuing education courses or programs.

2) A sponsor shall submit the fee set forth in Section 18(a)(10) of the Act, along with a sponsor application that certifies:

A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section;

B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certificate of attendance as set forth in subsection (d) below;

C) That, upon request by the Division, the sponsor will submit such evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Such evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.

3) All courses and programs shall:

A) Contribute to the advancement, extension and enhancement of
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professional clinical skills and scientific knowledge in the practice of podiatric medicine;

B) Provide experiences which contain scientific integrity, and subject matter and course material relevant to podiatric medicine;

C) Be developed and presented by persons with education and/or experience in the subject matter of the program;

D) Specify the course objectives, course content and teaching methods to be used; and

E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

4) All programs given by approved sponsors shall be open to all licensed podiatric physicians and not be limited to members of a single organization or group.

5) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

6) Each sponsor shall reapply by January 31 of each year. The sponsor shall submit to the Division Department, along with the completed sponsor application and the fee set forth in Section 18(a)(10) of the Act, a list of courses and programs offered within the last 12 months, which includes a brief description, location, date and time of the course.

7) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in an approved program or course with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

A) The name and address of the sponsor;

B) The name and address of the participant;

C) A brief statement of the subject matter;

D) The number of hours attended in each program;
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E) The date and place of the program; and

F) The signature of the sponsor.

8) The sponsor shall maintain attendance records for not less than five years.

9) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

10) Upon the failure of any sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of such sponsor's CE activities until such time as the Division receives assurances of compliance with this Section.

11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved continuing education program at any time to ensure compliance with the requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.

2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. Such additional evidence will be required in the context of the Division's random audit.

3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified in writing and may request an interview with the Board.

e) Continuing Education Earned in Other Jurisdictions

1) If a renewal applicant will be earning or has earned CE hours in another
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jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an approved sponsor, the applicant shall submit an individual program approval request form, along with a $20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(5) of this Section. Applicants may seek individual program approval prior to the participation in the course or program. All individual program approval requests shall be submitted 90 days prior to the expiration date of the license.

2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $20 processing fee plus a $50 per credit hour late fee not to exceed $300. The Board shall review and recommend approval and disapproval of the program using the criteria set forth in subsection (b) of this Section.

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee set forth in Section 18(a)(3) of the Act, a statement setting forth the facts concerning such non-compliance, and request for waiver of the CE requirements on the basis of such facts. The request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full time service in the Armed Forces of the United States of America during a substantial part of such period;

B) An incapacitating illness documented by a statement from a currently licensed physician;
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C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or

D) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of a license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final Department's decision on the application has been made.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.75 Visiting Professor Permits

a) Any person not licensed in this State to practice as a podiatric medical physician who has been appointed as a visiting professor at a program of podiatric medicine in this State must be the holder of a Visiting Professor Permit issued by the Department pursuant to the provisions of Section 12 of the Act.

b) An application for a Visiting Professor Permit shall be made on forms provided by the Department. Such application shall include:

1) The name and location of the applicant's program of podiatric medicine, dates of attendance, and date and type of degree conferred;

2) Certification from the jurisdictions of original licensure and current licensure, indicating:

   A) The date of licensure;

   B) The method of licensure; and

   C) The current status of the license;

3) Certification from the Dean of the program of podiatric medicine indicating:

   A) That the person has contracted with the applicant and he has received a faculty appointment to teach in the program;

   B) The nature of the educational services to be provided by the
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applicant; and

C) The term of the contract;

4) A copy of the applicant's current curriculum vitae; and

5) The fee set forth in Section 18(a)(1) of the Act.

c) A Visiting Professor Permit shall be valid for one year and may be renewed only once for one year.

d) Application for renewal of a Visiting Professor Permit shall be made on forms supplied by the Division at least 60 days prior to expiration of the permit. Such application shall include:

1) Certification from the Dean of the program of podiatric medicine indicating the term of the renewal contract, not to exceed one year from the date of the original expiration date;

2) Certification from the jurisdiction of original licensure indicating the current status of the license; and


e) When any person who has been issued a Visiting Professor Permit is discharged or terminates his faculty appointment, any certificate issued in the name of such person shall be null and void as of the date of such discharge or termination. Such program of podiatric medicine shall immediately deliver or mail by registered mail to the Division the Visiting Professor Permit and written notice of the reason for the return of the permit.

f) Only one Visiting Professor Permit shall be issued to an applicant, which may be renewed once. If, at the conclusion of the term of the faculty appointment for which the permit was issued, the holder of such permit desires to remain in the State and practice or teach the profession, he/she must apply for and receive a license to practice the profession.

g) Whenever a program of podiatric medicine is required to deliver or return a Visiting Professor Permit to the Division and that permit has been lost or destroyed or is for any other reason unavailable for return to the Division, the program of podiatric medicine shall immediately mail or
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deliver to the DivisionDepartment a written explanation concerning the inability
to return the permit.

h) Nothing herein shall prohibit the holder of a Visiting Professor Permit from
applying for and receiving a license to practice the profession in this State during
the term of his/her faculty appointment. In the event the holder of such permit is
issued a license to practice the profession in this State, upon receipt of the license,
the permit shall become null and void and shall be returned to the
DivisionDepartment pursuant to the provisions of subsection (e) above.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.85 Advertising

a) If an advertisement is communicated to the public over television or radio, it shall
be prerecorded and approved for broadcast by the podiatric physician, and a
recording of the actual transmission, including videotape, shall be retained for at
least 3 years by the podiatric physician.

b) A podiatric physician may incorporate as a professional service corporation in
accordance with the Professional Service Corporation Act [805 ILCS 10] under a
fictitious or an assumed name; however, all advertisements for podiatric services
to be performed by members or employees of the corporation must comply with
the following:

1) A podiatric physician licensed and practicing in Illinois shall be
designated at each practice location for the corporation and shall assume
responsibility for all advertising in Illinois.

2) The name, office address and office phone number of the designated
podiatric physician shall appear in all advertising for the corporation.

3) The namesname(s) of the ownersowner(s) of the corporation, if other than
the designated podiatric physiciansphysician(s), shall appear in all
advertising for the corporation.

4) A list of all podiatric physicians employed by the corporation who
perform podiatric services shall be prominently displayed at the location
where they practice.

5) Any advertisement that which contains the namesname(s) of podiatric
physiciansphysician(s) shall appear in all advertising for the corporation.
physicians physician(s) employed by the corporation shall include at least one of the following terms to describe each podiatric physician's licensure: podiatric physician, doctor of podiatric medicine, podiatrist, foot specialist or chiropodist.

c) A podiatric physician not incorporated in accordance with the Professional Service Corporation Act [805 ILCS 10] shall identify himself/herself by the use of the name in which the license to practice is issued and shall include at least one of the following terms to describe his/her licensure: podiatric physician, doctor of podiatric medicine, podiatrist, foot specialist or chiropodist. This name and designation shall appear in all forms of advertising, in whatever medium conveyed.

d) A podiatric physician may advertise certification by a certifying specialty board approved by the Podiatric Medical Licensing Board or by the Council on Podiatric Medical Education. Approvals granted by the Podiatric Medical Licensing Board shall be subject to review and reconsideration every 2 years. In approving a certifying specialty board, the Podiatric Medical Licensing Board shall determine that the specialty board has met, at a minimum, the following criteria:

1) The certifying specialty board requires passage of an examination appropriately designed to test the applicant's knowledge of the area of specialty in order to obtain certification. The testing standards of the certifying specialty board are established prior to the test and are based on standards of acceptable psychometric validity and reliability;

2) The certifying specialty board requires appropriate educational and experience standards in order to obtain certification and grants or denies certification based on objective performance, skill, knowledge and merit of the candidate; and

3) The certifying specialty board shall be approved by an appropriate national accrediting agency for the certification of professional programs at least 2 years prior to application to the Division Department.

e) Any specialty advertisement shall include the complete name of the certifying specialty board.

f) In addition to the above requirements, a podiatric physician shall comply with advertising requirements set forth in Section 21 of the Act.
Section 1360.86 Mandatory Reporting of Impaired Podiatric Physicians by Health Care Institutions

a) **Entities Required to Report**

   Section 26 of the Act requires that the chief administrator or executive officer of any health care institution licensed by the Department of Public Health report to the Podiatric Medical Licensing Board concerning impaired persons. All instances in which a person licensed under the Podiatric Medical Practice Act of 1987 is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision, and where appropriate, is in a program of rehabilitation, must be reported to the Board. The reports, as described in subsection (f), must contain sufficient current information to enable the Board to evaluate the impairment and determine the appropriateness of the supervision of the program of rehabilitation. If the Board finds the supervision or treatment plan submitted by the institution is not sufficient to meet the needs of the individual, the Board may direct the facility to work with Division staff to revise the plan or treatment to meet the specific objections. Reports must be filed with the Board by the following entities:

1) **The president or chief executive officer of any association or society of podiatric physicians licensed under the Act and operating within this State shall report to the Board when the association or society renders a final determination relating to the professional competence or conduct of the podiatric physician.**

2) **Every insurance company that offers policies of professional liability insurance to persons licensed under the Act, or any other entity that seeks to indemnify the professional liability of a podiatric physician licensed under the Act, shall report to the Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action, that alleged negligence in the furnishing of medical care by a person licensed under the Act when a settlement or final judgment is in favor of the plaintiff.**

3) **The State's Attorney of each county shall report to the Board all instances in which a person licensed under the Act is convicted or otherwise found guilty of the commission of any felony.**
4) All agencies, boards, commissions, departments, or other instrumentalities of the State of Illinois shall report to the Board any instance arising in connection with the operations of an agency, including the administration of any law by an agency, in which a podiatric physician licensed under the Act has either committed an act or acts that may be a violation of the Act or that may constitute unprofessional conduct related directly to patient care or that indicates that a podiatric physician licensed under the Act may be mentally or physically disabled in a manner that may endanger patients under that physician's care.

b) Contents of Reports. Reports of impaired persons shall be submitted in writing, on forms provided by the Division of Professional Regulation, which shall include, but not be limited to, the following information:

1) The name, address, telephone number and title of the person making the report;

2) The name, address, telephone number and type of health care institution where the maker of the report is employed;

3) The name, address, telephone number, and professional license number of the person who is the subject of the report;

4) A means of identification used by the institution of any patient or patients whose treatment is a subject of the report, provided, however, no medical records may be revealed without the written consent of the patient or patients; and further provided that the Board may require disclosure of the name, address and telephone number of any such patient if it deems such information necessary to an evaluation of the impairment or a determination of the appropriateness of the supervision or program of rehabilitation;

5) The nature of the impairment and brief description of the facts that gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report;

6) The terms and conditions of the supervision under which the subject of the report is conducting his/her activities or practice, including the date supervision commenced; the term of the supervision; the name, address and telephone number of the person in charge of the subject's supervision; and a written consent executed by the subject of the report, authorizing the
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Board, the Division staff or other designated representative of the Board to contact the person in charge of the subject's supervision for information, including written documentation, in order to evaluate the progress of the subject's supervision;

7) If the subject of the report is in a program of rehabilitation, the name, address and telephone number of the program and the name and position of any individual in charge of the program; and

8) Any other information deemed by the reporting person to be of assistance to the Board and the Division staff in evaluating the report, including, but not limited to, the following items: drug screens being used and their status; relapses and actions taken; attendance at work; observations of recovery status and level of cooperation in recovery; other psychopathology; known related physical and mental illnesses; involvement of the family and others in treatment or supervision; and a copy of the aftercare agreement.

c) Reports of impaired persons shall be submitted to the Board in a timely manner. The initial report shall be submitted on forms provided by the Division within 60 days after it is determined that a report is necessary under the Act and this Part. Periodic reports (which evidence written documentation of the progress of suspension or rehabilitation) shall thereafter be submitted to the Licensing Board every 6 months, commencing with the time of the filing of the initial report. A copy of each report shall be sent by the person making the report to the impaired person.

d) Confidentiality

1) The contents of any report shall be strictly confidential, except as otherwise provided in this subsection, and exempt from public disclosure, but may be reviewed by:

A) Members of the Board or their designees;

B) The Board's designated attorneys;

C) The Division staff;

D) Administrative personnel assigned to open mail containing reports and to process and distribute said reports to authorized persons,
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and to communicate with senders of reports; and

E) The person who is the subject of the report, his/her attorney or his/her authorized representative (as evidenced by a written authorization signed by the person who is the subject of the report).

2) The reports may also be handled or processed by other designated persons in a limited manner necessary to implement reports required under this Act by computer, word processing equipment or other mechanical means. The data record shall be limited to the name and address of the originator of the report, the date the initial report was received, the date of the most recent report and the professional license number of the subject of the report.

3) The contents of the confidential reports relating to impaired persons shall not be used or made available in any other administrative proceedings before the Division of Professional Regulation or any other department of State government; however, violations of the treatment or supervision plan will result in a review of the person's status by the Board or its designees for possible discipline or revision in the treatment or supervision plan. Such reports shall not be disclosed, made available or subject to subpoena or discovery proceedings in any civil or criminal court proceedings.

e) Upon a determination by the Board that a report on an impaired person no longer requires review and consideration, the Board shall notify the maker of the report to cease sending such reports and the Board and Division records shall be purged of information contained in the report. Such determinations shall be based on, but not be limited to: the type of impairment, type of rehabilitation program, length of supervision, occurrence of any relapses and present status of license.

f) When any chief administrative or chief executive officer of any health care institution making a report or providing other information to the Board, or assisting the Board concerning an impaired person, acts in good faith and not in a willful and wanton manner, said chief administrative or chief executive officer and the health care institution employing him/her shall not, as a result of such actions, be subject to criminal prosecution or civil damages (Section 23(c) of the Act).

g) The following definitions shall apply to this Section:
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1) "Impaired" means the inability to practice podiatric medicine with reasonable skill and safety due to physical or mental disabilities, as evidenced by a written evaluation or clinical evidence that reveals a deterioration of the podiatric physician's ability to deliver competent care due to problems related to aging, loss of motor skill, abuse of drugs or alcohol or mental illness.

2) "Under supervision" means that the performance of the impaired person's clinical privileges and status of the person's impairment is being observed and monitored under the authority of a written directive issued in accordance with a health care institution's or medical staff's bylaws or rules and regulations.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.90 Granting Variances

a) The Director may grant variances from this Part in individual cases where he/she finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Podiatric Medical Licensing Board of the granting of such variance, and the reasons for granting the variance therefor, at the next meeting of the Board.

(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)

Section 1360.95 Dishonorable, Unprofessional and Unethical Conduct Standards

a) The Division may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based upon its finding of dishonorable, unprofessional and unethical conduct of a character likely to deceive, defraud or harm the public within the meaning of Section 24 of the Act
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that is interpreted to include, but is not limited to, the following acts or practices:

1) Practicing or offering to practice beyond one's competency (for example, providing services and techniques for which one is not qualified by education, training and experience);

2) Making gross or deliberate misrepresentations or misleading claims as to his/her professional qualifications or of the efficacy or value of his/her treatments or remedies, or those of another practitioner;

3) Impersonating another person holding a podiatric medical license or allowing another person to use his/her license;

4) Delegating responsibility for delivery of patient care to persons who were not properly supervised or who were not competent to assume such responsibility;

5) Submission of fraudulent claims for services to any health insurance company or health service plan or third party payor.


(Source: Amended at 30 Ill. Reg. 4704, effective March 1, 2006)
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1) **Heading of the Part:** Health Maintenance Organization

2) **Code Citation:** 50 Ill. Adm. Code 5421

3) **Section Numbers:**
   - 542.10 Amendment
   - 542.20 Amendment
   - 542.30 Amendment
   - 542.40 Amendment
   - 542.50 Amendment
   - 542.60 Amendment
   - 542.70 Amendment
   - 542.80 Amendment
   - 542.90 Amendment
   - 542.100 Amendment
   - 542.110 Amendment
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   - 542.113 Amendment
   - 542.120 Amendment
   - 542.130 Amendment
   - 542.131 Amendment
   - 542.132 Amendment
   - 542.140 Amendment
   - 542.141 Amendment
   - 542.142 Amendment
   - 542.150 Amendment

4) **Statutory Authority:** Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7].

5) **Effective Date of Amendments:** March 2, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** Yes. Please see Section 5421.50(d)(2) of this Part.
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8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 4, 2005; 29 Ill. Reg. 3057

10) Has JCAR issued a Statement of Objection to these amendments? Yes

A) Statement of Objection: February 3, 2006; 30 Ill. Reg. 1534

B) Agency Response: March 17, 2006; 30 Ill. Reg. 5448

C) Date Agency Response Submitted for Approval to JCAR: March 1, 2006

11) Differences between proposal and final version:

a) In the Main Source Note, as well as in all Section source notes, changed "29" to "30".

b) In Section 5421.20, in the definition of "Division", on the sixth and seventh line changed "CMMS" to "CMS". Also, this definition has been properly placed in alphabetical order.

c) In Section 5421.50(a)(3), on the first line deleted "Beginning February 1, 2006" and reinstated "On a quarterly basis". In the second sentence, deleted "quarterly" and also deleted "and must identify the bond or letter of credit issuer as required by subsection (d)(2), along with the expiration date and principal dollar amount for such instrument" at the end of the second sentence.

d) In Section 5421.50(d), on the first line, added "HMO agreements with MCOs authorized to furnish health care services, where the fees for furnishing, arranging or providing such" following "all"; deleted "MCO"; struck "agreements" and deleted "with physician, hospital facilities, or other persons licensed or otherwise authorized to furnish health care services, where the fees for furnishing, arranging or providing such".

e) In Section 5421.50(d)(2), deleted all proposed text and added the following in lieu thereof:

2) "All such MCO capitated agreements shall contain provisions requiring the disclosure of language whereby the MCO agrees to
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fully cooperate with, and disclose all relevant information requested by, the HMO’s actuaries for the preparation of their opinion in accordance with the Actuarial Standards Board Actuarial Standards of Practice No. 16."

3) All MCO capitated agreements shall contain provisions whereby the HMO acknowledges that, in the event of the MCO's insolvency, the HMO is secondarily liable as the ultimate risk bearer for unpaid health care services rendered to its enrollees."

f) In Section 5421.50(e), on the first line, added "Beginning January 1, 2007, all" and deleted "All". Also, on the first line, added "between the HMO and its capitated providers" following "agreements". Changed the colon following "clause" to a period and added "To the extent that any provider contract renewed or extended after December 31, 2007 fails to incorporate the hold-harmless clause, the clause shall be deemed incorporated into those contracts by operation of law as of the date of the renewal of execution."

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes. Additionally, please note that JCAR opened Sections 5421.10, 5421.30, 5421.40 and 5421.50, as well as Sections 5421.60 through 5421.150, in order to make non-substantive, technical changes. The Division agrees with the changes JCAR made to the Sections noted above, and have incorporated those Sections with the amendments the Division published at First Notice. The Division's adoption of the amendments that follow include all 22 Sections of this Part.

13) Will this amendment replace an emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: This amendment will require that all capitated provider agreements between HMOs and MCOs contain provisions whereby (1) the MCO agrees to fully cooperate and disclose information to the HMO's actuaries; (2) the HMO acknowledges that in the event of the MCO's insolvency, the HMO has certain obligations as expressed under the definition for "Health care plan" in Section 10 of the Managed Care Reform And Patient Rights Act [215 ILCS 134/10]; and (3) the MCO agrees to hold the enrollee harmless for unpaid provider services, so that the enrollee is not held liable for such payments.

16) Information and questions regarding these adopted amendments shall be directed to:
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Dave Grant, Health Care Coordinator, Managed Care Unit
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

(217) 782-6369

The full text of the Adopted Amendments begins on the next page.
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TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5421
HEALTH MAINTENANCE ORGANIZATION

Section
5421.10 Scope
5421.20 Definitions
5421.30 Valuation of Investments
5421.40 Grievance Procedure
5421.50 Contracts, Administrative Arrangements and Material Modifications
5421.60 Rates
5421.70 Subordinated Indebtedness
5421.80 Financial Reporting
5421.90 Conflict of Interest and Required Disclosure
5421.100 Solicitation
5421.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts
5421.111 Cancellation
5421.112 Form Filing Requirements
5421.113 Point of Service Plan Requirements
5421.120 Internal Security Standards and Fidelity Bonds
5421.130 Basic Health Care Services
5421.131 Basic Outpatient Preventive and Primary Health Care Services for Children
5421.132 Required Coverage for Reconstructive Surgery Following Mastectomies
5421.140 General Provisions
5421.141 HMO Producer Licensing Requirements
5421.142 Limited Insurance Representative Requirements – Public Aid and Medicare Enrollers
5421.150 Severability
5421.160 Effective Date (Repealed)

AUTHORITY: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7].

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Section 5421.10 Scope

This Part shall apply to any Health Maintenance Organization (HMO) as defined in Section 1-2(9) of the Act.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.20 Definitions

Act means the Health Maintenance Organization Act [215 ILCS 125/1-1] (see P.A. 90-376, effective August 14, 1997), hereinafter referred to as the "Act".

Advertisement means any printed or published material, audiovisual material and descriptive literature of the health care plan used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays; and any descriptive literature or sales aids of all kinds disseminated by a representative of the health care plan for presentation to the public including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and prepared sales presentations. (Section 1-2(1) of the Act).

Base Rates means the rate generated before any classification deviations are applied.

Basic Health Care Services means emergency care, and inpatient hospital and physician care, outpatient medical services, mental health services and care for alcohol and drug abuse, including any reasonable deductibles and co-payments, all of which are subject to such limitations as are set forth in this Part (see Section 1-2(3) of the Act).

Cancellation means the termination of a group contract, evidence of coverage or individual contract by an HMO prior to the expiration date of the group contract, evidence of coverage or individual contract.
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Consumer means any enrollee, provided that such individual is not or has not been in the previous two years: an employee (including his spouse or dependent) of the HMO or affiliate of the HMO; or a provider furnishing health care services to the HMO or affiliate of the HMO.

Copayment means the amount an enrollee must pay in order to receive a specific covered service which is not fully prepaid.

Deductible means the amount an enrollee is responsible to pay out-of-pocket before the HMO begins to pay the costs associated with treatment.

Director means the Director of the Illinois Department of Financial and Professional Regulation-Division of Insurance (see Section 1-2(2) of the Act).

Division means the Illinois Department of Insurance.

Complaint means a written complaint filed by or on behalf of an enrollee, with the Division pursuant to Section 4-6 of the Act [215 ILCS 125/4-6], excluding complaints filed by Illinois Department of Public Aid HMO members under Section 5-11 [305 ILCS 5/5-11] and complaints subject to handling by the Centers for Medicare and Medicaid Services (CMS) Health Care Financing Administration pursuant to a contract entered into between CMS and the HMO.

Enrollee means an individual who has been enrolled in a health care plan. (Section 1-2(4) of the Act).

Evidence of Coverage means any certificate, agreement, or contract issued to enrollees setting out the coverage to which they are entitled in exchange for a per capita prepaid sum (Section 1-2(5) of the Act).

Governing Body means the board of trustees, or directors, or if otherwise designated in the basic organizational document bylaws, those individuals vested with the ultimate responsibility for the management of any organization that has been issued, or is applying for, a certificate of authority as an HMO.

Grievance means any written complaint submitted to the HMO by or on behalf of an enrollee regarding any aspect of the HMO relative to the enrollee, but shall not
include any complaint by or on behalf of a provider.

Grievance Committee means individuals who have been appointed by the HMO to respond to grievances which have been filed on appeal from the HMO's simplified complaint process established pursuant to Section 5421.40(d) of this Part. At least 50% of the individuals on this committee shall be composed of enrollees who are consumers.

**Group Contract** means a contract for health care services which by its terms limits eligibility to members of a specified group. (Section 1-2(6) of the Act).

Health Care Plan means any arrangement whereby any organization undertakes to provide or arrange for and pay for or reimburse the cost of any basic health care services from providers selected by the HMO and such arrangement consists of arranging for or the provision of such health care services, as distinguished from mere indemnification against the cost of such services, except as otherwise authorized by Section 2-3 of the Act, on a per capita prepaid basis, through insurance or otherwise (see Section 1-2(7) of the Act). A health care plan also includes any arrangement whereby an organization undertakes to provide, or arrange for, or pay for, or reimburse the cost of any health care services for persons who are enrolled in the integrated health care program established under Section 5-16.3 of the Illinois Public Aid Code [305 ILCS 5/5-16.3] through providers selected by the organization and the arrangement consists of making provision for the delivery of health care services, as distinguished from mere indemnification. A health care plan also includes any arrangement pursuant to Section 4-17 of the Act [215 ILCS 125/4-17]. Nothing in the definition of Health Care Plan, however, affects the total medical services available to persons eligible for medical assistance under the Illinois Public Aid Code.

**Health Care Services** means any services included in the furnishing to any individual of medical or dental care, or the hospitalization or incident to the furnishing of such care or hospitalization as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness or injury. (Section 1-2(8) of the Act).

HMO means Health Maintenance Organization.

Individual Contract means a contract for health care services issued to and covering an individual. The individual contract may include dependents of the subscriber.
Limited Insurance Representative means an individual appointed by an HMO to represent the HMO in the enrollment of recipients of public aid or Medicare in the HMO.

Managed Care Organization (MCO) means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), which delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish such health care services.

Notice of Availability of the Department of Insurance as required by this Part shall be no less informative than the following:

The regulations of the Illinois Department of Insurance (50 Ill. Adm. Code 5421.110(n)) require that we advise you that if you wish to take this matter up with the Illinois Department of Insurance it maintains a Consumer Division in Chicago at 100 W. Randolph Street, Suite 9-301, Chicago, Illinois 60601-3251 and in Springfield at 320 West Washington Street, Springfield, Illinois 62767-0001.

Point of Service Plan means a plan in which an eligible enrollee is covered under both an HMO evidence of coverage and an indemnity insurance policy or certificate and may select, on a point of service basis, between using the HMO or the indemnity benefit program.

Primary Care Physician means a provider who has contracted with an HMO to provide primary care services as defined by the contract and who is:

- a physician licensed to practice medicine in all of its branches who spends a majority of clinical time engaged in general practice of internal medicine, pediatrics, gynecology, obstetrics or family practice, or

- a chiropractic physician licensed to treat human ailments without the use of drugs or operative surgery (77 Ill. Adm. Code 240.2).

Producer means a person directly or indirectly associated with a health care plan who engages in solicitation or enrollment (see Section 1-2(13) of the Act).
Provider means any physician, hospital facility, or other person which is licensed or otherwise authorized to furnish health care and also includes any other entity that arranges for the delivery or furnishing of health care services (Section 1-2(12) of the Act). For purposes of Section 5421.50 of this Part, Provider shall also mean an MCO.

Renewal means the issuance and delivery by an HMO of a group contract or individual contract superseding at the end of the contract period a contract previously issued and delivered by the same HMO or the issuance and delivery of a certificate or notice extending the term of the group or individual contract beyond its contract term.

Solicitation means any method by which information relative to an HMO is made known to the public for the purpose of informing or influencing potential enrollees to enroll in a Health Care Plan, regardless of the media or technique used.

State means any governing body, department, or agency of the State of Illinois which has regulatory authority governing the Act.

Subscriber means a person who has entered into a contractual relationship with the HMO for the provision of or arrangement of at least Basic Health Care Services to the beneficiaries of such contract (Section 1-2(15) of the Act).

Supplemental Health Care Services means any health care service other than basic health care services.

Usual and Customary Fee shall mean the fee as reasonably determined by the HMO that is based on the fee which the provider who renders the service usually charges its patients for the same service and the fee is within the range of usual fees other providers of similar type, training and experience in a similar geographic area charge their patients for the same service, under similar or comparable circumstances.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.30 Valuation of Investments

a) The "Valuations of Securities Manual", as of December 31, 1994 (no later editions or amendments), as published by the National Association of Insurance
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Commissioners (NAIC), shall be used for valuing securities for which valuations are not otherwise defined by statute or rule. The Director shall disallow any procedure prescribed by this manual if the Director deems it necessary to ascertain the condition and affairs of the company. In making this determination, the Director shall consider such factors as:

1) the nature of the investment (stocks or bonds);
2) the financial condition of the issuing company;
3) the applicability of other standardized accounting procedures; and
4) other factors affecting the accuracy of the valuation.

b) The following procedure shall be required for the listed investment:

1) Real Estate
   Written appraisals for real estate investments shall be submitted to the Division Department for review 15 days following the end of the month in which the real estate was acquired. Real estate investments requiring approval under Section 3-1(h)(16)(iii) of the Act [215 ILCS 125/3-1(h)(16)(iii)] shall have an appraisal. The appraisal shall be reviewed to insure that the appraisal was performed by a member of the American Institute of Real Estate Appraisers, performed in the customary manner and that the appraisal supports the valuation amount expressed by the company in its annual statement. Such appraisals shall be performed by a member of the American Institute of Real Estate Appraisers.

2) Valuation of Investments Otherwise Defined
   A company that has an investment that cannot be valued in accordance with the foregoing procedures outlined in subsection (b)(1) must file a request for valuation with the Division Department within 15 days following the end of the month in which the investment is acquired. This request shall include at a minimum the following information:

   A) A description of the investment,
   B) Date of acquisition,
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C) Name of vendor,
D) Cost of investment to company,
E) Par value, if relevant,
F) Rate and/or amount of interest, dividend or other compensation earned or accrued,
G) Any other significant terms of the investment.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.40 Grievance Procedure

a) Every HMO shall submit for the Director's approval, and thereafter maintain, a system for the resolution of grievances concerning the provision of health care services or other matters concerning operation of the HMO as follows. Each HMO shall:

1) Submit to the Director for prior approval any proposed changes to the system by which grievances may be filed and reviewed;

2) Maintain records of each grievance, filed with the HMO until the grievance is resolved and for a period of at least 3 years, that includes:

A) A copy of the grievance, the date of its filing;

B) The date and outcome of all consultations, hearings and hearing findings;

C) The date and decisions of any appeal proceedings and

D) The date and proceedings of any litigation;

3) Submit to the Director, in a form prescribed by the Director, a report by March 1 for the previous calendar year that includes which shall include at least the following:
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A) the total number of grievances handled;

B) a compilation of causes underlying the grievances;

C) the outcomes of the grievances;

D) the elapsed time from receipt of the grievance by the HMO until its conclusion; and

E) the number of malpractice claims filed and, if those claims have been completely adjudicated, a compilation of causes, disposition, form and amount of any settlements.

b) Every HMO shall have a grievance committee with which shall have the authority to hear and resolve by majority vote grievances submitted to it as provided in subsection (a) above.

1) Notwithstanding any other provisions of this Section, the grievance committee may, but is not required to, hear any grievance that alleges or indicates possible professional liability, commonly known as "malpractice.

2) The committee is not empowered to resolve grievances in any manner, or prescribe any actions, that are in conflict with written policies of the HMO's Governing Body, but the committee may hear such grievances for the purpose of providing input to the Governing Body.

3) The grievance committee shall meet at the main office of the HMO, or such other office designated by the HMO if where the main office is not within fifty (50) miles of the grievant's home address. Consideration shall be given to the enrollee's request pertaining to the time and date of the meeting. The enrollee shall have the right to attend and participate in the formal grievance proceedings. The enrollee shall have the right to be represented by a designated representative of his or her choice.

4) The filing of a grievance shall not preclude the enrollee from filing a complaint with the Division, Department nor shall it preclude the Division Department from investigating a complaint pursuant to its authority under Section 4-6 of the Act.
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c) The grievance procedures must be fully and clearly communicated to all enrollees and information concerning grievance procedures shall be readily available to the enrollee.

d) Every HMO shall have simplified procedures for resolving complaints. The procedures do not require review of the complaint by the grievance committee, but a log, file, or other similar records must be maintained to identify the general nature of the complaints. Resolution of such complaints shall not preclude the enrollees' rightful access to review by the grievance committee of a grievance.

e) The HMO shall institute procedures that would require grievances to have a determination made by the grievance committee within 60 days from the date the grievance is received by the HMO. A grievance may not be heard or voted upon unless at least 50% of the voting individuals of the committee are enrollees. The determination by the grievance committee may be extended for a period not to exceed 30 days in the event of a delay in obtaining the documents or records necessary for the resolution of the grievance. All requests for documents or records necessary for the resolution of the grievance shall be maintained in the HMO's grievance file.

f) The grievance procedure shall provide the enrollee with a written acknowledgment of their grievance within 10 business days after receipt by the HMO.

g) The enrollee shall be notified at the time of the hearing of the name and affiliation of those grievance committee members who are representatives of the HMO.

h) The HMO shall institute procedures whereby any documentation furnished to the members of the grievance committee shall also be made available to the enrollee not less than five (5) business days prior to the hearing of their grievance. The HMO shall not present any evidence without the enrollee having been given the opportunity to be present.

i) Notification in writing of the determination of the grievance committee shall be mailed to the enrollee within five (5) business days after the determination. Notice of the determination made at the final appeal step of the HMO's grievance process shall include a 'Notice of Availability of the Department that the HMO shall send to its enrollees explaining that the Department is available to respond to their inquiries'.

Prior to the resolution of a grievance filed by a subscriber or enrollee, coverage shall not be terminated for any reason that is the subject of the written grievance, except when the HMO has, in good faith, made a reasonable effort to resolve the written grievance through its grievance procedure and coverage is being terminated as provided for in Section 5421.111 of this Part.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.50 Contracts, Administrative Arrangements and Material Modifications

a) Agreements or Contracts

1) All sample agreements or contracts, with variable language bracketed, under which any person is delegated management duties or control of the HMO or which transfer a substantial part of any major function of the HMO including, but not limited to, all reinsurance treaties, all agreements with providers and MCO's, and all administrative service contracts must be submitted to the Division of Insurance and the HMO must file any contract amendments, renewals, addendums thereto, or any change from those originally submitted and any material modification to the application submitted pursuant to Section 1-2 of the Act [215 ILCS 125/1-2] including, but not limited to, extension of service area.

2) The Illinois Department of Public Health shall also receive for review copies of all sample agreements with providers and MCO's, as well as any amendments, addendums or any change from those agreements originally submitted.

3) On a quarterly basis, each HMO must submit a list identifying any MCO with which the HMO has a current contract. Such list must contain the name, address and telephone number of the MCO as well as the name of its Administrator. The quarterly report shall be due at the Division within ten days following the end of each quarter.

4) All types of written health care provider agreements must contain provisions whereby the provider shall provide, arrange for, or participate in the quality assurance programs mandated by the Act [215 ILCS 125/2-8(b)], unless the Illinois Department of Public Health certifies that such programs will be fully implemented without any participation or action.
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from such contracting provider.

5) All provider agreements shall provide for at least 60 days notice by the provider for termination with cause, as defined in such provider agreement, and at least 90 days notice by the provider for termination without cause. The HMO must inform the Division immediately of any known or intended termination, with or without cause, of an MCO.

6) Subscribers must receive notice from the HMO at least 60 days in advance of any termination which would curtail or eliminate services to subscribers. However, in the event that the HMO receives notice of less than 60 days from any provider for termination of any contract which would curtail or eliminate services to subscribers, the HMO must provide immediate notice to the subscribers. Such Notice shall include instructions regarding referrals which have been issued and appointments which may be pending.

7) The contractual agreement between the provider and the HMO must contain evidence that the provider has professional liability insurance and that such insurance coverage is effective as of the effective date of such contract. Furthermore, the contract must set forth that the Provider will give at least 15 days advance notice of cancellation of such insurance. In those instances in which the HMO will provide physician services directly through employed physicians and not through contractual arrangement with a provider, the HMO shall provide evidence to the Division that each individual physician has such professional liability insurance or that the HMO has such coverage on behalf of such employed physicians.

b) The Director must disapprove any provider agreement if, at any time, he finds:

1) that the charges to the HMO are based on factors unrelated to the value of providing services to the HMO; or

2) that the contract will significantly impact or threaten the financial viability of the HMO; or

3) that the provider agreement would transfer substantial control of the HMO or any powers vested in the board of directors, by statute, articles of
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incorporation or bylaws, or substantially all of the basic functions of the HMO management; or

4) that the provider agreement contains provisions contrary to the Illinois Insurance Code; or

5) that the provider is or has been affiliated directly or indirectly, through ownership, control, management, reinsurance transactions or other insurance, or business relations with any person or persons known to have been involved in the improper manipulation of assets, accounts or reinsurance; or

6) that the provider agreement does not contain the provisions required by subsections (d) and (e) of this Section.

c) If the Director disapproves of any provider agreement, notice of such action shall be given to the HMO assigning the reasons therefor in writing. The Director shall grant any party to the provider agreement a hearing upon request according to Article XXIV [215 ILCS 5/Art. XXIV 401 et seq.] of the Illinois Insurance Code.

d) This subsection shall apply to all HMO agreements with MCOs authorized to furnish health care services, where the fees for furnishing, arranging or providing such capitated provider agreements the provider furnishes, arranges, or provides for health care services are capitated to greater than or equal to ten percent (10%) of the HMO's current enrollment.

1) All such capitated MCO provider agreements shall contain a provision that states that the MCO provider will submit, to the HMO, copies of its quarterly financial statements, which shall include the MCO's provider's balance sheet and statements of income and cash flow within forty-five (45) days after the end of each fiscal period. In addition, the HMOs shall require the MCO provider to submit within ninety (90) days after the end of the MCO's provider's fiscal year copies of its audited annual financial statements prepared in accordance with generally accepted accounting principles if available. The Division, at its discretion, may require the HMO to submit for inspection by the Division such statements as the HMO has received from the MCO providers. Such information shall be deemed confidential by the Division.
2) All such MCO capitated agreement shall contain provisions requiring the disclosure of language whereby the MCO agrees to fully cooperate with, and disclose all relevant information requested by, the HMO's actuaries for the preparation of their opinion in accordance with the Actuarial Standards Board Actuarial Standards of Practice No. 16.

3) All MCO capitated agreements shall contain provisions whereby the HMO acknowledges that, in the event of the MCO's insolvency, the HMO is secondarily liable as the ultimate risk bearer for unpaid health care services rendered to its enrollees.

e) Beginning January 1, 2007, all capitated provider agreements between the HMO and its capitated providers shall contain the following hold-harmless clause. To the extent that any provider contract, renewed or extended after December 31, 2007, fails to incorporate the hold-harmless clause, the clause shall be deemed incorporated into those contracts by operation of law as of the date of the renewal of execution.

"The provider agrees that in no event, including but not limited to nonpayment by the HMO of amounts due the provider under this contract, insolvency of the HMO or any breach of this contract by the HMO, shall the provider or its assignees or subcontractors have a right to or seek any type of payment from, bill, charge, collect a deposit from, or have any recourse against, the enrollee, persons acting on the enrollee's behalf (other than the HMO), the employer or group contract holder for services provided pursuant to this contract; except for the payment of applicable co-payments or deductibles for services covered by the organization or fees for services not covered by the HMO. The requirements of this clause shall survive any termination of this contract for services rendered prior to such termination, regardless of the cause of such termination. The HMO's enrollees, the persons acting on the enrollee's behalf (other than the HMO), and the employer or group contract holder shall be third party beneficiaries of this clause. This clause supersedes any oral or written agreement now existing or hereafter entered into between the provider and the enrollee, persons acting on the enrollee's behalf (other than the HMO) and the employer or group contract holder."

f(e) The procedure to be followed by HMOs for extension of operations into additional counties in Illinois shall be as follows:
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1) Upon receipt of certification by the Illinois Department of Public Health, the HMO shall submit a letter to the Director amending its service area. This letter will indicate that all subscription certificates, rates, provider agreements, and any other applicable documents to be used to service the extended area are those previously filed or, if not, new or revised documents will be submitted to the Department for review.

2) Each such notification for extension of operations shall be accompanied by a list of the counties in which the HMO is authorized to operate prior to any requested extension of service area.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.60 Rates

a) The HMO shall file all schedules of base rates to be used in conjunction with enrollee certificates. Such schedules shall be filed with the Director prior to the effective date and will be maintained as a public document by the Department.

b) When the schedules of base rates are filed, percentage change from the previous filing for the schedules of base rates shall be included.

c) Upon the request of the Director, the HMO shall submit actuarial documentation for any submitted rates, which shall be stamped "confidential" by the HMO. Such documentation shall include, but not be limited to, the major cost components, experience, assumptions, and procedures used to develop the submitted rates. Such actuarial documentation shall be deemed confidential and proprietary by the Department unless specific authorization is given by the HMO.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.70 Subordinated Indebtedness

Subordinated indebtedness agreements (debenture) shall be submitted for the approval of the Director as required by Section 2-9 of the Act.

a) The agreement must state that:
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1) All payments of principal and/or interest may be made only after the HMO has obtained approval from the Director; and

2) The obligation of the HMO under the debenture may not be offset or be subject to recoupment with respect to any liability or obligation owed to the HMO; and

3) No agreement or interest securing the debentures, whether existing on the date of the debenture or subsequently entered into, applies to the obligation under the debenture.

b) The agreement shall bear interest either:

1) At a fixed rate not exceeding the corporate base rate as reported by the largest bank (measured by assets) with its principal office located in Chicago, Illinois, in effect on the first business day of the month in which the subordinated indebtedness agreement is executed, plus 3% per annum; or

2) At a variable rate equal to the corporate base rate determined on the first business day of each month during the term of the loan, plus 2% per annum.

c) In no event shall the variable interest rate for any month exceed the initial rate for the loan or advance by more than 10% per annum. The HMO shall elect at the time of execution of the agreement whether the interest rate is to be fixed or floating for the term of the agreement. The following shall be submitted for the Director's approval prior to execution of the subordinated indebtedness agreement:

1) Duplicate copies of the entire subordinated indebtedness agreement.

2) A certified copy of the resolution of the board of directors or the appropriate authoritative body of the HMO. This resolution shall stipulate the maximum amount of subordinated indebtedness authorized.

d) The Director shall be notified immediately in writing upon the execution of any subordinated indebtedness agreement as to the amount of the agreement thereof and to whom payable.
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e) Accounting for the subordinated indebtedness on the HMO's financial statements shall be as follows:

1) All outstanding subordinated indebtedness and interest accrued on the indebtedness thereon shall be reported separately in the Annual Statement on page 3 and in any other financial statements of the company as a special surplus account.

2) The issuance and repayment of the subordinated indebtedness, as well as the payment of the interest thereon, shall be reflected as direct debits or credits to the net worth of the HMO's financial statement.

3) The interest expense incurred on the subordinated indebtedness during the current period shall be reflected on the Statement of Revenue, Expenses and Net Worth of the HMO's financial statements.

f) An HMO may only repay principal and make payment of interest on any subordinated indebtedness as provided under Section 2-9 of the Act. No payment shall be authorized by the Director unless:

1) The HMO's net worth is reasonable in relation to its outstanding liabilities and adequate for its financial needs;

2) The payment is consistent with the terms of the subordinated indebtedness agreement approved pursuant to subsection (a) above.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.80 Financial Reporting

Every entity possessing a Certificate of Authority to transact the business of an HMO shall report the financial condition and results of its HMO operations in a form, adopted for the reporting requirements of Section 2-7 of the Act, that shall conform substantially to the form of report adopted by the National Association of Insurance Commissioners, as revised, with such modifications and additions to the such form as the Director may deem desirable and necessary to ascertain the condition, affairs, and performance of the HMO.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)
Section 5421.90 Conflict of Interest and Required Disclosure

Each applicant for a Certificate of Authority shall file with the application, and shall immediately file any changes thereafter, disclosure of the following:

a) Any contractual or financial arrangements between members of the Board of Directors/principal officers and the HMO, including:

1) A description of any obligation, specified by contract or otherwise, to be met by each party in accordance with any such arrangement;

2) A listing of the dollar amounts of any consideration to be paid each party in accordance with any such arrangements;

b) Any financial arrangements between members of the Board of Directors/principal officers and any provider or other person who also has a financial relationship with the HMO. This disclosure shall include:

1) A description of the obligations to be met by each party in accordance with any such arrangements;

2) A listing of the dollar amounts of the consideration to be paid each party in accordance with any such arrangements; and

3) A listing and description of any circumstances under which a director/principal officer is employed by or engages in a substantial commercial or professional relationship with any provider/other person.

c) All directors, officers, and executive directors, and/or any individual in a position of similar responsibility or any other individual, as required by the Director, shall submit a biographical statement in a form as prescribed by the Director.

d) A general description of the arrangements for providing compensation to agents. For purposes of this subsection, compensation means any salary, commissions, incentives, emoluments, or any other item or event of value paid or payable to an agent and related to the performance of duties of an agent.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)
Section 5421.100 Solicitation

a) No HMO, or representative of the HMO thereof, may cause or knowingly permit the use of advertising, solicitation, or any form of evidence of coverage that is untrue, misleading or deceptive.

1) All information required to be disclosed pursuant to this Part shall set out conspicuously and in close conjunction with the statements to which the information relates under appropriate captions of the prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the solicitation as to be confusing or misleading.

2) The format and context of a solicitation of any HMO's plan or program shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

3) Solicitations shall be truthful and not misleading in fact or implication. Words or phrases, the meaning of which is clear only by employment or by familiarity with insurance, medical terminology or health care plans, shall not be used unless such words or phrases are otherwise explained in the solicitation.

4) No solicitation shall omit information or use words, phrases, statements, references, or illustrations if an omission of information or use of words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving prospective enrollees as to the nature or extent of any benefit payable, loss covered, premium payable or health care service provided.

b) A detailed description of all training and educational programs provided to solicitors of the health care plan or to any person providing marketing activities shall be submitted to the Director upon application for a Certificate of Authority and any substantive changes, thereafter, in the programs shall be submitted to the Director 15 days prior to the intended effective date of the such
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change.

c) All brochures, media scripts, and any other marketing or advertising materials which an HMO applying for Certificate of Authority plans to use must be filed with the Division of Insurance. The material must be filed before use and, in the event that such material can obviously not be filed, such as audiovisual presentations, a description of the solicitation activity must be filed.

d) Any advertisement or solicitation shall not directly or indirectly make unfair or incomplete comparisons of policies, plans, or benefits or comparisons of non-comparable plans or policies of other HMO's or insurers, and shall not disparage competitors, their policies or plans, services or business methods and shall not disparage or unfairly minimize a competing method of marketing insurance or health care services.

e) No advertisement or marketing material of an HMO shall imply that certification by the Division is an endorsement of the HMO.

f) An HMO shall provide its enrollees, no later than at the time of enrollment, or the time the individual contract or evidence of coverage is issued, lists of the names and locations of primary care physicians participating in the network applicable to the enrollee's benefit plan. The lists shall disclose those providers who are not open for selection by the subscriber, as known to the HMO at the time the list is created. The list shall also contain the following sentence in a prominent location:

NOTICE TO ENROLLEES: While every provider listed in this document contracts with (the HMO) to provide primary care services, not every provider listed will be accepting new patients. Although (the HMO) has identified those providers who were not accepting patients as known to (the HMO) at the time this (directory) was created, the status of any physician's practice may have changed. For the most current information regarding the status of any physician's practice, please contact either the selected physician or (member services) at (phone number).

g) Failure to comply with the requirements of this Section shall subject the HMO or its representative to corrective action the Director may order pursuant to Section 4-7 of the Act.
Section 5421.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts

a) Any group contract, evidence of coverage, individual contract, enrollee handbook, enrollment application, identification card or other form that affects the terms and conditions applicable to the subscriber or enrollee in the provision of health care services must be filed with and approved by the Director prior to use in accordance with the requirements of Section 5421.112 of this Part and Section 4-13 of the Act. The HMO shall issue to each subscriber or enrollee a group contract, evidence of coverage, or individual contract. Any conflicting information between the valid current document referenced above issued to the subscriber or enrollee and the current group contract shall be interpreted according to whichever is most beneficial to the subscriber or enrollee. Any such group contract, evidence of coverage, or individual contract shall provide for the rendering of health care services as defined in that document for either a specific period of not less than 12 twelve months from the date of issuance or for another such period as is otherwise mutually agreed to by the HMO and the group or individual contractholder; and shall provide for renewal on a basis mutually agreed to by both parties, unless the HMO has given 31 days written notice of nonrenewal prior to the renewal date of the contract.

b) A detailed statement of any exceptions, exclusions or limitations shall be set forth in the group contract, evidence of coverage, and individual contract for any type of health care service to be excepted. Such exceptions, exclusions or limitations shall appear with the same prominence in the group contract, evidence of coverage and individual contract as any benefit.

c) The group contract, evidence of coverage, and individual contract shall set forth a detailed statement of the terms and conditions of maternity benefits and any related exceptions, exclusions, limitations, copayments and deductibles. Such exceptions, exclusions, limitations, copayments and deductibles applicable to prenatal and post-natal care shall be covered no differently than any other covered health care services provided pursuant to the contract, with the exception of a limitation for coverage of routine prenatal care or delivery when the enrollee is outside the service area against medical advice, except when the enrollee is outside of the service area due to circumstances beyond her control, may be included in the group contract and evidence of coverage.
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d) Entire Contract. The group contract, evidence of coverage and individual contract shall contain a statement that the group contract evidence of coverage and individual contract, all applications, and any amendments thereto shall constitute the entire agreement between the parties. No portion of the charter, by-laws or other document of the HMO shall be part of such a contract or evidence of coverage unless set forth in full in the such-document or attached to it.

e) Eligibility Requirements. The group contract, evidence of coverage and individual contract shall contain eligibility requirements indicating the conditions that must be met to enroll in a health care plan, the limiting age for enrollees and eligible dependents including the effects of Medicare eligibility, and a clear statement regarding coverage of newborn children as set forth in Sections 4-8 and 4-9 of the Act.

f) Benefits and Services Within the Service Area. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available within the HMO's designated service area.

g) Emergency Care Services. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available for emergencies 24-hours a day, 7 days a week, including disclosure of any restrictions on emergency care services. No group contract, evidence of coverage or individual contract shall limit the coverage of emergency services within the service area to those providers having a contract with the HMO.

h) Out of Area Benefits and Services. The group contract, evidence of coverage and individual contract shall contain a specific description of benefits and services available out of the HMO's designated service area.

i) Deductibles and Copayments. An HMO may require copayments of enrollees as a condition for the receipt of specific health care services. Deductibles and copayments shall be the only allowable charge, other than premiums, assessed enrollees. Copayments and deductibles shall be for specific dollar amounts or for specific percentages of the cost of the health care services. No combination of deductibles and copayments for basic health care services may exceed 50% of the usual and customary fee of the service to the HMO and must be waived when, in a contract year, deductibles and copayments paid for the receipt of basic health care services exceed $3000 per enrollee or $6000 per family. Deductibles and copayments applicable to supplemental health care services or pre-existing conditions are not subject to this annual limitation. Nothing within this
subsection shall preclude the provider from charging reasonable administrative fees such as service fees for checks returned for non-sufficient funds and missed appointments.

j) Pre-existing Conditions. An HMO may impose deductible and copayment pre-existing condition limitations as a condition to receiving health care services. A pre-existing condition shall not be defined more restrictively than a condition for which medical advice or treatment was recommended by a physician or received from a physician within a one year period preceding the effective date of coverage under the health care plan or the existence of symptoms that, in the opinion of a legally qualified physician, would have caused an ordinarily prudent person to seek diagnosis, care or treatment within a one year period preceding the effective date of coverage under the health care plan. The condition may only be limited for a period not to exceed one year from the effective date of coverage.

k) Cancellation. The group contract, evidence of coverage, and individual contract shall contain the conditions upon which cancellation may be effected by the HMO or the enrollee as set forth in Section 5421.111 of this Part.

l) Reinstatement. The group contract, evidence of coverage, and individual contract shall contain the conditions of the enrollee's right to reinstatement.

m) Grace Period. A group contract or individual contract shall provide for a grace period for the payment of any premium, except the first, during which coverage shall remain in effect if payment is made during the grace period. The grace period for a group contract shall not be less than 10 days. The grace period for an individual contract shall not be less than 31 days. During the grace period, the HMO shall remain liable for providing the services and benefits contracted for; the subscriber shall remain liable for the payment of the premium for the time coverage was in effect during the grace period and the enrollee shall remain liable for the payment of any applicable share of the premium, for the time coverage was in effect, as well as for any copayments owed.

n) No group contract, or evidence of coverage, or individual contract may be delivered in this State unless the subscriber and/or enrollee is provided written notice required by Section 143c of the Illinois Insurance Code [215 ILCS 5/143c].

o) Right to Examine Contract. An individual contract, with the exception of an HMO Medicare contract entered into between the Health Care Financing
Administration and the HMO under Title XVIII of the Social Security Act, as amended from time to time, shall contain a provision stating that an enrollee who has entered into an agreement with an HMO shall be permitted to return the individual contract within ten days after receiving it and to receive a refund of the premium paid if the enrollee is not satisfied with the contract for any reason. If the individual contract is returned to the HMO or to its representative through whom it was purchased, it is considered void from the beginning. However, if services are rendered or claims are paid for such enrollee or dependent by the HMO during the ten-day examination period, the enrollee shall not be permitted to return the contract and receive a refund of the premium paid.

p) An HMO Medicare contract entered into between the Health Care Financing Administration and the HMO under Title XVIII of the Social Security Act, as amended from time to time, shall be delivered to the enrollee at least 15 days prior to the effective date of the contract. The enrollee shall be permitted to return the HMO Medicare contract prior to the effective date and to receive a refund of the premium paid if the enrollee is not satisfied with the contract for any reason, provided the enrollee complies with the disenrollment procedures of Title XVIII of the Social Security Act, as amended from time to time.

q) Every HMO will provide to every enrollee of the HMO information that generally describes the philosophy, functions and organization of the HMO and related institutions, and specific information that describes the appropriate use of the HMO's services, including a general description of benefits and limitations. The HMO shall include in its enrollee information a description of the HMO's grievance procedure, directions for filing a grievance, and a Notice of Availability of the Department.

r) Every HMO shall provide enrollees with an identification card that must prominently display the following information:

1) the words "Health Maintenance Organization" or "HMO"; and

2) disclaimer language concerning an enrollee's unauthorized use of providers not selected by the HMO; and

3) a current telephone number for the enrollees to use when health care services are required outside of normal office hours; and

4) the name of all enrollees entitled to coverage, along with all other
mandated information, if the HMO does not issue a card to each enrollee who is entitled to coverage. In such situations, at least two cards must be issued to the primary enrollee upon enrollment and the HMO must issue additional cards to all enrollees at the request of the enrollee for no additional charge. Notification of the right to order additional cards for no additional charge must be included with information required to be disseminated to enrollees under subsection (q).

s) Enrollment Application. No individual contract shall be issued except upon the signed enrollment application of the enrollee for whom coverage is being sought. Any information or statement of the applicant shall appear on the such application in the form of interrogatories by the HMO and answers by the applicant. The enrollee shall not be bound by any statement made within an application for health care coverage unless a copy of the such application is attached to the individual contract. Group enrollment applications must be maintained on file by the HMO; otherwise, disputes arising from statements made within the such applications will be resolved in the enrollee's favor. Except for those instances involving fraud or material misrepresentation, an HMO's failure to investigate incomplete or conflicting answers on an enrollment application, shall estop the HMO from subsequently denying coverage on the basis of those such responses.

t) Coordination of Benefits.

1) HMOs are permitted, but not required, to adopt coordination of benefits provisions to avoid over insurance and to provide for the orderly payment of claims when a person is covered by two or more group health insurance or health care plans.

2) If an HMO adopts coordination of benefits, the provision must be consistent with the coordination of benefits requirements set forth in 50 Ill. Adm. Code 2009.

3) To the extent necessary for an HMO to meet its obligations as a secondary carrier under 50 Ill. Adm. Code 2009, and where an enrollee has established a credit within the reserve bank, the HMO shall make payments for services that are:

A) received from non-participating providers; or

B) provided outside its their services areas; or
C) not covered under the terms of health care plan.

u) Dependents-termination of coverage-disability and dependency, proof-application. Every group contract, evidence of coverage, or individual contract that which provides that coverage of a dependent person of an enrollee shall terminate upon attainment of the limiting age for dependent persons shall comply with the requirements of Section 4-9.1 of the Act.

v) Conversion of Coverage

1) The group contract and evidence of coverage shall contain a conversion provision that which provides that each enrollee has the right to convert coverage to an individual or group HMO contract in the following circumstances:

A) upon cancellation of eligibility for coverage under a group contract,

B) upon cancellation of the group contract, or

C) upon non-renewal of the group contract.

2) The conversion contract shall cover the enrollee and his/her eligible dependents who were covered by the group contract on the date of cancellation or non-renewal of coverage. To obtain the conversion contract, an enrollee shall submit a written application and the application premium payment within 31 days after the date the enrollee's coverage is cancelled.

3) The HMO may require copayments and deductibles under a conversion contract that differ from the group contract.

4) A conversion contract shall not be required to be made available if:

A) The cancellation of the enrollee's coverage occurred for any of the reasons listed in Section 5421.111(a) of this Part; or

B) The enrollee is covered by or is eligible for benefits under Title XVIII of the United States Social Security Act; or
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C) The enrollee is covered by similar hospital, medical, or surgical benefits under State state or federal law; or

D) The enrollee is covered by similar hospital, medical, or surgical benefits under any arrangement of coverage for individuals in a group whether on an insured or uninsured basis; or

E) The enrollee is covered for similar benefits through individual coverage; or

F) The enrollee has not been continuously covered during the three-month period immediately preceding cancellation of that person's coverage; or

G) The enrollee has moved outside of the service area of the health maintenance organization; or

H) The cancellation of the enrollee's coverage occurred in relation to the HMO being placed in rehabilitation or liquidation proceedings pursuant to Section 5-6 of the Act; or

I) The group contract has been discontinued in its entirety and there is a succeeding carrier providing coverage to the group in its entirety.

5) Benefits or coverage shall be considered "similar" if coverage is provided for at least 12 months under comprehensive type medical coverage.

6) Notwithstanding subsection (v)(4)(C), (D), (E), or (I)-above, if the enrollee or any of his or her covered dependents has a pre-existing condition, and the enrollee is covered by similar hospital, medical or surgical benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis, and the coverage does not cover pre-existing conditions, then the enrollee may continue conversion coverage for the individual with the pre-existing condition until the enrollee's or dependent's pre-existing condition is covered under the succeeding plan.

7) The conversion contract shall provide as a minimum to its enrollees basic
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health care services.

8) The conversion contract shall begin coverage of the enrollee and any dependents formerly covered under the group contract on the date of termination from the group or the former individual contract.

9) Coverage shall be provided without requiring evidence of insurability and shall not impose any pre-existing condition limitations or exclusions other than those remaining unexpired under the contract from which conversion is exercised.

10) Prior to the issuance of a conversion contract, the enrollee must be notified in writing that the election of any conversion contract will terminate the individual's federal eligibility for coverage under the Illinois Comprehensive Health Insurance Plan.

w) Discrimination between individuals of the same class in the terms and conditions of the such health care plan, or in the amount charged for coverage under a health care plan except where the rate differential is based on sound actuarial principles, or in any other manner whatsoever is prohibited.

x) Grievance Procedure.
The group contract, evidence of coverage, and individual contract shall set forth a full description of the HMO grievance procedure required by Section 5421.40 of this Part.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.111 Cancellation

a) No HMO shall cancel a group or individual contract or evidence of coverage except for one or more of the following reasons:

1) Failure of the enrollee to pay the amount due under the contract or evidence of coverage, for which the enrollee is legally responsible; of

2) Fraud or material misrepresentation in enrollment or in the use of services or facilities; of

3) Material violation of the terms of the contract or evidence of coverage; of
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4) Failure of the enrollee and the primary care physician to establish a satisfactory patient-physician relationship if the enrollee has repeatedly refused to follow the plan of treatment ordered by the physician; it is shown that the HMO has in good faith provided the enrollee with the opportunity to select an alternative primary care physician; and the enrollee has been notified in writing at least 31 days in advance that the HMO considers such patient-physician relationship to be unsatisfactory; or

5) Under the Basic Outpatient Preventive and Primary Care Services for Children Program, failure to meet or continue to meet eligibility requirements as required by Section 5421.131 of this Part; or

6) Other good cause agreed upon in the contract and approved by the Director pursuant to Section 4-13 of the Act.

b) A group contract, evidence of coverage or individual contract may not be cancelled for any of the following reasons:

1) The status of the enrollee's health;

2) The enrollee has exercised his or her rights under the HMO's grievance system.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.112 Form Filing Requirements

Group contracts, evidences of coverage, individual contracts, enrollment applications or other forms that affect the terms and conditions applicable to the enrollee in the provision of health care services must be filed with the Division Department pursuant to 50 Ill. Adm. Code 916. If the form is a revised version of a previously approved form, the HMO must provide the number of the previously approved form and the date it was approved by the Division Department, and highlight all changes from the previously approved form. Any changes not highlighted will not be deemed to be approved.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.113 Point of Service Plan Requirements
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a) The filing as described in this subsection herein shall be comprised of an HMO filing and an indemnity filing. The filing shall be coordinated by the HMO. The filing must contain reasonable financial incentives for point of service members to utilize HMO services provided or arranged by the designated HMO primary care physician and shall include:

1) Copies of all policy forms necessary to implement the point of service product, including the member handbook used to integrate the services provided by the HMO and the benefits provided by the indemnity carrier.

2) Enrollment application and member identification card disclosing the names of both the HMO and indemnity carrier.

3) Solicitation material.

4) Copies of all contracts required by Section 5421.50 of this Part between the HMO and affiliated indemnity carrier detailing their respective responsibilities and obligations in offering a point of service product.

5) The HMO shall include in its rate filing the rate level justification and a demonstration of how the out-of-network indemnity benefits to be provided by the affiliated indemnity carrier will impact on the HMO's rates and underlying utilization assumptions. The documentation shall be deemed confidential by the Division unless specific authorization is given by the HMO.

6) Written descriptions and illustrative flow charts of how the premium is received and distributed in a timely fashion and how claims will be handled for payment.

7) A comparison of benefits offered by the HMO carrier and the indemnity carrier.

b) Out-of-network claims shall be filed with the HMO. The HMO is responsible for coordinating payment of all claims.

c) Covered services rendered by a participating physician without proper authorization shall be covered at the out-of-network benefit level.

d) For purposes of coordination of benefits, the two policies comprising the point of
service product shall be considered to be one policy.

e) For purposes of conversion and State continuation, the HMO shall provide each enrollee who has a POS plan the right to convert to either an HMO option or indemnity option. The HMO may, but is not required to, offer the enrollee the right to continue under a POS option. Once the enrollee has chosen an option, the other plan's options will no longer be available. Should the enrollee choose to continue or convert coverage under a point of service plan, then the such-plan shall meet applicable standards for Illinois conversion or continuation requirements. In the event of any inconsistency between these standards, then the most favorable to the enrollee shall apply.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.120 Internal Security Standards and Fidelity Bonds


(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.130 Basic Health Care Services

The provision of Basic Health Care Services shall not discriminate against any class of physician. The following minimum standards shall meet the requirements for Basic Health Care Services, provided that such-services are medically necessary as determined by the enrollee's primary care physician; and, if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director:

a) Physician services including primary care, consultation, referral, surgical, anesthesia or other as needed by the enrollee in any level of service delivery. Physician services need not include organ transplants unless specifically authorized by a primary care physician and approved by the HMO's Medical Director;

b) Outpatient diagnostic imaging, pathology services and radiation therapy;

c) 120 days of non-mental health inpatient services per year, including all professional services, medications, surgically implanted devices and supplies used by the enrollee while an inpatient;
d) Emergency services for accidental injury or emergency illness 24 hours per day, and 7 days per week. Emergency services are covered benefits inside and out of the plan's service area. Emergency treatment shall include outpatient visits and referrals for emergency mental health problems;

e) Maternity care, including prenatal and post-natal care and care for complication of pregnancy of mother and care with respect to a newborn child from the moment of birth, which shall include the care and treatment of illness, injury, congenital defects, birth abnormalities and premature birth;

f) Blood transfusion services, processing and the administration of whole blood and blood components and derivatives;

g) Preventive health services as appropriate for the patient population, including a health evaluation program and immunizations to prevent or arrest the further manifestation of human illness or injury including but not limited to allergy injections and allergy serum. Such health evaluation program shall include at least periodic physical examinations and medical history, hearing and vision testing or screening, routine laboratory testing or screening, blood pressure testing, and uterine cervical cytological testing, and low dose mammography testing as required by Section 4-6.1 of the Act;

h) Ten (10) days inpatient mental health care per year. Care in a day hospital, residential non-hospital or intensive outpatient mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. Twenty (20) individual outpatient mental health care visits per enrollee per year, as appropriate for evaluation, short-term treatment and crisis intervention services. Group outpatient mental health care visits may be substituted on a two-to-one basis for individual mental health care visits as deemed appropriate by the primary care physician;

i) Alcoholism and Drug Abuse

1) Diagnosis, detoxification and treatment of the medical complications of the abuse of or addiction to alcohol or drugs on either an inpatient or outpatient basis. Inpatient hospital services are subject to subsection (c).

2) Rehabilitation services on an inpatient basis, for up to ten (10) days inpatient care per year. Care in a day hospital, residential non-hospital or
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intensive outpatient treatment mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. Twenty (20) individual outpatient care visits per enrollee per year as appropriate for evaluation, short-term treatment, and crisis intervention services. Group outpatient care visits may be substituted on a two-to-one basis for individual outpatient visits as deemed appropriate by the primary care physician. Prolonged rehabilitation services in a specialized inpatient or residential facility need not be a part of Basic Health Care Services;

j) Outpatient Rehabilitative therapy (including but not limited to: speech therapy, physical therapy, and occupational therapy directed at improving physical functioning of the member) up to sixty (60) treatments per year for conditions which are expected to result in significant improvement within two (2) months as determined by the primary care physician and if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.131 Basic Outpatient Preventive and Primary Health Care Services for Children

a) Eligibility.

1) A health maintenance organization may undertake to provide or arrange for and to pay for or reimburse the cost of basic outpatient preventive and primary health care services for children in Illinois who:

A) are without health care coverage:

i) through a parent's employment;

ii) through failure to qualify for medical assistance under the Illinois Public Aid Code or failure to qualify for coverage under the State Children's Health Insurance Program of the Social Security Act as amended by the Balanced Budget Act of 1997, P.L. 105-33;

iii) through any other health plan. For purposes of this Section, health plan means a policy, contract, certificate or
agreement offered by a carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services. Health plan does not include accident-only, credit, dental, vision, Medicare supplement, partnership or traditional long-term care, or disability income insurance coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, or automobile medical payment insurance or short-term and catastrophic health insurance policies, or a policy that pays on a cost-incurred basis, or student insurance;

iv) due to a loss of medical assistance when a parent has moved from welfare to work and does not find employment that offers health care coverage;

B) are 18 years of age or under;

C) have resided in the State of Illinois for at least 30 days and continue to reside in the State of Illinois.

2) The Said coverage will be made available to an adult on behalf of an enrollee. For purposes of this Section, enrollee is defined as an eligible child on whose behalf the policy is purchased. The financially responsible party (FRP) is the person or entity paying the premium on behalf of the enrollee. The certificate and/or policy will be issued to the parent or legal guardian of the enrollee. If the FRP and parent or legal guardian are different, both shall be listed on the face page of the certificate and/or policy. The name of the enrollee shall also be listed on the face page of the certificate and/or policy.

b) Required Basic Minimum Outpatient Preventive and Primary Health Care Services for Children to be Provided. The following minimum standards shall meet the requirements for basic outpatient preventive and primary health care services to be provided under this subsection, provided that the such services are medically necessary as determined by the enrollee's primary care physician, and if required by the HMO, are authorized on a prospective and timely basis by the HMO's medical director.

1) Preventive health services provided by the enrollee's primary care physician in the office, as appropriate for the patient population, including
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a health evaluation program and immunizations to prevent or arrest the further manifestation of human illness or injury including, but not limited to, allergy injections and allergy serum. The health evaluation program shall include at least periodic physical examinations and medical history, blood pressure testing, and uterine cervical cytological testing as required by Section 356u of the Illinois Insurance Code [215 ILCS 5/356u] as well as health education concerning appropriate health care practices;

2) Basic or general physician services for illness or injury, provided by the enrollee's primary care physician in the office;

3) Emergency services for accidental injury or emergency illness 24 hours per day, 7 days per week. Emergency services are covered benefits inside and out of the plan's service area;

4) Outpatient diagnostic x-rays and laboratory services provided, arranged or authorized by the enrollee's primary care physician.

c) Supplemental Basic Health Care Services that may be provided in addition to Basic Outpatient Preventive and Primary Health Care Services for Children. In addition to the minimum required health services listed in subsection (b) above, the HMO may offer Supplemental Basic Health Care Services, provided that the services are medically necessary as determined by the enrollee's primary care physician, and, if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director. Supplemental Basic Health Care Services includes any services listed in Section 5421.130 of this Part. To the extent that Supplemental Basic Health Care Services are provided under this subsection, the minimum requirements of Section 5421.130 of this Part must be met for those services.

d) Supplemental Services that may be provided in addition to Basic Outpatient Preventive and Primary Health Care Services for Children. In addition to the Supplemental Basic Health Care Services provided in Section 5421.131(c) of this Section, the HMO may offer the following Supplemental Services:

1) preventive dental services, including diagnostic services, x-rays and restorations (fillings);
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2) vision screening, including one pair of eyeglasses per year;

3) prescription drugs.

e) Copayments, **Deductibles** and **Benefit Maximums** for Basic Outpatient Preventive Services, Primary Health Care Services, Supplemental Basic Health Care Services and Supplemental Services for Children. An HMO may require copayments of enrollees as a condition for the receipt of specific health care services under this Part. Deductibles and copayments shall be the only allowable charge, other than premiums. Copayments shall be for a specific dollar amount. Deductibles shall be either for a specific dollar amount or for a specific percentage of the cost of the health care service. No single deductible or copayment for health services may exceed 25% of the usual and customary fee of the service to the HMO and must be waived when, in a calendar year, deductibles and copayments paid for the receipt of health care services exceed $500 per enrollee. This subsection does not preclude the provider from charging reasonable administrative fees such as service fees for checks returned for non-sufficient funds and missed appointments.

f) Necessary Disclosure Requirements.

1) The policy or certificate issued under this Section shall prominently disclose all limitations, exclusions, copayments and deductibles. Such disclosure shall include, but is not limited to:

   A) A prominent statement on the first page of the policy or certificate, in either contrasting color or in boldface type at least equal to the size of type used for policy captions, as follows:

   "Notice to Buyer. This is a limited benefit (policy) (certificate). Benefits provided are not intended to cover all of your medical expenses."

   B) Exclusion of inpatient hospital services.

   C) Statement that pre-existing conditions may not be excluded or limited.

   D) Exclusion of services that which are not provided, arranged or authorized by the primary care physician, and if required by the
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HMO, are subject to authorization on a prospective and timely basis by the HMO's medical director, except for emergency services.

2) In the event services are offered under this Section by the HMO and purchased on behalf of the enrollee, full disclosure of the scope of those limited benefits shall be prominently stated within the policy or certificate.

3) Eligibility requirements shall be prominently disclosed in the policy or certificate.

4) Terms of cancellation shall be prominently disclosed pursuant to Section 5421.111 of this Part.

g) Advertising. All advertising materials used to market policies pursuant to 50 Ill. Adm. Code 916 and/or certificates pursuant to this Part shall be filed and accepted by the Director in accordance with the requirements of Section 4-17 of the Act prior to use.

h) Grace Period Extension. For purposes of this Part, the grace periods of Section 5421.110(m) of this Part apply. In the event an FRP, other than the parent or guardian, fails to pay the premium within the grace period, the parent or guardian will be so notified and be given an additional 30 days in which to pay the premium or obtain another FRP.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.132 Required Coverage for Reconstructive Surgery Following Mastectomies

a) As required by the Federal Women's Health and Cancer Rights Act of 1998 (WHCRA) (42 USC 300gg-6, 300gg-52, incorporating 29 USC 1185(b)), every individual and group contract or evidence of coverage issued by a health maintenance organization that provides medical and surgical benefits with respect to a mastectomy shall provide, in a case of an enrollee who is receiving benefits in connection with a mastectomy and who elects breast reconstruction in connection with a such mastectomy, coverage in a manner determined in consultation with the attending physician and the patient for:

1) Reconstruction for the breast on which the mastectomy has been performed;
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2) Surgery and reconstruction of the other breast to produce a symmetrical appearance; and

3) Prostheses and physical complications for all stages of mastectomy, including lymphedemas.

b) This coverage may be subject to annual deductibles and coinsurance provisions as may be deemed appropriate and as are consistent with those established for other benefits under the plan coverage. Written notice of the availability of coverage under this Part shall be delivered to the enrollee upon enrollment and annually thereafter.

c) A health maintenance organization operating a health care plan shall provide notice to each enrollee under the plan regarding the coverage required by this Part. The notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the health maintenance organization and shall be transmitted the earlier of:

1) In the next mailing made by the health maintenance organization to the enrollee;

2) As part of any yearly informational packet sent to the enrollee.

d) A health maintenance organization offering individual or group health insurance may not:

1) Deny to an enrollee eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan solely for the purpose of avoiding the requirements of this Part; or

2) Penalize or otherwise reduce or limit the reimbursement of an attending provider or provide incentives (monetary or otherwise) to an attending provider to induce the provider to provide care to an enrollee in a manner inconsistent with this Part.

e) Nothing in this Section shall be construed to prevent a health maintenance organization from negotiating the level and type of reimbursement with a provider for care provided in accordance with this Part.
Section 5421.140 General Provisions

Every HMO, having been declared to be an entity to be regulated for the public good, shall take care to conduct all of its affairs within the declared Public Policy on Fair Employment. The Congress of the United States and the General Assembly of Illinois have stated that discrimination in employment based upon race, color, religion, sex or national origin is illegal. Every HMO will handle all matters relating to employment in the manner required by Section 2-102 of the Illinois Human Rights Act [775 ILCS 5/2-102-101 et seq.], and Title VII of the Civil Rights Act of 1964 (42 USC 2000d et seq.) or any rule or regulation promulgated pursuant to either.

Section 5421.141 Producer Licensing Requirements

a) HMO producer means an individual who solicits, negotiates, effects, procures, renews or continues enrollment in an HMO. The term HMO "producer" shall not include:

1) any regular salaried officer or employee of an HMO or of a licensed HMO producer, who devotes substantially all of his or her time to activities other than the solicitation of applications for HMO membership and receives no commission or other compensation directly dependent upon the business obtained and who does not solicit or accept from the public applications for membership;

2) employers or their officers or employees or the trustees of any employee benefit plan to the extent that such employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits involving the use of membership in an HMO; provided that the employers, officers, employees, or trustees are not in any manner compensated directly or indirectly by the HMO issuing the HMO membership;

3) banks or their officers and employees, to the extent that banks, officers, and employees collect and remit charges by charging same against accounts of depositors on the orders of depositors.
b) No persons may act as or hold themselves out to be an HMO producer unless duly licensed in accordance with the requirements of this Part.

c) An individual applying for an HMO producer's license shall make application on a form specified by the Division Department and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the Director shall find that the individual:

1) Is at least 18 years of age,

2) Has not committed any act that which is grounds for denial, suspension or revocation pursuant to Section 505.1 of the Illinois Insurance Code [215 ILCS 5/505.1],

3) Has successfully passed the Class 1(b) examination as required by Section 494.1 of the Illinois Insurance Code [215 ILCS 5/494.1].


(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.142 Limited Insurance Representative Requirements – Public Aid and Medicare Enrollers

a) No person may enroll recipients of Public Aid or Medicare in an HMO, either personally or by mail, unless the such person is duly licensed by the Director pursuant to this Part.


(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)

Section 5421.150 Severability
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If any Section, term or provision of this Part is adjudged invalid for any reason, that such judgment shall not affect, impair or invalidate any other Section, term or provision of this Part and the remaining Sections, terms and provisions shall be and remain in full force and effect.

(Source: Amended at 30 Ill. Reg. 4732, effective March 2, 2006)
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1) **Heading of the Part:** Health & Safety

2) **Code Citation:** 56 Ill. Adm. Code 350

3) **Section Numbers:**

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4) **Statutory Authority:** Health and Safety Act [820 ILCS 225] and Safety Inspection & Education Act [820 ILCS 220]

5) **Effective Date of Rulemaking:** March 3, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain any incorporations by reference?** No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** October 14, 2005; 29 Ill. Reg. 15455
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10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The Health and Safety Act (820 ILCS 225) and the Safety Inspection and Education Act (820 ILCS 220) were updated and signed in July 2005. The Division is applying for federal funding that requires our rules be at least as effective as federal OSHA's requirements.

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

    Cheryl Hawkins
    Industrial Hygienist
    Illinois Department of Labor
    #1 West Old State Capitol Plaza, Suite 300
    (217)782-9386
    (217)785-8776

The full text of the Adopted Rules begins on the next page:
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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 350
HEALTH AND SAFETY

SUBPART A: INSPECTIONS AND CITATIONS

Section
350.10 Purpose and Scope
350.20 Definitions
350.30 Availability of Rules and Standards
350.40 Petition for Variance from Standards
350.50 Inspection Authority
350.60 Advance Notice of Inspection
350.70 Representatives of Employers and Employees
350.80 Imminent Danger
350.90 Complaints by Employees
350.100 General Inspection Procedures
350.110 Violations
350.120 Review System for Contested Cases
350.130 Posting of Notice
350.140 Voluntary Compliance Program

SUBPART B: RECORDS OF INJURIES AND ILLNESSES

Section
350.210 Emergency Notification
350.220 Recordable Injuries and Illnesses
350.230 Log of Injuries and Illnesses – OSHA 300
350.240 Injury and Illness Incident Report – OSHA 301
350.250 Annual Summary of Work-Related Injuries and Illnesses – OSHA 300A

SUBPART C: FEDERAL STANDARDS

Section
350.300 Adoption of Federal Standards

AUTHORITY: Implementing and authorized by the Safety Inspection and Education Act [820
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ILCS 220] and the Health and Safety Act [820 ILCS 225].


SUBPART A: INSPECTIONS AND CITATIONS

Section 350.10 Purpose and Scope

a) The Health and Safety Act [820 ILCS 225] requires that employers covered by the Act provide to their employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees. The Act also requires that employers comply with occupational safety and health standards adopted under the Act and with the applicable rules issued under the Act. Under the Safety Inspection and Education Act [820 ILCS 220], the Department of Labor is authorized to enforce these standards, to conduct inspections, and to issue citations for violations of these standards.

b) This Part contains the Department's rules under these Acts and sets forth general policies for enforcement of the inspection and citation provisions of these Acts in relation to public employers. In Illinois, private employers are not covered by this Part, they are covered by federal regulations adopted by the Occupational Safety and Health Administration.

Section 350.20 Definitions

As used in this Part, the following terms shall have the meanings indicated:

"Acts" means the Safety Inspection and Education Act [820 ILCS 220] and the
Health and Safety Act [820 ILCS 225].

"Calendar days" means each day and every day, including Saturdays, Sundays, and holidays.

"Department" means the Illinois Department of Labor.

"Director" means the Director of the Illinois Department of Labor.

"Employee" means every person in the service of:

  the State, including members of the General Assembly, members of the Commerce Commission, members of the Workers' Compensation Commission, and all persons in the service of the public universities and colleges in Illinois;

  an Illinois county, including deputy sheriffs and assistant state's attorneys; or

  an Illinois city, township, incorporated village or school district, body politic, or municipal corporation;

whether by election, under appointment or contract, or hire, express or implied, oral or written.

"Employee representative" means any person authorized by the employees to represent their interests in collective bargaining and other labor relations matters.

"Health and Safety Act" means 820 ILCS 225.

"Imminent danger" means the existence of conditions or practices in a workplace that could reasonably be expected to cause death or serious physical harm to employees in the workplace immediately or before the danger of such death or harm can be eliminated through the citation procedures. Factors such as the location of the hazard, the proximity of the employees to the hazard, and the availability of alternatives to continued exposure to the hazard will be considered in determining whether a condition constitutes imminent danger.

"Officer" or "inspection officer" means any individual or agent of the Department of Labor who has been authorized by the Department to conduct inspections and
issue citations under this Part.

"Post" or "post in a conspicuous location" means to attach the material to a bulletin board customarily used for notices to employees or, if such a bulletin board is not available in the workplace, to visibly display the notice in another location where the affected employees can be expected to have an opportunity to see and read the notice.

"Public employer" or "employer" means the State of Illinois and all political subdivisions, except State agencies that exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (42 USC 2021).

"Safety Inspection and Education Act" means 820 ILCS 220.

"Service of notice" or "serve" means personal delivery or delivery postage prepaid via regular United States Postal Service mail. When service is effected by mail, the date of service shall be the date of the United States Postal Service postmark.

"Working days" or "business days" means Mondays through Fridays, excluding State holidays.

Section 350.30 Availability of Rules and Standards

a) Copies of the Acts and all rules and standards adopted under the Acts will be available for inspection and copying at the offices of the Department. These materials shall be made available in compliance with the Freedom of Information Act [5 ILCS 140].

b) If an employer has obtained copies of these materials, he shall make them available upon request to any employee or authorized representative of any employee for review. The materials shall be made available for review at the place of business where the employee is employed on the same day the request is made or at the earliest time mutually convenient to the employee or authorized representative and the employer.

Section 350.40 Petition for Variance from Standards

a) General. The Director can grant either temporary or permanent variances from any of the State standards upon application by a public employer, as authorized
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by Section 4.2 of the Health and Safety Act. The petition shall be filed by the employer as soon as practicable when he or she finds that compliance has not been, or will not be, achieved.

b) The petition for a variance from a standard shall be granted if it meets the requirements of this Section and establishes:

1) The reasons for the employer's inability to achieve compliance by the required date, such as the unavailability of necessary professional or technical personnel or of materials and equipment or because necessary construction or alteration of facilities cannot be completed by the effective date;

2) A description of interim steps being taken to safeguard the employees against the hazard during the period of noncompliance;

3) The details of an effective program for coming into compliance as quickly as practicable; and

4) A statement that the employees have been notified of the petition and that a copy of the petition has been posted in a conspicuous location in the workplace for a period of at least 10 working days.

c) Affected employees or their authorized representatives may participate in the hearing on the petition by filing a request to participate with the Department within 10 working days after the date of the posting of the petition or the service of the petition.

e) Within 15 working days after receipt of the petition, the Department shall schedule a hearing on the petition, appoint an impartial hearing officer to conduct the hearing, and serve notice of the time and location of the hearing on the employer and any employees and employee representatives who have filed a request to participate in the hearing. The hearing shall be held within 45 calendar days after receipt of the petition.

f) The Department shall fully consider the petition and any testimony presented by the employer, employees, and employee representatives. The requested variance shall be granted when the Department finds that the employer has made and is making a good faith effort to achieve compliance (such as ordering necessary materials and designing, planning, and scheduling alterations), that the health and
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safety of the employees is being safeguarded during the noncompliance period (such as by the use of barriers, prohibition of access to the hazardous area, or posting of warning notices), and that the non-compliant condition is due to circumstances beyond the control of the employer. If the Department finds that the conditions of this subsection have not been met, the variance shall be denied.

g) If the employees or their authorized representatives do not file a request to participate or otherwise raise objections to the petition and the Department finds that the requested variance meets the conditions set forth in subsection (f), the Department shall issue the requested variance without holding a hearing.

h) No order for a temporary variance may be in effect for longer than the period needed by the employer to achieve compliance or one year, whichever is shorter, except that such a variance may be renewed not more than twice, so long as the requirements of this Section are met and if an application for renewal is filed at least 90 days prior to the expiration date of the variance. No interim renewal of a variance may remain in effect for longer than 180 days.

i) Application. An application for a temporary order shall contain:

1) the standard or portion of a standard from which the employer seeks a variance;

2) a representation by the employer, along with qualified support, of the reasons for not being able to comply with the standard;

3) a statement of the steps taken and to be taken (with specific dates) to protect employees from a hazard covered by the standard;

4) a statement of when the employer expects to comply with the standard; and

5) a certification that the employer has informed the employees and their authorized representatives of the application, their right to petition the Department for a hearing and a copy of the posting.

j) Permanent Variance

1) The Director can issue an order for permanent variance from a safety standard when:
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A) notice has been given to affected employees and the employees have been afforded the opportunity to participate in the hearing process; and

B) a preponderance of the evidence demonstrates that the conditions, practices, means, methods, operations or processes used or proposed to be used will provide employment and places of employment as safe and healthful as those that would be produced by compliance with the standard.

2) The order may be modified or revoked upon application by an affected party at any time after six months following its issuance.

Section 350.50 Inspection Authority

a) Inspection officers are authorized to:

1) Enter without delay and at any times when employees are present any establishment, plant, workplace, or site where work is performed by an employee of a public employer covered by this Part;

2) Inspect and investigate any such place of employment during normal working hours, including all conditions, structures, machines, equipment, devices, and materials in that place of employment;

3) Collect and retain any necessary samples, including taking photographs and other means of documenting findings;

4) Interview or confer privately with any employer, owner, operator, supervisor, or employee;

5) Review any records required by this Part and any other records directly related to the purpose of the inspection, such as equipment maintenance records or equipment manufacturers' required or recommended maintenance and warranty specifications; and

6) Leave the premises and initiate the compulsory process for entry if the public employer refuses to allow entry or the inspection to proceed.
b) Officers shall comply with any internal security procedures of the employer regarding handling of any confidential information and records that must be reviewed during the course of an inspection.

Section 350.60 Advance Notice of Inspection

a) The Department and its inspectors are prohibited from providing advance notice of inspections to the employer. However, advance notice may be given when the Department finds the existence of one or more of the following circumstances:

1) Where there appears to be an imminent danger and advance notice to the employer may enable the employer to abate the danger as quickly as possible;

2) Where special preparations by the employer, such as ensuring the personal security and privacy of persons at the workplace or the inspection staff, are necessary prior to the inspection. Advance notice shall be limited to the time necessary to make required preparations; or

3) Where the presence of specific individuals, such as a specific employee or appropriate technical personnel, is needed to aid in the inspection.

b) When the Department provides advance notice of an inspection to an employer, the employer shall notify affected employees and any authorized representatives of employees.

c) Any employee of the Department providing advance notice of an inspection to an employer in violation of this Section shall be subject to disciplinary action by the Department and criminal penalties as provided in the Safety Inspection and Education Act.

Section 350.70 Representatives of Employers and Employees

a) A representative of the employer and a representative authorized by the employees shall be given an opportunity to accompany the inspection officer during the physical inspection of any workplace for the purpose of aiding in the inspection. The officer shall permit additional employer and employee representatives to accompany him or her during the inspection when the officer finds that additional representatives will not interfere with the inspection and will further aid in the inspection. The officer shall allow different individuals to serve...
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as employer and employee representatives during different phases of the inspection, upon request by the employer or employees.

b) If the inspection officer is unable to determine who has been authorized to serve as the representative of the employees or, if an employee representative is not available, the officer shall consult with a representative number of employees concerning safety and health matters in the workplace.

c) The representative of the employees shall be an employee of the employer, unless the inspection officer determines that a non-employee has been appropriately authorized by the employees and that the non-employee has specialized skill and knowledge that will be useful in the inspection. The non-employees may include, but are not limited to, industrial hygienists, union representatives or safety engineers.

d) The officer shall deny the right of accompaniment under this Section to any individual whose conduct is abusive or obstructive, or similarly interferes with a fair and orderly inspection.

e) Participants are required to provide any information in their possession or under their control upon request of the inspection officer to assist in the inspection. All participants shall answer truthfully all questions posed to them and shall cooperate fully in the making of a proper inspection. Under Section 2.6 of the Safety Inspection and Education Act, it is a Class 4 felony to provide false information during the inspection process.

Section 350.80 Imminent Danger

a) Whenever and as soon as an officer finds, on the basis of an inspection or investigation, that an imminent danger as defined in Section 350.20 exists in the workplace and that the imminent danger is not immediately abated in the presence of the officer, he or she shall notify the employees and the employer of the finding and shall recommend to the Director that legal action be sought to restrain the conditions or practices that are the cause of the imminent danger.

b) If, upon review of the officer's findings and recommendations, the Director finds that an imminent danger exists in the workplace and has not been abated, he or she shall file a complaint, in the circuit court for the circuit in which the workplace is located, for appropriate relief directing the employer or employee to cease and desist from the practice or to alleviate the condition creating the
imminent danger, as authorized by the Safety Inspection and Education Act.

c) If the Director arbitrarily fails to seek relief under the Section, any affected employee or representative can bring action against the Director in circuit court for relief by mandamus to compel the Director to seek an order and for further relief as may be appropriate.

Section 350.90 Complaints by Employees

a) General. Any employee or representative of employees who believes that conditions or practices exist in the workplace that constitute a violation of any health and safety standard adopted under the Health and Safety Act or that constitute an imminent danger to the health or safety of the employees may request an inspection of the workplace by the Department. The complaint can be formal or informal and will be handled as other unprogrammed inspections are handled.

b) Identity of Complainant. The identity of the complainant shall be kept confidential unless the complainant requests otherwise.

c) Formalizing Oral Complaints. Every effort will be make to formalize oral complaints, including seeking further clarification of the hazard, working conditions, locations, etc. Attempts will be made to elicit a complaint form signed by a current employee or employee representative. If a complaint is deemed to have no basis or relevance to the occupational safety and health standards, the complainant will be notified of the findings.

d) Formal Complaints. The request shall be made by submission of a written complaint to the Department. The complaint shall contain:

1) The name and address of the employer;

2) The specific location of the workplace that is the subject of the complaint;

3) A description of the specific conditions or practices that the employees or representatives believe constitute a violation of the standards or an imminent danger;

4) The specific standards that the employees or representatives believe have been violated, if known; and
5) The signature and contact information of the employees or representatives submitting the complaint.

e) If the Department determines that the complaint contains the required information and allegations of conditions that, if true, would constitute a violation of the standards, the Department shall conduct an expedited inspection of the workplace within 14 calendar days after receipt. The inspection shall be conducted as expeditiously as practicable considering the seriousness of the alleged violation or danger, the availability of inspection officers, the location of the workplace, and the complexity of the inspection.

f) A copy of the complaint shall be provided to the employer or authorized representative during the opening conference.

g) If the Department determines that the complaint, if true, would constitute an imminent danger, the Department shall conduct a special expedited inspection of the workplace. The inspection shall be conducted within one working day after the receipt of the complaint.

h) Informal Complaints. Management within the Department's Public Safety Education Division will decide how to handle all complaints. Based upon the severity/legitimacy of the complaint, either an on-site inspection will be scheduled or a notification addressing the concern will be sent to the affected employer.

i) Results. The employer, employees' representative and the complainant will be notified of the Department's findings within six months after the date the Department received the complaint.

j) Nondiscrimination. No employer shall discharge or in any way discriminate against any employee who files a complaint with the Department. Any such "whistleblower" complaints will be thoroughly investigated and, if valid, appropriate relief will be sought in the circuit court of the nearest principal Department office (i.e., Cook or Sangamon County).

Section 350.100 General Inspection Procedures

a) Scope. Comprehensive general inspections cover the majority of areas of concern in an establishment. When the focus of an inspection is limited to certain
potentially hazardous areas, operations, conditions or practices, then the scope is considered to be a partial inspection.

b) Conduct of Inspection. Times and places of inspections shall be set by the Department or the inspection officer.

1) Presenting Credentials. At the beginning of an inspection, the inspection officer or officers shall identify themselves to the operator, supervisor, or agent in charge of the place of employment at the time of the inspection and present credentials signed by the Director to verify their identity. When the person in charge is not available, the inspection shall not be delayed unreasonably to await that individual's arrival. This delay should not normally exceed one hour. The physical inspection can be conducted without the representative of the employer being present.

2) Refusal to Permit. If the public employer refuses entry upon being presented proper credentials or allows entry but then refuses to permit or hinders the inspection in some way, the inspector shall leave the premises and immediately report the refusal to the Area Manager. The Area Manager shall notify the Director and initiate the compulsory legal process and/or obtain an administrative warrant for entry.

3) Forcible Interference. If an inspector encounters forcible resistance, opposition, interference, etc., or is assaulted or threatened with assault while engaged in the performance of official duties, all investigative activity shall cease. The Area Manager and Director shall be notified immediately and appropriate legal action taken.

4) Strike/Labor Dispute. If an unanticipated labor dispute at a proposed inspection site is encountered, the inspector shall consult the Area Manager as to how to proceed. Programmed inspections may be deferred during a strike or labor dispute; however, unprogrammed inspections will proceed according to protocol.

5) Employee Participation. Employees and/or their representatives must be given the opportunity to participate in all aspects of the inspection.

c) Opening Conference. All affected employers shall be informed of the purpose and scope of the inspection and provided a copy of the complaint if applicable. The opening conference shall include employees unless the employer objects.
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The opening conference shall be kept as brief as possible. A separate opening conference will be held to cover the scope and details for the employees and/or their representatives if the employer initially objects.

1) Walkaround Representatives. Representatives of the employer and employees are allowed to accompany the inspector throughout the inspection process. Different representatives can be designated to represent different aspects of the inspection if necessary.

2) Disruptive Conduct. The inspector may deny the right of accompaniment to any person whose conduct interferes with a full and orderly inspection.

3) Trade Secrets and Classified Areas. In order to assure trade secret status or maintain classified security, employee representatives may be excluded from affected areas during the walkthrough. However, the inspector shall interview employees present in classified areas or involved in trade secret status work.

4) Examination of Records. The inspector shall review the injury/illness records to the extent necessary to determine compliance and assess trends. Other written safety programs and records shall be reviewed at the inspectors' professional discretion.

d) Walkaround Inspection. The purpose of the walkaround inspection is to identify potential safety and/or health hazards in the workplace. The inspection shall be conducted in such a manner as to eliminate unnecessary personal exposure to hazards and to minimize unavoidable exposure to the extent possible. The employer's safety and health program shall be evaluated to ascertain the employer's good faith. Apparent violations shall be brought to the attention of the employer and employee representatives at the time they are documented.

1) Collecting Samples. The inspector shall determine as soon as possible after the start of the inspection whether samples (i.e., air samples, noise samples, etc.) will be collected. Summaries of the sampling results will be provided to all parties present as soon as practicable.

2) Taking Photographs/Video. The inspector shall take photographs or videotapes whenever there is a need. Any photos that support violations shall be properly labeled and included in the file.
3) Interviews. A free and open exchange of information between the inspector and the employees is essential for an effective inspection. Interviews shall be conducted in a reasonable manner and normally will be conducted during the walkaround; however, they can be conducted at any time and any location. Privacy shall be maintained in the interview process if the employee so requests.

4) Employer Abatement Assistance. Inspectors shall offer appropriate abatement assistance during the walkaround, suggesting how workplace hazards might be eliminated. The information shall provide guidance to the employer in developing acceptable abatement methods or in seeking appropriate professional assistance.

e) Closing Conferences. At the conclusion of the inspection, the inspector shall conduct a closing conference with the employer and employee representatives, jointly or separately as circumstances dictate. The closing conference may be conducted at the site or by teleconference as deemed appropriate by the inspector. The inspector shall describe the apparent violations found during the inspection, abatement means, timeframes and other pertinent issues. Both the employer and the employee representatives shall be informed of their rights to appeal and to participate in any subsequent conferences, meetings or discussions, and of their right to contest. Conference attendance records shall become part of the file.

f) Special Inspection Procedures. Follow-up and monitoring inspections are necessary to determine if the previously cited violations have been corrected. Monitoring may be conducted to determine if hazards are being corrected and employees are being protected, whenever a long period of time is needed for an establishment to obtain compliance or verify compliance. Follow-up or monitoring inspections would not normally be conducted when evidence of abatement is provided by the employer.

1) Failure to Abate. If the employer has not corrected a violation for which a citation has been issued and the abatement date has passed, a failure to abate violation is issued. The Area Manager shall implement the appropriate measures to rectify the situation, be it extension of deadlines or institution of legal action.

2) Reports. A copy of the original citation shall be reissued, along with a brief explanation of the outstanding citations. If more than one citation was originally issued and some hazards were corrected, it should be noted
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on the follow-up report. The follow-up inspection reports shall be included in the original (parent) case file.

Section 350.110 Violations

a) Standards and Regulations. The Health and Safety Act states that each public employer has a responsibility to comply with the occupational safety and health standards promulgated under the Act. The specific standards are found in the federal Department of Labor's Occupational Safety and Health Standards in 29 CFR 1910 (see Section 350.300 for incorporation by reference information). Subparts A and B of 29 CFR 1910 specifically establish the source of the standards that are the basis of violations. The most specific subdivision of the standard shall be used for citing violations. Any employer who has been granted a variance from a standard can be cited for violating the standard with a reference to the fact that the provisions of the variance had not been met.

b) Types of Violations. The citations will be classified according to the following categories:

1) Other-than-Serious. This type of violation shall be cited where the most serious injury or illness that would be likely to result from a hazardous condition cannot reasonably be predicted to cause death or serious physical harm to exposed employees, but does have a direct and immediate relationship to their safety and health.

2) Serious. A serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition that exists, or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in the place of employment, unless the employer did not, and could not with the exercise of reasonable discipline, know of the violation. Four elements must be considered before deeming a violation to be serious:

   A) The type of accident or health hazard exposure that the violated standard is designed to prevent.

   B) The most serious injury or illness that could reasonably be expected to result from the type of accident or health exposure.
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C) Whether the results of the injury or illness could include death or serious physical harm.

D) Whether the employer knew, or with the exercise of due diligence could have known, of the hazardous condition.

3) General Duty Clause. The general duty provisions of the Health and Safety Act shall be used for citations only where there is no standard that applies to the particular hazard involved.

4) Willful. A willful violation exists under the Act when the evidence shows either an intentional violation of the Act or plain indifference to its requirements. It is not necessary that the violation be committed with a bad purpose or evil intent. It is sufficient that the violation was deliberate, voluntary or intentional.

5) Criminal/Willful. Any employer who willfully violates any standard, rule or order promulgated under the Health and Safety Act, or of any regulations prescribed pursuant to that Act, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than six months or both (Section 2.3 of Safety Inspection and Education Act). The following criteria shall be considered in investigating possible criminal/willful violations:

A) The employer violated a specific standard. A criminal/willful violation cannot be based on a general duty clause violation.

B) The violation was willful in nature.

C) The violation of the standard caused the death of an employee. There must be evidence in the file that clearly demonstrates that the violation of the standard was the cause of, or a contributing factor to, an employee's death. When a willful violation is related to a fatality and a civil citation is issued, the case file must contain succinct documentation regarding the decision not to make a criminal referral.
c) Repeated. An employer may be cited for a repeated violation if that employer has been cited previously for a substantially similar condition and that citation has become a final order.

d) De Minimis. Violations of the standards that have no direct or immediate relationship to safety or health shall not be included in citations. The employer shall be verbally notified of the violations and the inspector shall record the violation and the notification in the case file.

e) Writing Citations. The inspector shall, with reasonable promptness, issue a citation to the employer. To facilitate the prompt issuance of citations, the Area Manager may issue citations that are unrelated to health inspection air sampling prior to the receipt of sampling results.

1) Each citation shall include the following:

   A) The date of the inspection;

   B) A description of the conditions or practices found to be in violation of the health and safety standards;

   C) The specific health and safety standards that have been or are being violated;

   D) A specific abatement date based upon consideration of factors such as the availability of necessary materials, cost, degree of risk present prior to abatement, and extent of anticipated disruption of business;

   E) A statement that the employer has the right to appeal the citation and a description of the procedures for appealing the citation; and

   F) A statement that the employer may not discharge or discriminate against any employee because the employee has filed a complaint or otherwise provided information to the Department concerning any conditions or practices related to alleged health and safety violations or because of the employee's exercise of any other rights provided by the Health and Safety Act.
2) Issuance Time Frame. A citation shall not be issued when any violation alleged in the citation occurred six months or more prior to the date on which the citation is actually signed and dated.

3) Mailing. Citations shall be sent by certified mail. Hand delivery of citations to the employer or an appropriate agent of the employer may be substituted for certified mailing if it is believed that this method would be more effective. Citations shall be mailed to employee representatives no later than one day after the citation is sent to the employer.

4) Amending. A citation shall be amended or withdrawn when information is presented to the Area Manager indicating a need for the revision.

5) Posting. A copy of the citation shall be posted prominently at or near the place where the violation occurred for three days or until the hazard is abated, whichever is longer.

f) Abatement. The abatement period shall be the shortest interval within which the employer can reasonably be expected to correct the violation.

1) Verification. The Area Manager is responsible for determining if abatement has been accomplished. When abatement is not accomplished during the inspection or the employer does not notify the Area Manager by letter of the abatement, either a follow-up inspection will be scheduled or a letter requesting confirmation of abatement will be mailed. The type of violation will dictate the degree of follow-up response.

2) Contested Citation or Abatement Period. In situations where an employer contests either the period set for the abatement or the citation itself, the abatement period shall not begin until the citation and abatement period have been affirmed by the Area Manager.

3) Long-term Abatement Date. Long-term abatement is abatement that will be completed more than one year from the citation issuance date. If it is difficult to set a specific abatement date when the citation is originally issued (e.g., because of extensive redesign requirements associated with appropriate engineering controls and uncertainty as to when the job can be finished), the inspector shall discuss the problem with the employer at the closing conference and, in appropriate cases, shall encourage the employer to seek an informal conference with the Area Manager.
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A) A specific date for final abatement shall, in all cases, be included in the citation.

B) The employer is required to submit an abatement plan outlining the anticipated long-term abatement procedures.

Penalties. The penalty structure is designed primarily to provide an incentive toward correcting violations voluntarily, not only to the offending employer but, more especially, to other employers who may be guilty of the same infractions. While penalties are not designed primarily as a punishment for violations, the penalty amounts should be sufficient to serve as an effective deterrent to violations.

1) Civil Penalties

A) Serious, Other-than-Serious and Failure to Abate. Any employer who has received a citation for any alleged violation that is determined to be of serious or other-than-serious nature under subsection (b)(1) or (b)(2) or for failure to abate shall be assessed a civil penalty of up to $1,000 for each violation. This is a statutory minimum and is not subject to administrative discretion.

B) Repeated Violations. An employer who repeatedly violates the Health and Safety Act may be assessed a civil penalty of not more than $10,000 for each violation.

C) Willful Violations. An employer who willfully violates the Health and Safety Act may be assessed a civil penalty of not more than $10,000.

2) Criminal Penalties.

A) The Health and Safety Act provides for criminal penalties in the following cases:

   i) Willful violation of a standard, rule or order causing the death of an employee.

   ii) Giving unauthorized advance notice of an inspection.
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iii) Giving false statements or information to the Department.

iv) Killing, assaulting or hampering the work of an inspector.

B) Criminal penalties are imposed by the court system after trials and not by the Illinois Department of Labor.

Section 350.120 Review System for Contested Cases

a) The Director and/or his/her designee shall afford a hearing to any public employer who, within 15 days after receiving a citation, a proposed assessment of penalty or a notification of violation of a health and safety standard, makes a written request for a hearing. The interested employer can base the request on an appeal of the citation order, the notice of penalty or the abatement period.

b) The Director and/or his/her designee shall afford a hearing to any employee or representative who makes a written request for a hearing within 15 working days after receipt of a citation order. The hearing will be limited to appealing the period of time fixed in the citation for the abatement of the violation.

c) The Director, after considering the evidence presented in a formal hearing, will enter a final decision and order no later than 15 working days after the hearing that affirms, modifies or vacates the original citation, proposed penalty or abatement period.

d) Any party adversely affected by a final violation order or determination of hearing by the Director and/or designee may obtain a judicial review by filing a complaint for review within 35 days after the order is entered. If no appeal is taken within the 35 days, the order of the Director shall become final.

e) The Area Manager can conduct an informal review of citations and abatement dates upon request by interested parties or public employers prior to a formal appeal. The Area Manager may modify or withdraw a penalty, a citation or a citation item if the employer presents evidence that convinces the Area Manager that the changes are justified.

f) Hearings conducted by the Department under this Part shall be conducted in accordance with Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and 56 Ill. Adm. Code 120.
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Section 350.130 Posting of Notice

a) Poster. Each employer covered by this Part shall post and keep posted a notice to be furnished by the Department, upon request, informing employees of the protections and obligations provided for in the Acts. The notice shall contain a general description of the provisions of the Acts. The notice shall indicate that employees may contact the Department to obtain assistance or additional information, such as copies of the Acts and information concerning how to obtain copies of specific standards. The requirement that employers post the notice required in this subsection shall not be enforced until the Department has made the notice available to employers.

b) Location. The notice shall be posted by the employer in each place of business in a conspicuous location or locations where notices to employees are customarily posted. Each employer shall take reasonable steps to insure that the notice is not altered, defaced, removed, or covered by other material.

c) Violation. An Other-than-Serious citation shall be issued with a proposed penalty of $1,000 for not posting the Job Safety and Health Protection for Public Employees poster.

Section 350.140 Voluntary Compliance Program

a) Advisory Inspection. Any employer covered by this Part may request an advisory inspection by the Department. The request shall include a statement signed by the employer or his representative that any violations discovered during the course of the requested inspection will be abated if the Department finds that the violations constitute conditions or practices that are likely to result in death or serious physical harm to the employees in the workplace. In making this determination, the Department will consider factors such as the location of the hazard, the proximity of the employees to the hazard, and the availability of alternatives to continued exposure to the hazard.

1) The Department shall conduct an advisory inspection based on the employer's request, unless it finds that an employee complaint has been filed, that inspection officers are unavailable to conduct the inspection, or that a regular inspection will be, or has been, conducted that would make an advisory inspection duplicative.

2) No citations shall be issued as a result of an advisory inspection. The
employer shall be fully informed of any violations uncovered by the inspection and whether any citations would have been issued.

b) Training and Education Programs. The Division will provide professional training programs and educational seminars upon request from any public employer, at no cost.

c) Priority. Advisory inspections will be scheduled and conducted at the inspector's and employer's convenience, along with other programmed inspections.

d) Public Information Programs. The Division will make staff available to present professional programs for seminars and meetings. The Division will also present public information programs on behalf of the Department on an as needed basis.

e) Program Evaluations. Any written programs required by the standards can be submitted for professional review. A report will be provided outlining any changes or corrections.

f) Ongoing Support. The staff of the Department's Public Safety Education Division will be available during normal office hours to answer questions and provide consultation on an as-needed basis.

SUBPART B: RECORDS OF INJURIES AND ILLNESSES

Section 350.210 Emergency Notification

After the occurrence of an employment incident that is fatal to one or more employees or that results in hospitalization of three or more employees, the employer shall report the incident to the Department as soon as physically possible. The notification shall be made within eight hours after the incident or death. The employer shall notify the Department orally or in writing by telephone, facsimile or electronic mail. The notification shall relate the circumstances of the incident, the number of fatalities, the number of employees hospitalized, and the extent of the injuries.

Section 350.220 Recordable Injuries and Illnesses

a) Records of occupational injuries and illnesses must be completed and maintained in accordance with the applicable provisions outlined in 29 CFR 1904 by the employer for every occupational death, every nonfatal occupational illness, and every nonfatal occupational injury that results in death, loss of consciousness,
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days away from work, restricted work activity or job transfer, or medical treatment beyond first aid. An injury or illness is considered work-related if an event or exposure in the work environment caused or contributed to the condition or significantly aggravated a preexisting condition.

b) The following conditions must also be recorded, when they are work-related:

1) Any needlestick injury or cut from a sharp object that is contaminated with another person's blood or other potentially infectious material;

2) Any case requiring an employee to be medically removed under the requirements of an OSHA health standard; and

3) Tuberculosis infection as evidenced by a positive skin test or diagnosis by a physician or other licensed healthcare provider after exposure to a known case of active tuberculosis.

4) An employee's hearing test reveals that the employee has experienced a Standard Threshold Shift (STS) in hearing in one or both ears and the employee's total hearing level is 25 decibels or more above audiometric zero in the same ear or ears as the STS.

c) Medical treatment includes managing and caring for a patient for the purpose of combating disease or disorder. The following are not considered medical treatment, thus are not recordable:

1) Visit to a doctor or healthcare professional solely for observation or counseling;

2) Diagnostic procedures, including administering prescription medications that are used solely for diagnostic purposes; and

3) Any procedure that can be labeled first aid.

d) Incidents requiring only the following types of treatment are considered first aid and are not required to be recorded:

1) Using non-prescription medications at non-prescription strength;

2) Administering tetanus immunizations;
3) Cleaning, flushing, or soaking wounds on the skin surface;
4) Using wound coverings, such as bandages, BandAids™, gauze pads, etc., or using SteriStrips™ or butterfly bandages;
5) Using hot or cold therapy;
6) Using any totally non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc;
7) Using temporary immobilization devices while transporting a victim (splints, slings, neck collars, or backboards);
8) Drilling a fingernail or toenail to relieve pressure, or draining fluid from blisters;
9) Using eye patches;
10) Using simple irrigation or a cotton swab to remove foreign bodies not embedded in or adhered to the eye;
11) Using irrigation, tweezers, cotton swabs or other simple means to remove splinters or foreign material from areas other than the eye;
12) Using finger guards;
13) Using massages;
14) Drinking fluids to relieve heat stress.

Section 350.230 Log of Injuries and Illnesses – OSHA 300

a) Each employer shall maintain in each workplace an OSHA 300 log of all recordable occupational injuries and illnesses for that workplace. The name of the establishment, the city and state and the year must be designated at the top of the log. Within seven calendar days after receiving information about a case, the employer shall:

1) Decide if the case is recordable under the recordkeeping provisions of
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Section 350.220.

2) Determine whether the incident is a new case or a recurrence of an existing one.

3) Establish whether the case was work-related.

4) Decide which form to fill out as the injury/illness incident report form required under Section 350.240(a), OSHA 301: Injury and Illness Incident Report, or the Illinois Workers' Compensation Commission Form 45: Employer's First Report of Injury, or a suitable substitute that contains the same information as either of those two forms.

b) The OSHA 300 log shall contain the following information for each recordable injury and illness:

1) A unique case number assigned by the employer to this specific illness or injury to facilitate comparisons with the supplementary record of the illness or injury;

2) The name of the affected employee, unless protected as a privacy case due to the nature of the injury/illness;

3) The job title of the employees;

4) The date of the injury or onset of illness;

5) Where the event occurred;

6) A description of the injury or illness, parts of the body affected, and object/substance that directly injured or made the person ill (i.e., second degree burns on right forearm from acetylene torch);

7) The most serious result from each case:

   A) Death;

   B) Days away from work;

   C) Remained at work; job transfer or restriction (see federal form);
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D) Remained at work; other recordable cases (see federal form);

8) The designation of injury or the type of illness (i.e., skin disorder, respiratory condition, poisoning, hearing loss, all other illnesses);

9) The number of days the injured or ill worker was either on job transfer or restriction or away from work.

c) The OSHA 300 log and its supplementary information must be retained for five years by the employer.

Section 350.240 Injury and Illness Incident Report – OSHA 301

a) In addition to the OSHA 300 log of injuries and illnesses, each employer shall maintain in each workplace a supplementary record of each recordable occupational injury and illness for that workplace. The employer shall complete the incident report and make it available as early as practicable, but no later than seven calendar days after receiving information that a recordable injury or illness has occurred. The OSHA 301, or the Illinois Workers' Compensation Commission Form 45 or a suitable substitute that contains the same information may be used as the supplementary record. Records shall be available to any agency requesting them pursuant to Section 4(b) of the Health and Safety Act.

b) The OSHA 301 injury and illness incident report shall contain the following information for each recordable injury and illness:

1) Information about the employee:
   A) Full name and address.
   B) Date of birth and date of hire.
   C) Gender.

2) Information about the physician or other health care professional:
   A) Name of physician or health care professional.
   B) Location where treatment was administered.
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C) If an emergency room was visited or if the employee was hospitalized overnight as an in-patient.

3) Information about the case:

A) Case number corresponding to the Log of Injuries/Illnesses.
B) Date of Injury or Illness.
C) Time employee began work and time of event, if known.
D) What the employee was doing just before the incident occurred.
E) What happened.
F) What was the injury or the illness.
G) What object or substance directly harmed the employee.
H) If the employee died, date of death.

c) The name and title of the individual who completed the form, along with the telephone number and the date of completion.

d) This form must be kept on file for five years following the year to which it pertains. The Incident Report Form has to be completed within 7 days after notice of the injury or illness. These forms shall be maintained for at least 5 years.

Section 350.250 Annual Summary of Work-Related Injuries and Illnesses – OSHA 300A

a) Each employer shall post an annual summary of work-related injuries and illnesses for each workplace. The summary shall be presented on OSHA Form 300A.

b) The summary shall present the year's totals of injuries and illnesses, including the following:

1) Number of cases, including:
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A) Total number of deaths;

B) Total number of cases, with days away from work;

C) Total number of cases, with job transfer or restriction; and

D) Total number of other recordable cases.

2) Number of days:

A) Total number of days away from work; and

B) Total number of days of job transfer or restriction.

3) Injury and Illness Types:

A) Total number of injuries; and

B) Total number of skin disorders, respiratory conditions, poisonings and all other illnesses.

c) The summary shall also contain the establishment information (agency name, complete address, SIC/NAICS code), some employment figures (NAICS code, average number of employees and total hours worked) and certification by an executive of the State or local agency. Knowingly falsifying this document can result in a fine.

d) All establishments must complete the summary page, even if no work-related injuries or illnesses occurred during the year. Employees, former employees and their representatives have the right to review the Injury/Illness Log (Form 300) in its entirety. They also have limited access to the Injury/Illness Incident (OSHA Form 301) form based on privacy rights (29 CFR 1904.35, Employee Involvement).

e) The OSHA 300A summary page must be posted from February 1 to April 30 of the year following the year covered by the form. It must be posted in a conspicuous location where employees have the opportunity to view.

f) The OSHA 300A annual summary must be retained for five years, along with the
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supplementary information.

SUBPART C: FEDERAL STANDARDS

Section 350.300 Adoption of Federal Standards

a) Incorporations. All materials incorporated by this Section are incorporated as of the date specified and do not include any later amendments or editions.

1) Pursuant to Section 4 of the Health and Safety Act, the Department hereby incorporates by reference the general health and safety standards and special maritime and construction industry standards adopted by the federal Occupational Safety and Health Administration as effective September 30, 2005. These standards are located at 29 CFR 1904, 1910, 1915, and 1926.

2) The following interpretations of 29 CFR 1910.134, Respiratory Protection Standard (1998) are incorporated into this Part. Copies are available at the Department's Chicago office. Copies of the federal Occupational Safety and Health Administration material may also be obtained at http://www.osha-slc.gov/SLTC/respiratoryprotection/index.html.

Preamble: Respiratory Protection; Final Rule, 63 Fed. Reg. 1152 (Jan. 8, 1998)


Inspection Procedure for the Respiratory Protection Standard, CPL 2-0.120 (Sept. 18, 1998)


3) The following interpretation of 29 CRF 1910 and 1926, Standards Improvement (Miscellaneous Changes) for General Industry and
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Preamble: Standards Improvement (Miscellaneous Changes) for General Industry and Construction Standards; Paperwork Collection for Coke Oven Emissions and Inorganic Arsenic; Final Rule, 63 Fed. Reg. 33450 (June 18, 1998)

Preamble: Occupational Exposure to Asbestos; 63 Fed. Reg. 35137 (June 29, 1998)


4) The following interpretation of 29 CFR 1910, Dipping and Coating Operations (1999) is incorporated into this Part. Copies are available at the Department's Chicago office. Copies may also be obtained at http://www.osha.gov/comp-links.html.


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Preamble: Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries; Final Rule, 66 Fed. Reg. 5318 (Jan. 18, 2001)


b) The Department shall consider any subsequent amendments to the health and safety standards adopted by the federal Occupational Safety and Health Administration. Such amendments will be adopted by reference, or substitute provisions that provide equivalent protection will be adopted. Amendments will be adopted through filing with the Secretary of State and publication in the Illinois Register as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

c) The Department hereby adopts as a rule of the Department, through incorporation by reference, 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens (1991). The dates listed in paragraph (i) of 29 CFR 1910.1030 are not applicable to Illinois public sector employers. The effective date (paragraph (i)(1) of the adopted standard) for the Illinois public sector shall be January 19, 1993. The compliance date for paragraph (i)(2) of the adopted standard shall be February 18, 1993, the date for paragraph (i)(3) shall be March 20, 1993, and the date for paragraph (i)(4) shall be April 19, 1993.

d) The effective dates for 29 CFR 1910.119(e)(1)(i), (ii), (iii), and (iv), which establish timelines for hazard analyses for hazardous materials, are one, two, three, and four years, respectively, after August 1, 1994.
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1) Heading of the Part: Sport Fishing Regulations for the Waters of Illinois

2) Code Citation: 17 Ill. Adm. Code 810

3) Section Numbers: Adopted Action:
   810.20 Amendment
   810.37 Amendment
   810.45 Amendment
   810.70 Amendment


5) Effective Date of Amendments: March 1, 2006

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 all material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 7, 2005; 29 Ill. Reg. 14648

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

   810.37(b)(21) – added a closing parenthesis after "43"

   810.45 – Added the following new site:

   Conservation World Ponds, Illinois State Fairgrounds
   Sangamon County
   Fishing by special permit only for senior groups, children's groups or group guests of the Director. Apply for permit by writing to: Department
810.45 – Crab Orchard National Wildlife Refuge – Little Grassy Lake, "All Fish", after "(1)" added "(5)"

810.45 – Double "T" State Fish and Wildlife Area – deleted "Waters" and alphabetized fish species

810.45 – Forbes State Lake, added the following fish species:

   Large or Smallmouth Bass – 14" Minimum Length Limit

810.45 – Hidden Springs State Forest – struck "Ponds" and added "Pond"

810.45 – Jubilee College State Park – struck "Ponds" and added "Pond"

810.45 – Changed the following site to read: "Kinkaid Lake, Kinkaid Lake State Fish and Wildlife Area (19)"

810.45 – Lake Shelbyville (21), changed to read as follows:

   Pure Muskellunge – 48" Minimum Length Limit (40) (4)

810.45 – Riis Park Lagoon, changed to read as follows:

   Channel Catfish – 4-6 Fish Daily Creel Limit

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was amended to update regulations for the 2006 fishing season including snagging requirements, definitions for site-specific fishing regulations, individual site specific fishing regulations by water area and the Free Fishing Days.
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16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL  62702-1271

217/782-1809

The full text of the Adopted Amendments begins on the next page:
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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 810
SPORT FISHING REGULATIONS FOR THE WATERS OF ILLINOIS

Section
810.10 Sale of Fish and Fishing Seasons
810.20 Snagging
810.30 Pole and Line Fishing Only (Repealed)
810.35 Statewide Sportfishing Regulations – Daily Catch and Size Limits
810.37 Definitions for Site Specific Sportfishing Regulations
810.40 Daily Catch and Size Limits (Repealed)
810.45 Site Specific Water Area Regulations
810.50 Bait Fishing
810.60 Bullfrogs (Repealed)
810.70 Free Fishing Days
810.80 Emergency Protective Regulations
810.90 Fishing Tournament Permit
810.100 Bed Protection

AUTHORITY: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5].

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS


Section 810.20  Snagging
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

a) Anglers are permitted only one pole and line device to which can be attached no more than two hooks.

b) Species of Fish and Snagging Catch Limit.

1) Only the following species of fish and catch limit may be taken by snagging:

Asian Carp (no live possession) – no catch limit
Carp – no catch limit
Buffalo – no catch limit
Freshwater Drum – no catch limit
Salmon (coho and chinook only) – 5 daily, of which not more than 3 may be of the same fish species
Paddlefish – 2 per day
Bowfin – no catch limit
Gizzard shad – no catch limit
Carpsuckers – no catch limit
Longnose gar – no catch limit
Shortnose gar – no catch limit
Suckers – no catch limit

2) No sorting of snagged salmon and paddlefish is permitted. Every salmon 10 inches in total length or longer and paddlefish snagged must be taken into immediate possession and included in the daily catch limit. Once the daily limit of salmon or paddlefish has been reached, snagging must cease.

c) Waters Open to Snagging and Snagging Season.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Snagging for fish is permitted from September 15 through December 15 and from March 15 through May 15 within a 300 yard downstream limit below all locks and dams of the Illinois River, except for the area below the Peoria Lock and Dam where snagging is permitted year round and Mississippi River between Illinois and Missouri. Snagging is permitted from January 1 through April 15 within a 500 yard downstream limit below locks and dams on the Mississippi River between Illinois and Iowa, except the tailwaters of Lock and Dam 12 and 13 are closed to all fishing from December 1 through March 15.

2) Snagging for fish is permitted from September 15 through December 15 and from March 15 through May 15 within a 300 yard downstream limit below all locks and dams of the Mississippi River between Illinois and Missouri. Snagging is permitted from January 1 through April 15 within a 500 yard downstream limit below locks and dams on the Mississippi River between Illinois and Iowa, except that the tailwaters of Lock and Dam 12 and 13 are closed to all fishing from December 1 through March 15.

3) Snagging for fish is permitted year-round within a 100 yard limit upstream or downstream of the dam at Horseshoe Lake in Alexander County.

4) Snagging for chinook and coho salmon only is permitted from the following Lake Michigan shoreline areas from October 1 through December 31; however, no snagging is allowed at any time within 200 feet of a moored watercraft or as posted:

   A) Lincoln Park Lagoon from the Fullerton Avenue Bridge to the southern end of the Lagoon.

   B) Waukegan Harbor (in North Harbor basin only).

   C) Winnetka Power Plant discharge area.

   D) Jackson Harbor (Inner and Outer Harbors).

d) Disposition of Snagged Salmon and Paddlefish. All snagged salmon and paddlefish must be removed from the area from which they are taken and disposed of properly, in accordance with Article 5, Section 5-5 of the Fish and Aquatic Life Code.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 30 Ill. Reg. 4810, effective March 1, 2006)

Section 810.37 Definitions for Site Specific Sportfishing Regulations

a) Site Specific Regulations are listed by water area affected. The coverage of the regulation is dictated by the extent of the water area listed and not by the county. In some cases, regulations for a given water area or site may extend beyond the counties listed. The counties listed refer to the location of the dam or outfall for impoundments or mouths of small streams. Since large rivers or streams usually flow through many counties, the term "Multiple" is used rather than listing all counties where the large stream or river flows.

b) The subsections listed below are referred to by number in Section 810.45. Each water area listed in Section 810.45 has numbers in parenthesis that explain all of the restrictions or special provisions in this Section that apply to that water area.

1) Anglers must not use more than 2 poles and each pole must not have more than 2 hooks or lures attached while fishing, except that legal size cast nets, (in accordance with subsection 810.50(a)(1)) shad scoops, and minnow seines may be used to obtain shad, minnows, and crayfish to use as bait, provided that they are not sold, and except that bullfrogs may be taken by hand, gig, pitchfork, spear, landing net, and hook and line during bullfrog season.

2) All jugs set in a body of water shall be under the immediate supervision of the fisherman. Immediate supervision shall be defined as the fisherman being on the water where the jugs are set and readily available to identify jugs to law enforcement officers.

3) All largemouth and smallmouth bass taken must be less than 12 inches in total length or greater than 15 inches in total length.

4) Except that sport fishermen shall be allowed to use trotlines, jugs, and by hand, except that the use and aid of underwater breathing devices is prohibited. West of Wolf Creek Road, fishing from boats is permitted all year. Trotlines/jugs must be removed from sunrise until sunset from Memorial Day through Labor Day. East of Wolf Creek Road, fishing from boats is permitted from March 15 through September 30. Fishing
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

from the bank is permitted all year only at the Wolf Creek and Route 148 causeways. On the entire lake, jugs and trotlines must be checked daily and must be removed on the last day they are used. It is illegal to use stakes to anchor any trotlines; they must be anchored only with portable weights and must be removed on the last day they are used. The taking of carp and buffalo with bow and arrow is permissible.

5) Except that sport fishermen may take carp, carpsuckers, buffalo, gar, bowfin and suckers by pitchfork, gigs, bow and arrow or bow and arrow devices.

6) Including the Fox River south of the Illinois-Wisconsin line to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge.

7) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs or spears during May and June.

8) Daily catch limit includes striped bass, white bass, yellow bass and hybrid striped bass either singly or in the aggregate.

9) Catch and Release Fishing Only means that fish (all or identified species) caught must be immediately released alive and in good condition back into the water from which they came.

10) It shall be illegal to possess trout during the period of October 1 to 5 a.m. on the third Saturday in October (both dates inclusive) that which were taken during that period.

11) It shall be illegal to possess trout during the period of March 15 to 5 a.m. on the 1st Saturday in April (both dates inclusive) that which were taken during that period.

12) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 6 fish per day, no more than one of which shall be greater than 15 inches in length and none of which shall be greater than 12 inches and less than or equal to 15 inches in length.
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13) Except that jug fishing is permitted from the hours of sunset to sunrise, and except that carp and buffalo may be taken by bow and arrow devices from May 1 through September 30. All jugs must have owner's/user's name and complete address affixed.

14) Daily catch limit includes all fish species (either singly or in the aggregate) caught within each of the following fish groupings.

A) Largemouth or smallmouth bass

B) Walleye, sauger, or their hybrid

C) Bluegill, redbar sunfish or pumpkinseed

D) Channel or blue catfish

15) Daily catch limit includes white, black, or hybrid crappie either singly or in the aggregate.

16) Daily catch limit includes striped bass, white bass and hybrid striped bass either singly or in the aggregate.

17) Daily catch limit shall not exceed 10 fish daily, no more than 3 of which may be 17 inches or longer in length.

18) Except that sport fishermen shall be allowed to use trotlines, jugs and bank poles in the portions of the lake that lie north of the Davenport Bridge and northeast of the Parnell Bridge. Sport fishermen may take carp, carpsuckers and buffalo by bow and arrow, bow and arrow devices, gigs and spears on the entire lake, but not within 200 yards of any developed recreation areas. And carp, carpsuckers and buffalo may be taken by bow and arrow, bow and arrow devices, gigs and spears in the portions of the lake that lie north of the Davenport Bridge and northeast of the Parnell Bridge.

19) No fishing within 250 yards of an occupied waterfowl blind (within the hunting area) on all Department-owned or -managed sites.
DEPARTMENT OF NATURAL RESOURCES

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20) Carlyle Lake (including its tributary streams and those portions of the Kaskaskia River and Hurricane Creek up to the U.S. Army Corps of Engineers Carlyle Lake Project boundaries), U.S. Army Corps of Engineers, Bond, Clinton, and Fayette Counties. Does not include the tailwater.

21) Lake Shelbyville (including its tributary streams and those portions of the West Okaw and Kaskaskia Rivers up to Lake Shelbyville Project boundaries – including parts of the Lake Shelbyville Fish and Wildlife Management Area), U.S. Army Corps of Engineers, Shelby and Moultrie Counties. Does not include the tailwater except for the 48" total length and live bait rig requirement for muskellunge (see subsections (b)(40) and (43)).

22) Rend Lake (including its tributary streams and those portions of the Big Muddy and Casey Fork Rivers up to the Rend Lake Project boundaries), Rend Lake Project Ponds, U.S. Army Corps of Engineers, Franklin and Jefferson Counties. Does not include tailwater.

23) Daily catch limit for black, white or hybrid crappies, singly or in the aggregate, shall not exceed 20 fish daily, no more than 10 of which can be below 10" in total length and no more than 10 of which can be 10" or longer in total length.

24) 15" minimum length limit for walleye with no possession of walleye greater than or equal to 20" and less than or equal to 27" in total length – protected slot limit.

25) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish per day, no more than one of which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 15 inches in total length.

26) Lake Vermilion – Trotline and jug fishing allowed north of Boiling Springs Road.

27) Except that bank fishing is prohibited. Boat fishing is permitted May 1 through August 31 during the hours of 2:00 p.m. to 8:00 p.m. See site for additional regulations and exact opening and closing dates.
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28) Except that trotlines may be set within 300 feet from shore.

29) Except that carp, buffalo, suckers and carpsuckers may be taken by means of pitchfork and gigs (no bow and arrow devices).

30) Fishing is permitted from March 15 through September 30, both dates inclusive, from sunrise to sunset. Fishing during all other times of the year is illegal and not permitted.

31) Daily catch limit for largemouth or smallmouth bass, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of which may be equal to or greater than 15 inches in total length and no more than 2 of which may be less than 12 inches in total length.

32) Daily catch limit includes striped bass, white bass, yellow bass and hybrid striped bass, either singly or in the aggregate, no more than 4 of which may be 15 inches or longer in length.

33) It shall be unlawful to enter upon a designated waterfowl hunting area during the 7 days prior to the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of the regular duck season through the end of duck and Canada goose season.

34) Except that sport fishermen may take carp, buffalo, suckers and gar by bow and arrow or bow and arrow devices, gigs, or spears from May 1 through August 31.

35) Daily catch limit for walleye, sauger, or hybrid walleye, singly or in the aggregate, shall not exceed 3 fish daily, no more than one of which may be greater than 24 inches in total length and no more than 2 of which may be less than 18 inches in total length and greater than or equal to 14 inches in total length.

36) Except that sportfishermen may not use a minnow seine, cast net, or shad scoop for bait collecting in Cook County Forest Preserve District Waters (except in the Des Plaines River).
DEPARTMENT OF NATURAL RESOURCES

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37) All smallmouth bass taken must be less than 12 inches in total length or greater than 18 inches in total length. Only 1 bass greater than 18 inches and 2 bass less than 12 inches may be taken in the creel daily.

38) All largemouth and smallmouth bass taken must be less than 14 inches in total length or greater than 18 inches in total length. Only 1 bass greater than 18 inches and 5 bass less than 14 inches may be taken in the creel daily.

39) Powerton Lake shall be closed to boat traffic, except for legal waterfowl hunters, from one week prior to regular waterfowl season to February 15, and closed to all unauthorized entry during the regular goose and duck season.

40) The 48 inch total length limit on pure muskellunge applies to that body of water listed as well as any tailwaters as defined below:

   Evergreen Lake (McLean County) – including the portion of Six Mile Creek below the Evergreen Lake Dam downstream to its confluence with the Mackinaw River.

   Forbes State Lake (Marion County) – no tailwaters.

   Fox Chain O' Lakes (Lake/McHenry Counties) – including the Fox River south of the Wisconsin-Illinois boundary to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge.

   Kinkaid Lake (Jackson County) – including the portion of Kinkaid Creek below the Kinkaid Lake Dam downstream to the Route 149 Bridge.

   Lake Mingo and Kennekuk Cove Park Ponds (Vermilion County) – no tailwaters.

   Lake Shelbyville (Moultrie/Shelby Counties) – including the portion of the Kaskaskia River below the Lake Shelbyville Dam downstream to the State Route 128 Road Bridge near Cowden.

   Otter Lake (Macoupin County) – including the portion of Otter Creek below Otter Lake Dam downstream to its confluence with East Otter Creek.
DEPARTMENT OF NATURAL RESOURCES

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Pierce Lake (Winnebago County) – including the portion of Willow Creek below the Pierce Lake Dam downstream to Forest Hills Road.

Shabbona Lake (DeKalb County) – including that portion of Indian Creek below the Shabbona Lake Dam downstream to Shabbona Grove Road.

Spring Lakes (North and South) (Tazewell County) – no tailwaters.

41) It shall be unlawful to enter upon areas designated as waterfowl hunting areas during the 10 days prior to the start of the regular duck season, or to fish on such areas during the regular duck season except in areas posted as open to fishing. It shall be unlawful to enter upon areas designated as waterfowl rest areas or refuges from 10 days prior to the start of the regular duck season through the end of duck and Canada goose season.

42) During duck season, walk-in only access for fishing from the bank is permitted after 1:00 p.m.

43) When using live bait, all live bait in excess of 8" in total length shall be rigged with a quick set rig. The hook shall be immediately set upon the strike. A quick set rig is defined as follows: a live bait rig with up to 2 treble hooks attached anywhere on the live bait; single hooks are prohibited. This subsection (b)(43) rule does not apply to trotlines, jug lines, etc., if allowed on the lake.

44) Except that sport fisherman may take carp from boat by bow and arrow and bow and arrow devices, but not within 100 feet of any developed recreation areas.

(Source: Amended at 30 Ill. Reg. 4810, effective March 1, 2006)

Section 810.45 Site Specific Water Area Regulations

Fishing regulations, including species of fish, fishing methods and daily catch limits are listed for each water area. The numbers in parenthesis refer to the corresponding numbered definitions in Section 810.37 of this Part. If a water area is not listed or if a specific species is not listed, then state-wide restrictions apply. Check the bulletin boards at the specific site for any emergency changes to regulations.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Anderson Lake Fish and Wildlife Area (33)
Fulton County

Andover Lake, City of Andover
Henry County
   All Fish - 2 Pole and Line Fishing Only (1)
   Channel Catfish - 6 Fish Daily Creel Limit

Anna City Lake, City of Anna
Union County
   All fish - 2 Pole and Line Fishing Only (1)
   Bluegill or Redear Sunfish - 8" Minimum Length Limit
   Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
   Channel Catfish - 6 Fish Daily Creel Limit
   Large or Smallmouth Bass - 15" Minimum Length Limit
   Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Apple River and tributaries, State of Illinois
Jo Daviess County
   All Fish - 2 Pole and Line Fishing Only (1)
   Smallmouth Bass - 14" Minimum Length Limit
   Trout - Spring Closed Season (11)

Argyle Lake, Argyle Lake State Park
McDonough County
   Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
   All Fish - 2 Pole and Line Fishing Only (1)
   Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
   Channel Catfish - 6 Fish Daily Creel Limit
   Hybrid Walleye - 3 Fish Daily Creel Limit
   Large or Smallmouth Bass (14) - 1 Fish > 15" and/or 5 < than 12" Daily (12)
   Trout - Fall Closed Season (10)
   White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
   White, Black, or Hybrid Crappie - 9" Minimum Length Limit

Arrowhead Heights Lake, Village of Camp Point
Adams County
   All Fish - 2 Pole and Line Fishing Only (1)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Location</th>
<th>Fish Description</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arrowhead Lake, City of Johnston City</td>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td></td>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td></td>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td></td>
<td>Large or Smallmouth Bass</td>
<td>- 15” Minimum Length Limit</td>
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<tr>
<td></td>
<td>Large or Smallmouth Bass (14)</td>
<td>- 3 Fish Daily Creel Limit</td>
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<td>White, Black, or Hybrid Crappie (15)</td>
<td>- 15 Fish Daily Creel Limit</td>
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<td>Ashland City Old Reservoir #4611, City of Ashland</td>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Morgan County</td>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<td>Ashland City Reservoir, City of Ashland</td>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<td></td>
<td>Large or Smallmouth Bass</td>
<td>- 15” Minimum Length Limit</td>
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<tr>
<td>Auburn Park Lagoon, Chicago Park District</td>
<td>Channel Catfish</td>
<td>- 4 Fish Daily Creel Limit</td>
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<tr>
<td>Cook County</td>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td></td>
<td>Large or Smallmouth Bass</td>
<td>- 14” Minimum Length</td>
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<td></td>
<td>Trout</td>
<td>- Fall Closed Season (10)</td>
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<td></td>
<td>Trout</td>
<td>- Spring Closed Season (11)</td>
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<tr>
<td>Axehead Lake, Cook County Forest Preserve</td>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td>Cook County</td>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1) (36)</td>
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<td></td>
<td>Large or Smallmouth Bass</td>
<td>- 14” Minimum Length Limit</td>
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<tr>
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<td>Trout</td>
<td>- Fall Closed Season (10)</td>
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<td>Trout</td>
<td>- Spring Closed Season (11)</td>
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<td>Bakers Lake, City of Peru</td>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>LaSalle County</td>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<td></td>
<td>Large or Smallmouth Bass</td>
<td>- 14” Minimum Length Limit</td>
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<td>Large or Smallmouth Bass (14)</td>
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Baldwin Lake, Baldwin Lake Conservation Area  
Randolph County

<table>
<thead>
<tr>
<th>Fish</th>
<th>Regulations</th>
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<tbody>
<tr>
<td>All Fish</td>
<td>2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>18&quot; Minimum Length Limit</td>
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<tr>
<td>Striped, White, or Hybrid Striped Bass</td>
<td>17&quot; Minimum Length Limit</td>
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<tr>
<td>(16)</td>
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<tr>
<td>White, Black, or Hybrid Crappie (15)</td>
<td>25 Fish Daily Creel Limit</td>
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<td>White, Black, or Hybrid Crappie</td>
<td>9&quot; Minimum Length Limit</td>
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Banana Lake, Lake County Forest Preserve District  
Lake County

<table>
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<th>Fish</th>
<th>Regulations</th>
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<tbody>
<tr>
<td>All Fish</td>
<td>2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Channel Catfish</td>
<td>6 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>1 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>15&quot; Minimum Length Limit</td>
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<tr>
<td>Trout</td>
<td>Fall Closed Season (10)</td>
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<tr>
<td>Trout</td>
<td>Spring Closed Season (11)</td>
</tr>
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Banner Marsh Lake & Ponds, Banner Marsh State Fish and Wildlife Area (33)  
Peoria/Fulton Counties

<table>
<thead>
<tr>
<th>Fish</th>
<th>Regulations</th>
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<tr>
<td>Recreational Use Restrictions</td>
<td>All live bait in excess of 8&quot; must</td>
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<tr>
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<td>be rigged with a quick set rig (43)</td>
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<tr>
<td>All Fish</td>
<td>2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Channel Catfish</td>
<td>6 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>3 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>12&quot;-.18&quot; Protected Slot Length Limit (no possession)</td>
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<tr>
<td>Trout</td>
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<tr>
<td>Pure Muskellunge</td>
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<td>25 Fish Daily Creel Limit</td>
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<td>White, Black, or Hybrid Crappie</td>
<td>9&quot; Minimum Length Limit</td>
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Bass Lake, DuPage County Forest Preserve District  
DuPage County

<table>
<thead>
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<tbody>
<tr>
<td>All Fish</td>
<td>2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Channel Catfish</td>
<td>3 Fish Daily Creel Limit</td>
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<td>Large or Smallmouth Bass</td>
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<td>Large or Smallmouth Bass (14)</td>
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<tr>
<td>White, Black, or Hybrid Crappie</td>
<td>9&quot; Minimum Length Limit</td>
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NOTICE OF ADOPTED AMENDMENTS

White, Black, or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Batchtown Wildlife Management Area (33)
Calhoun County

Baumann Park Lake, City of Cherry Valley
Winnebago County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Beall Woods Lake, Beall Woods Conservation Area
Wabash County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Trout - Spring Closed Season (11)
Trout - Fall Closed Season (10)

Beaver Dam Lake, Beaver Dam State Park
Macoupin County

All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie - 9" Minimum Length Limit

Beck Lake, Cook County Forest Preserve District
Cook County

All Fish - 2 Pole and Line Fishing Only (1) (36)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Belk Park Pond, City of Wood River
Madison County
### NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Location</th>
<th>Region</th>
<th>Regulations</th>
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<tbody>
<tr>
<td><strong>All Fish</strong></td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>- 18&quot; Minimum Length Limit</td>
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</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
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<tr>
<td><strong>Belleau Lake, Cook County Forest Preserve District</strong></td>
<td></td>
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<tr>
<td>Cook County</td>
<td>- 2 Pole and Line Fishing Only (36)</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
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</tr>
<tr>
<td>Trout</td>
<td>- Fall Closed Season (10)</td>
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<tr>
<td><strong>Belvidere Ponds, City of Belvidere</strong></td>
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<tr>
<td>Boone County</td>
<td>- 1 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 14&quot; Minimum Length Limit</td>
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<td><strong>Bevier Lagoon, Waukegan Park District</strong></td>
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<tr>
<td>Lake County</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td><strong>Big Rock Quarry, Kane County Forest Preserve District</strong></td>
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<tr>
<td>Kane County</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Trout</td>
<td>- Spring Closed Season (11)</td>
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<tr>
<td><strong>Bird Park Quarry, City of Kankakee</strong></td>
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<tr>
<td>Kankakee County</td>
<td>- Fall Closed Season (10)</td>
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<tr>
<td>Trout</td>
<td>- Spring Closed Season (11)</td>
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<tr>
<td><strong>Borah Lake, City of Olney</strong></td>
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<tr>
<td>Richland County</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Bluegill or Redear Sunfish (14)</td>
<td>- 25 Fish Daily Creel Limit</td>
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<tr>
<td>Channel Catfish</td>
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<tr>
<td>Large or Smallmouth Bass</td>
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<tr>
<td><strong>Boston Pond, Stephen A. Forbes State Park</strong></td>
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DEPARTMENT OF NATURAL RESOURCES
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Marion County
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Bowen Lake, City of Washington
Tazewell County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12"-15" Protected Slot Length Limit (no possession)
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Braidwood Lake State Fish and Wildlife Area (41)
Will County
Recreational Use Restrictions - Braidwood Lake is closed to all fishing and boat traffic, except for legal waterfowl hunters, from 10 days prior to duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season

All Fish - 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Breeze JC's Park Pond, City of Breeze
Clinton County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Buckner City Reservoir, City of Buckner
Franklin County
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<td>All Fish: 2 Pole and Line Fishing Only (1)</td>
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<tr>
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<td>Channel Catfish: 6 Fish Daily Creel Limit</td>
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<tr>
<td></td>
<td>Large or Smallmouth Bass: 15&quot; Minimum Length Limit</td>
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<tr>
<td>Bunker Hill Lake, City of Bunker Hill, Macoupin County</td>
<td>All Fish: 2 Pole and Line Fishing Only (1) (36)</td>
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<td></td>
<td>Channel Catfish: 6 Fish Daily Creel Limit</td>
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<tr>
<td></td>
<td>Large or Smallmouth Bass: 14&quot; Minimum Length Limit</td>
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<tr>
<td></td>
<td>Bluegill or Redear Sunfish: 8&quot; Minimum Length Limit</td>
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<tr>
<td></td>
<td>Bluegill or Redear Sunfish (14): 10 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Burrells Wood Park Pond, White County</td>
<td>Channel Catfish: 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Busse Lake, Cook County Forest Preserve</td>
<td>All Fish: 2 Pole and Line Fishing Only (1)</td>
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<td></td>
<td>Bluegill or Redear Sunfish: 8&quot; Minimum Length Limit</td>
</tr>
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<td>Bluegill or Redear Sunfish (14): 10 Fish Daily Creel Limit</td>
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<td></td>
<td>Large or Smallmouth Bass: 14&quot; Minimum Length Limit</td>
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<tr>
<td></td>
<td>Walleye, Sauger, or Hybrid Walleye: 18&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Cache River State Natural Area (19), Pulaski/Johnson Counties</td>
<td>All Fish: 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td></td>
<td>All Fish: No Seines</td>
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<tr>
<td>Calhoun Point Wildlife Management Area (33), Calhoun County</td>
<td>Yellow Perch: 15 Fish Daily Creel Limit</td>
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<tr>
<td>Calumet River, Cook County</td>
<td>Yellow Perch: 15 Fish Daily Creel Limit</td>
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</tbody>
</table>
DEPARTMENT OF NATURAL RESOURCES

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Yellow Perch - Closed During July

Campbell Pond Wildlife Management Area (19)
Jackson County

Campus Lake – Southern Illinois University, State of Illinois
Jackson County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Campus Pond – Eastern Illinois University, State of Illinois
Coles County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Trout - Fall Closed Season (10)
- Trout - Spring Closed Season (11)

Canton Lake, City of Canton
Fulton County
- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel or Blue Catfish (14) - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Carbondale City Reservoir, City of Carbondale
Jackson County
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Carlinville Lake #1, City of Carlinville
Macoupin County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Carlinville Lake #2, City of Carlinville
Macoupin County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Carlton Silt Basin, State of Illinois
Whiteside County
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Large or Smallmouth Bass - Catch and Release Fishing Only (9)

Carlyle Lake, U.S. Army Corps of Engineers (20) (33)
Clinton/Bond/Fayette Counties
- Large or Smallmouth Bass - 14" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Carthage Lake, City of Carthage
Hancock County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Casey Park Pond, City of Casey
Clark County
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 15 Fish Daily Creel Limit of which only 5 fish over 8" are allowed
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Cedar Lake, U.S. Forest Service and City of Carbondale
Jackson County (19)
- All Fish - 2 Pole and Line Fishing Only (1) (5)
- Large or Smallmouth Bass - 14"-18" Protected Slot Length Limit (no possession)
- Large or Smallmouth Bass (14) - 5 Fish Under 14" and 1 Fish over 18" Daily Creel Limit (38)
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Centralia Foundation Park Catfish Pond, Centralia Park Foundation
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Marion County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Centralia Lake, City of Centralia
Marion County

Large or Smallmouth Bass - 15" Minimum Length Limit

Cermack Quarry, Cook County Forest Preserve District
Cook County

All Fish - 2 Pole and Line Fishing Only (1) (36)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Champaign Park District Lakes (Kaufman Lake, Heritage Lake, and Mattis Lake), Champaign Park District
Champaign County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Charleston Lower Channel Lake, City of Charleston
Coles County

All Fish - 2 Pole and Line Fishing Only (1)

Charleston Side Channel Lake, City of Charleston
Coles County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit for Fish Under 10"; 10 Fish Daily Creel Limit for Fish 10" and Longer (23)

Charlie Brown Lake & Pond, City of Flora
Clay County
DEPARTMENT OF NATURAL RESOURCES

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| All Fish                                      | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish                               | - 6 Fish Daily Creel Limit         |
| Large or Smallmouth Bass                      | - 14" Minimum Length Limit         |

Charter Oak North – Peoria Park District Lake, Peoria Park District
Peoria County
| All Fish                                      | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish                               | - 6 Fish Daily Creel Limit         |
| Large or Smallmouth Bass                      | - 15" Minimum Length Limit         |
| Large or Smallmouth Bass (14)                 | - 1 Fish Daily Creel Limit         |

Charter Oak South – Peoria Park District Pond, Peoria Park District
Peoria County
| All Fish                                      | - 2 Pole and Line Fishing Only (1) |
| Channel Catfish                               | - 6 Fish Daily Creel Limit         |
| Large or Smallmouth Bass                      | - 15" Minimum Length Limit         |
| Large or Smallmouth Bass (14)                 | - 1 Fish Daily Creel Limit         |

Chauncey Marsh (19)
Lawrence County

Chautauqua Lake North Pool, U.S. Fish and Wildlife Service
Mason County
| Recreational Use Restrictions                 | - Lake Chautauqua North Pool will be closed to boat fishing from October 15 through January 14 |
|                                               | - Bank fishing will be allowed in selected areas only |
|                                               | - Ice fishing will be allowed following the January 15 reopening |
| Black, White, or Hybrid Crappie               | - 10" Minimum Length Limit (except, when the Illinois River overflows the levee system of the North Pool, there is no minimum length limit) |
| Black, White, or Hybrid Crappie (15)          | - 15 Fish Daily Creel Limit (except, when the Illinois River overflows the levee system of the North Pool, there is no daily creel limit) |
| Largemouth Bass                               | - 15" Minimum Length Limit (12" minimum length limit when the Illinois River |
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overflows the levee system of the North Pool

Chenoa City Lake, City of Chenoa
McLean County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Chicago River (including its North Branch, South Branch, and the North Shore Channel)
Cook County
Yellow Perch - 15 Fish Daily Creel Limit
Yellow Perch - Closed During July

Citizen's Lake, City of Monmouth
Warren County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 6 Fish Daily Creel Limit
   1 Fish Over 15" and 5 Fish under 12" Daily Creel Limit (12)
Trout - Fall Closed Season (10)

Clear Lake, Kickapoo State Park
Vermilion County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Clinton Lake, Clinton Lake State Recreation Area (19)
DeWitt County
All Fish - 2 Pole and Line Fishing Only (1) (18)
Large or Smallmouth Bass - 16" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass (16) - 10 Creel/3 Fish 17" or Longer Daily (17)
White, Black, or Hybrid Crappie (15) - 15 Fish Daily Creel Limit
White, Black, or Hybrid Crappie - 9" Minimum Length Limit
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Coffeen Lake, Coffeen Lake State Fish and Wildlife Area  
Montgomery County

Channel Catfish - All jugs must be attended at all times while fishing (2)
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie - 10" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Coles County Airport Lake, Coles County Airport  
Coles County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Coleta Trout Pond, State of Illinois  
Whiteside County

Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Columbus Park Lagoon, Chicago Park District  
Cook County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 4 Fish Daily Creel Limit

Commissioners Park Pond, Alsip Park District  
Cook County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Conservation World Ponds, Illinois State Fairgrounds  
Sangamon County

Fishing by special permit only for senior groups, children's groups or group guests of the Director.  Apply for permit by writing to: Department of Natural Resources, Division of Fisheries, One Natural Resources Way, Springfield IL 62702

Cook Co. F.P.D. Lakes, Cook County Forest Preserve District
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Cook County
All Fish - 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass - 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Coulterville City Lake, City of Coulterville
Randolph County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Crab Orchard National Wildlife Refuge – Ann Manns Lake, U.S. Fish and Wildlife Service
(19)
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Crab Orchard National Wildlife Refuge – Crab Orchard Lake, U.S. Fish and Wildlife Service
(19)
Williamson County
All Fish - 2 Pole and Line Fishing Only (1) (4)
Striped, White, or Hybrid Striped Bass (16) - 10 Creel/3 Fish 17" or Longer Daily (17)
Large or Smallmouth Bass - 16" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Crab Orchard National Wildlife Refuge. Refuge Ponds (except Visitor Pond), U.S. Fish and
Wildlife Service
Williamson County
All Fish - 2 Pole and Line Fishing Only (1) (5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12-15" Slot Length Limit (3)
DEPARTMENT OF NATURAL RESOURCES
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All Fish               - 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass - 15" Minimum Length Limit

Crab Orchard National Wildlife Refuge. Visitor Pond, U.S. Fish and Wildlife Service
Williamson County
All Fish (30)               - 2 Pole and Line Fishing Only (1) (5)
Large or Smallmouth Bass - 21" Minimum Length Limit

Crawford Co. Cons. Area – Picnic Pond, Crawford County Conservation Area
Crawford County
All Fish               - 2 Pole and Line Fishing Only (1)
Channel Catfish        - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Trout                 - Fall Closed Season (10)

Crawford Co. Cons. Area Ponds, Crawford County Conservation Area
Crawford County
All Fish               - 2 Pole and Line Fishing Only (1)
Channel Catfish        - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Crull Impoundment Wildlife Management Area (33)
Jersey County

Crystal Lake, Urbana Park District
Champaign County
All Fish               - 2 Pole and Line Fishing Only (1)
Channel Catfish        - 3 Fish Daily Creel Limit

Cypress Creek National Wildlife Refuge – All Ponds, U.S. Fish and Wildlife Service
Johnson/Pulaski/Union Counties
All Fish               - 2 Pole and Line Fishing Only (1)
Channel Catfish        - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Cypress Creek National Wildlife Refuge – Cache River from Rt. 37 to Rt. 51 in Ullin, U.S.
Fish and Wildlife Service
Johnson/Pulaski Counties
All Fish               - 2 Pole and Line Fishing Only (1)
All Fish              - No Seines
NOTICE OF ADOPTED AMENDMENTS

Dawson Lake & Park Ponds, Moraine View State Park
McLean County
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 15 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
- White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Decatur Park Dist. Ponds, City of Decatur
Macon County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit (except for Fairview Park – Dreamland Pond, which has a 3 Fish Daily Creel Limit)

Deep Pit Lake, Boone County Conservation District
Boone County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Deep Quarry Lake, DuPage County Forest Preserve District
DuPage County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 3 Fish Daily Creel Limit
- Channel Catfish - 12" Minimum Length Limit
- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Defiance Lake, Moraine Hills State Park
McHenry County
- All Fish - 2 Pole and Line Fishing Only (1)
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<td>Channel Catfish - 15&quot; Minimum Length Limit</td>
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<tr>
<td><strong>Cook County</strong></td>
<td>Large or Smallmouth Bass - 14&quot; Minimum Length Limit</td>
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<tr>
<td><strong>Des Plaines River Conservation Area (19)</strong></td>
<td>Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit</td>
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<td><strong>Will County</strong></td>
<td><strong>Northern Pike</strong> - 30&quot; Minimum Length Limit</td>
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<tr>
<td><strong>Diamond Lake, City of Mundelein</strong></td>
<td><strong>Northern Pike</strong> - 1 Fish Daily Creel Limit</td>
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<tr>
<td><strong>Lake County</strong></td>
<td><strong>White, Black or Hybrid Crappie (15)</strong> - 10 Fish Daily Creel Limit</td>
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<tr>
<td><strong>Dog Island Wildlife Management Area (19)</strong></td>
<td><strong>Walleye, Sauger, or Hybrid Walleye (14)</strong> - 1 Fish Daily Creel Limit</td>
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<tr>
<td><strong>Pope County</strong></td>
<td><strong>Des Plaines River Conservation Area (19)</strong></td>
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<tr>
<td><strong>Dolan Lake, Hamilton County Conservation Area</strong></td>
<td><strong>All Fish</strong> - 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td><strong>Hamilton County</strong></td>
<td><strong>Channel Catfish</strong> - 6 Fish Daily Creel Limit</td>
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<tr>
<td><strong>Donnelley State Wildlife Area (33)</strong></td>
<td><strong>Large or Smallmouth Bass</strong> - 15&quot; Minimum Length Limit</td>
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<tr>
<td><strong>Dolan Lake, Hamilton County Conservation Area</strong></td>
<td><strong>Large or Smallmouth Bass (14)</strong> - 3 Fish Daily Creel Limit</td>
</tr>
<tr>
<td><strong>Donnelley State Wildlife Area (33)</strong></td>
<td><strong>Bluegill or Redear Sunfish</strong> - 8&quot; Minimum Length Limit</td>
</tr>
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<td><strong>Bluegill or Redear Sunfish (14)</strong> - 10 Fish Daily Creel Limit</td>
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<td><strong>Large or Smallmouth Bass</strong> - 14&quot; Minimum Length Limit</td>
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Bureau County

Double "T" State Fish and Wildlife Area, State of Illinois

Fulton County

Recreational Use Restrictions  - Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting is prohibited from October 1 through the end of the central zone Canada goose season)
- All live bait in excess of 8" must be rigged with a quick set rig (43)

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Limit</th>
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<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Bluegill or Redear Sunfish (14)</td>
<td>- 25 Fish Daily Creel Limit</td>
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<tr>
<td>Channel or Blue Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 21&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Pure Muskellunge</td>
<td>- 42&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>White, Black, or Hybrid Crappie</td>
<td>- 10&quot; Minimum Length Limit</td>
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<tr>
<td>White, Black, or Hybrid Crappie (15)</td>
<td>- 25 Fish Daily Creel Limit</td>
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<tr>
<td>Channel or Blue Catfish</td>
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<td>White, Black, or Hybrid Crappie</td>
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Douglas Park Lagoon, Chicago Park District

Cook County

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<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Channel Catfish</td>
<td>- 4 Fish Daily Creel Limit</td>
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DuPage County Forest Preserve District Lakes and Ponds (excluding Bass Lake, Deep Quarry Lake, and Grove Lake), DuPage County Forest Preserve District

DuPage County

<table>
<thead>
<tr>
<th>Fish Type</th>
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<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td>Channel Catfish</td>
<td>- 12&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 15&quot; Minimum Length Limit</td>
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<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 3 Fish Daily Creel Limit</td>
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Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie - 9" Minimum Length Limit
White, Black or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

DuPage River – West Branch (between the dams located in the McDowell Grove Forest Preserve and the Warrenville Grove Forest Preserve)
DuPage County
Large or Smallmouth Bass - Catch and Release Fishing Only (9)

East Fork Lake, City of Olney
Richland County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Eldon Hazlet State Park (19) (See Also Carlyle Lake)
Clinton County

Elkville City Reservoir, City of Elkville
Jackson County
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Elliott Lake, Wheaton Park District
DuPage County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Evergreen Lake, City of Bloomington
McLean County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1) (5)
Large or Smallmouth Bass - 15" Minimum Length Limit
Pure Muskellunge - 48" Minimum Length Limit (40)
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

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Fairgrounds Pond – Fort Massac State Park, State of Illinois
Massac County
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Fairview Park – Dreamland Pond, City of Decatur
Macon County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 3 Fish Daily Creel Limit

Fairies Park Pond, Decatur Park District
Macon County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Ferne Clyffe Lake, Ferne Clyffe State Park
Johnson County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Flatfoot Lake, Cook County Forest Preserve District
Cook County
All Fish - 2 Pole and Line Fishing Only (1) (36)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Foli Park Pond, Village of Plano
Kendall County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Forbes State Lake, Stephen A. Forbes State Park (19)
Marion County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1) (5)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

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Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Pure Muskellunge - 48" Minimum Length (40)
Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Forbes State Park Ponds, Stephen A. Forbes State Park (19)
Marion County
All Fish - 2 Pole and Line Fishing Only (1) (5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Forest Park Lagoon, City of Shelbyville
Shelby County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Fort de Chartres Historic Site (19)
Randolph County

Four Lakes, Winnebago County Forest Preserve
Winnebago County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Fox Chain O'Lakes (including the Fox River south of the Wisconsin-Illinois boundary to the Algonquin Dam and the Nippersink Creek upstream to the Wilmot Road Bridge) (6) (Applies to Grass Lake and Nippersink Lake State Managed Blind Areas Only (19)), State of Illinois
Lake and McHenry Counties
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
Large or Smallmouth Bass - 14" Minimum Length Limit (6)
Large or Smallmouth Bass (14) - 6 Fish Daily Creel Limit of which no more than 3 can be Smallmouth Bass
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Pure Muskellunge - 48" Minimum Length Limit (40)
Smallmouth Bass - All fish must be immediately released between April 1 and June 15
Walleye, Sauger, or Hybrid Walleye - 14" Minimum Length Limit with an 18-24" Protected Slot Length Limit (no possession) (6)
Walleye, Sauger, or Hybrid Walleye (14) - 2 Fish ≥ 14" and <18" &/or 1 Fish >24" Daily Creel Limit (35)

Fox Ridge State Park (see also Hurricane Pond, Wilderness Pond and Ridge Lake) (19)
Coles County

Fox River, Algonquin Dam to confluence with the Illinois River, including tributaries, State of Illinois
Multiple Counties
Smallmouth Bass - 1 Fish 12" or over and 2 Fish under 12” Daily Creel Limit

Frank Holten Lakes, Frank Holten State Park
St. Clair County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Franklin Creek (within the boundaries of Franklin Creek State Natural Area)
Lee County
All Fish - 2 Pole and Line Fishing Only (1)

Franklin Creek Mill Pond – Franklin Creek State Park, State of Illinois
Lee County
All Fish - 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Fuller Lake (19)
Calhoun County

Fulton County Camping and Recreation Area Waters, Fulton County Board
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Fulton County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12"-15" Protected Slot Length Limit (no possession)
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Blue gill or Redear Sunfish (14) - 25 Fish Daily Creel Limit

Gages Lake, Wildwood Park District
Lake County
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit

Garfield Park Lagoon, Chicago Park District
Cook County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 4 Fish Daily Creel Limit

Gebhard Woods Ponds, Gebhard Woods State Park
Grundy County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Trout - Spring Closed Season (11)

Germantown Lake, City of Germantown
Clinton County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 15 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Giant City Park Ponds, Giant City State Park
Jackson and Union Counties
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Largemouth and Spotted Bass - 15" Minimum Length Limit
### Gillespie New City Lake, City of Gillespie  
**Macoupin County**

- **Channel Catfish** - 6 Fish Daily Creel Limit
- **Large or Smallmouth Bass** - 12-15" Slot Length Limit (3)
- **Large or Smallmouth Bass (14)** - 3 Fish Daily Creel Limit

### Gillespie Old City Lake, City of Gillespie  
**Macoupin County**

- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Channel Catfish** - 6 Fish Daily Creel Limit
- **Large or Smallmouth Bass** - 15" Minimum Length Limit
- **Large or Smallmouth Bass (14)** - 3 Fish Daily Creel Limit

### Glades -12 Mile Island Wildlife Management Area (33)  
**Jersey County**

### Gladstone Lake, Henderson County Conservation Area  
**Henderson County**

- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Bluegill or Redear Sunfish (14)** - 10 Fish Daily Creel Limit
- **Channel or Blue Catfish (14)** - 6 Fish Daily Creel Limit
- **Large or Smallmouth Bass (14)** - 1 Fish ≥ 15" and/or 2 <12" Daily (31)

### Glen Oak Park Lagoon, Peoria Park District  
**Peoria County**

- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Channel Catfish** - 6 Fish Daily Creel Limit

### Glen Shoals Lake, City of Hillsboro  
**Montgomery County**

- **Large or Smallmouth Bass** - 15" Minimum Length Limit
- **Large or Smallmouth Bass (14)** - 3 Fish Daily Creel Limit
- **Striped, White, or Hybrid Striped Bass** - 17" Minimum Length Limit
- **Striped, White, or Hybrid Striped Bass (16)** - 3 Fish Daily Creel Limit

### Godar-Diamond/Hurricane Island Wildlife Management Area (33)  
**Calhoun County**
DEPARTMENT OF NATURAL RESOURCES

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Gompers Park Lagoon, Chicago Park District
Cook County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 4 Fish Daily Creel Limit

Gordon F. More Park Lake, City of Alton
Madison County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Governor Bond Lake, City of Greenville
Bond County
Channel Catfish - All jugs must be attended at all times while fishing (2)
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
Striped, White, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Grayslake Park District (Grayslake and Park Ponds)
Lake County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Greenfield City Lake, City of Greenfield
Greene County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12”-15” Protected Slot Length Limit (no possession)
Large or Smallmouth Bass - 5 Fish Under 12” and 1 Fish Over 15” Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

Greenville Old City Lake, Kingsbury Park District
Bond County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit
- Trout: Fall Closed Season (10)
- Large or Smallmouth Bass: 15" Minimum Length Limit
- Large or Smallmouth Bass (14): 3 Fish Daily Creel Limit

Grove Lake, DuPage County Forest Preserve District
DuPage County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 3 Fish Daily Creel Limit
- Channel Catfish: 12" Minimum Length Limit
- Large or Smallmouth Bass: 18" Minimum Length Limit
- Large or Smallmouth Bass (14): 1 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie: 9" Minimum Length Limit
- White, Black, or Hybrid Crappie (15): 15 Fish Daily Creel Limit

Hanover Lake – Apple River Canyon State Park, State of Illinois
Jo Daviess County
- All Fish: 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14): 25 Fish Daily Creel Limit
- Channel Catfish: 6 Fish Daily Creel Limit
- Large or Smallmouth Bass: 14" Minimum Length Limit
- Large or Smallmouth Bass (14): 1 Fish Daily Creel Limit

Harrisburg New City Reservoir, City of Harrisburg
Saline County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit
- Striped, White, or Hybrid Striped Bass: 17" Minimum Length Limit
- Striped, White or Hybrid Striped Bass (16): 3 Fish Daily Creel Limit

Heidecke Lake, Heidecke Lake State Fish and Wildlife Area
Grundy County (41)
- Recreational Use Restrictions: Heidecke Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to
DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF ADOPTED AMENDMENTS

duck season through the day before duck season and is closed to all fishing during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season.

- All live bait in excess of 8" must be rigged with a quick set rig (43)

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass (16)
Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit

Helmbold Slough (19)
Calhoun County

Hennepin Canal – Mainline & Feeder, Hennepin Canal Parkway State Park
Multiple Counties

All Fish - 2 Pole and Line Fishing Only (1) (13)
Large or Smallmouth Bass - 14" Minimum Length Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Hennepin-Hopper Lakes, The Wetlands Initiative
Putnam County

Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)

All Fish - 2 Pole and Line Fishing Only (1)
Black, White or Hybrid Crappie - 9" Minimum Length Limit
Black, White or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Pure Muskellunge - 42" Minimum Length Limit
Walleye, Sauger or Hybrid Walleye - 18" Minimum Length Limit
Walleye, Sauger or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
NOTICE OF ADOPTED AMENDMENTS

Herrin Lake #1, City of Herrin
Williamson County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Herrin Lake #2, City of Herrin
Williamson County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Hidden Springs State Forest Ponds, Hidden Springs State Forest
Shelby County
  All Fish - 2 Pole and Line Fishing Only (1)
  Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 18" Minimum Length Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Highland Old City Lake, City of Highland
Madison County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Trout - Fall Closed Season (10)

Hillsboro Old City Lake, City of Hillsboro
Montgomery County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 12-15" Slot Length Limit

Homer Guthrie Pond – Eldon Hazlet State Park, State of Illinois
Clinton County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Homer Lake, Champaign County Forest Preserve District
Champaign County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Hormel Pond, Donnelly State Fish and Wildlife Area
Bureau County
All Fish - 2 Pole and Line Fishing Only (1) (5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Horseshoe Lake-Alexander Co., Horseshoe Lake Conservation Area
Alexander County
Recreational Use Restrictions - Only trolling motors in refuge from October 5-March 1
All Fish - 2 Pole and Line Fishing Only (1) (5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Horseshoe Lake-Madison County, Horseshoe Lake State Park (33)
Madison County
All Fish - 2 Pole and Line Fishing Only (1) (28) (34)
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

\textbf{Horsetail Lake, Cook County Forest Preserve District}

\textbf{Cook County}
All Fish - 2 Pole and Line Fishing Only (1) (36)
Large or Smallmouth Bass - 14" Minimum Length Limit
\textbf{Trout} - Fall Closed Season (10)

Horton Lake, Nauvoo State Park
Hancock County
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<td>Channel Catfish</td>
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<td>Hurricane Pond, Fox Ridge State Park</td>
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<td>Illinois &amp; Michigan Canal, State of Illinois</td>
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<tr>
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<tr>
<td>Bluegill or Redear Sunfish (14)</td>
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<tr>
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<td>Large or Smallmouth Bass (14)</td>
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<tr>
<td>Illinois Beach State Park Ponds, Illinois Beach State Park</td>
<td>All Fish</td>
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<td>Sangamon County</td>
<td>Channel Catfish</td>
<td>6 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
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<td>Trout</td>
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<tr>
<td>Illinois River – Pool 26 (19)</td>
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<td>Calhoun County</td>
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</tbody>
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DEPARTMENT OF NATURAL RESOURCES

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Illinois River – Starved Rock and Marseilles Pools
LaSalle and Grundy Counties

- Large or Smallmouth Bass - 18" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Striped, White or Hybrid Striped Bass (16) - 10 Fish Daily Creel Limit
- White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Illinois River – State of Illinois
Multiple Counties

- Large or Smallmouth Bass - 12" Minimum Length Limit

Indian Boundary South Pond, Frankfort Square Park District
Will County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Iroquois & Kankakee Rivers and their Tributaries, State of Illinois
Multiple Counties

- Walleye, Sauger and Hybrid Walleye - 16" Minimum Length Limit
- Walleye, Sauger and Hybrid Walleye - 3 Fish Daily Creel Limit

Jackson Park (Columbia Basin) Lagoon, Chicago Park District
Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

Jim Edgar/Panther Creek Fish and Wildlife Area, All Lakes and Ponds, Jim Edgar/Panther Creek Fish and Wildlife Area
Cass County

- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Pure Muskellunge - 48" Minimum Length Limit

Jim Edgar/Panther Creek Fish and Wildlife Area, Gurney Road Pond, Jim Edgar/Panther Creek Fish and Wildlife Area
ILlINOIS REGISTER 4855

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Cass County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Trout - Spring Closed Season (11)

Johnson Sauk Trail Lake & Pond, Johnson Sauk Trail State Park

Henry County

Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Johnston City Lake, City of Johnston City

Williamson County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Jones Lake Trout Pond, Saline County Conservation Area

Saline County

Trout - Fall Closed Season (10)

Jones Park Lake, City of East St. Louis

St. Clair County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Jones State Lake, Saline County Conservation Area

Saline County

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14"-18" Protected Slot Length Limit (no possession) (38)
Large or Smallmouth Bass - 5 Fish under 14" and 1 Fish over 18" Daily
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Creel Limit

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<tr>
<th>Jubilee College State Park Pond Ponds, Jubilee College State Park</th>
<th>Peoria County</th>
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<tbody>
<tr>
<td>All Fish</td>
<td>2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>15&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>1 Fish Daily Creel Limit</td>
</tr>
</tbody>
</table>

Kankakee-Iroquois Rivers and their Tributaries, State of Illinois
Multiple Counties
| Walleye, Sauger, and Hybrid Walleye | 16" Minimum Length Limit |
| Walleye, Sauger, and Hybrid Walleye (14) | 3 Fish Daily Creel Limit |

Kankakee River, from the Kankakee Dam to the mouth of the Kankakee River, including tributaries, State of Illinois
Multiple Counties
| Smallmouth Bass | 12"-18" Protected Slot Length Limit (no possession) |
| Smallmouth Bass | 1 Fish over 18" and 2 Fish under 12" Daily Creel Limit (37) |

Kankakee River State Park (19)
Kankakee/Will Counties

Kaskaskia River Fish and Wildlife Area (19)
St.Clair/Randolph/Monroe Counties

Kaskaskia River Fish and Wildlife Area – Doza Creek Wildlife Management Area (33)
St.Clair County

Kendall Co. Lake #1, Kendall County Forest Preserve District
Kendall County
| All Fish | 2 Pole and Line Fishing Only (1) |
| Channel Catfish | 6 Fish Daily Creel Limit |
| Large or Smallmouth Bass | 14" Minimum Length Limit |
| Large or Smallmouth Bass (14) | 3 Fish Daily Creel Limit |

Kent Creek
## NOTICE OF ADOPTED AMENDMENTS

**Winnebago County**

Trout - Spring Closed Season (11)

**Kickapoo State Park Lakes & Pond, Kickapoo State Park**

Vermilion County

All Fish - 2 Pole and Line Fishing Only (1)

Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 14" Minimum Length Limit

Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

**Kincaid City Reservoir, City of Kincaid**

Christian County

All Fish - 2 Pole and Line Fishing Only (1)

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 15" Minimum Length Limit

**Kinkaid Lake, Kinkaid Lake State Fish and Wildlife Area (19)**

Jackson County

Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)

Large or Smallmouth Bass - 16" Minimum Length Limit

Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Pure Muskellunge - 48" Minimum Length Limit (40)

White, Black, or Hybrid Crappie - 9" Minimum Length Limit

White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

**Kinmundy Reservoir, City of Kinmundy**

Marion County

All Fish - 2 Pole and Line Fishing Only (1) (5)

Channel Catfish - 6 Fish Daily Creel Limit

Large or Smallmouth Bass - 15" Minimum Length Limit

Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

**Kishwaukee River and South Branch of Kishwaukee River and Tributaries, State of Illinois**

Multiple Counties

Smallmouth Bass - 14" Minimum Length Limit

**Lake Atwood, McHenry County Conservation District**

McHenry County
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Trout - Spring Closed Season (11)

Lake Bloomington, City of Bloomington
McLean County
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
- Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
- White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Carlton, Morrison-Rockwood State Park
Whiteside County
- Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Pure Muskellunge - 36" Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Co. Forest Preserve District Lakes (except Independence Grove Lake), Lake County Forest Preserve District
Lake County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit

Lake Decatur, City of Decatur
Macon County
- All Fish - 2 Pole and Line Fishing Only (1)(29)
**DEPARTMENT OF NATURAL RESOURCES**

**NOTICE OF ADOPTED AMENDMENTS**

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Limit</th>
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<tbody>
<tr>
<td>White, Black, or Hybrid Crappie</td>
<td>- 10&quot; Minimum Length Limit</td>
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<tr>
<td>White, Black, or Hybrid Crappie (15)</td>
<td>- 10 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
</tr>
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</table>

Lake Depue Fish and Wildlife Area (33)
Bureau County

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Limit</th>
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<tbody>
<tr>
<td>White, Black, or Hybrid Crappie</td>
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<tr>
<td>White, Black, or Hybrid Crappie (15)</td>
<td>- 10 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
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</table>

Lake Eureka, City of Eureka
Woodford County

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Limit</th>
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<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 15&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
</tr>
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</table>

Lake George, Loud Thunder Forest Preserve
Rock Island County

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Limit</th>
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</thead>
<tbody>
<tr>
<td>Recreational Use Restrictions</td>
<td>- All live bait in excess of 8&quot; must be rigged with a quick set rig (43)</td>
</tr>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Pure Muskellunge</td>
<td>- 36&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Striped, White, or Hybrid Striped Bass</td>
<td>- 17&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Striped, White, or Hybrid Striped Bass (16)</td>
<td>- 1 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>White, Black, or Hybrid Crappie (15)</td>
<td>- 25 Fish Daily Creel Limit</td>
</tr>
</tbody>
</table>

Lake Jacksonville, City of Jacksonville
Morgan County

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Limit</th>
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</thead>
<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td><strong>Bluegill or Redear Sunfish</strong></td>
<td>- 8&quot; Minimum Length Limit</td>
</tr>
<tr>
<td><strong>Bluegill or Redear Sunfish</strong></td>
<td>- 10 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 15&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Striped, White, or Hybrid Striped Bass</td>
<td>- 17&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Striped, White, or Hybrid Striped Bass (16)</td>
<td>- 3 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>White, Black, or Hybrid Crappie (15)</td>
<td>- 25 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>White, Black, or Hybrid Crappie</td>
<td>- 9&quot; Minimum Length Limit</td>
</tr>
</tbody>
</table>
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Lake Kakusha, City of Mendota
LaSalle County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Le-Aqua-Na, Lake Le-Aqua-Na State Park
Stephenson County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Lake Mendota, City of Mendota
LaSalle County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish ≥ 15" &/or 2 <12" Daily (31)

Lake Michigan (Illinois Portion), State of Illinois
Lake/Cook Counties
Trout and Salmon - 10" Minimum Length Limit
Trout and Salmon - No more than 5 fish of any one species daily, except for Lake Trout
Lake Trout - 2 Fish Daily Creel Limit
Yellow Perch - 15 Fish Daily Creel Limit
Yellow Perch - Taking of yellow perch from charter boats is prohibited
Yellow Perch - Closed During July (exception: 10 fish daily limit during July for youth under age 16)
Large or Smallmouth Bass - 21" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Lake Milliken, Des Plaines Conservation Area
Will County
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Trout - Spring Closed Season (11)

Lake Mingo & Kennekuk Cove Park Ponds, Vermilion County Conservation Area
Vermilion County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Pure Muskellunge - 48" Minimum Length Limit (40)

Lake Murphysboro, Lake Murphysboro State Park
Jackson County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Lake Nellie, City of St. Elmo
Fayette County
All Fish - 2 Pole and Line Fishing Only (1) (5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Lake of the Woods & Elk's Pond, Champaign County Forest Preserve District
Champaign County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Trout - Spring Closed Season (11)

Lake Owen, Hazel Crest Park District
NOTICE OF ADOPTED AMENDMENTS

Cook County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit

Lake Paradise, City of Mattoon
- All Fish: 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass: 14” Minimum Length Limit

Lake Paradise Shadow Ponds, City of Mattoon
- All Fish: 2 Pole and Line Fishing Only (1)
- Large or Smallmouth Bass: 14” Minimum Length Limit
- Channel Catfish: 6 Fish Daily Creel Limit

Lake Sara, City of Effingham
- Large or Smallmouth Bass: 14” Minimum Length Limit
- White, Black, or Hybrid Crappie (15): 25 Fish Daily Creel Limit

Lake Shelbyville (21), U.S. Army Corps of Engineers
- Recreational Use Restrictions: During the regular waterfowl season, no bank or boat fishing shall be permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad Bridge from one-half hour before sunrise to 1 p.m.
- All live bait in excess of 8” must be rigged with a quick set rig (43)
- Large or Smallmouth Bass: 14” Minimum Length Limit
- Pure Muskellunge: 48” Minimum Length Limit (40)(4)
- White, Black, or Hybrid Crappie (15): 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie: 10” Minimum Length Limit

Lake Shelbyville – U.S. Army Corps of Engineers Project Ponds and Wood Lake, and Lake Shelbyville State Fish and Wildlife Management Area Ponds (33)
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

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Large or Smallmouth Bass - 14" Minimum Length Limit
White, Black, or Hybrid Crappie - 10" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Lake Shermerville, Northbrook Park District
Cook County
All Fish - 2 Pole and Line Fishing Only
Channel Catfish - 6 Fish Daily Creel Limit

Lake Sinnissippi (19)
Whiteside County

Lake Springfield, City of Springfield
Sangamon County
All Fish - 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass - 15" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Lake Storey, City of Galesburg
Knox County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill and Redear Sunfish (14) - 25 Fish Daily Creel Limit
Channel or Blue Catfish (14) - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish > 15" and/or 5 <12" Daily (12)
Pure Muskellunge - 42" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit

Lake Strini, Village of Romeoville
Will County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Lake Sule, Flagg-Rochelle Park District
Ogle County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
DEPARTMENT OF NATURAL RESOURCES

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All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 5 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Pure Muskellunge - 36" Minimum Length Limit
White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Lake Taylorville, City of Taylorville
Christian County
Large or Smallmouth Bass - 15" Minimum Length Limit
White, Black, or Hybrid Crappie - 9" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Vandalia, City of Vandalia
Fayette County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Lake Vermilion, Vermilion County Conservation District
Vermilion County
All Fish - 2 Pole and Line Fishing Only (1) (26) (except that sport fishermen may take carp, carpsuckers, buffalo, gar, bowfin, and suckers by pitchfork, gigs, bow and arrow or bow and arrow devices north of Boiling Springs Road, but not within 300 feet around the wetland boardwalk
Large or Smallmouth Bass - 15" Minimum Length Limit
White, Black, or Hybrid Crappie - 9" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Lake Victoria, City of South Beloit
Winnebago County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Area</th>
<th>Regulations</th>
</tr>
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<tbody>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
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<tr>
<td>Lake Williamsville, City of Williamsville</td>
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<tr>
<td>Sangamon County</td>
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<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>LaSalle Lake, LaSalle Lake State Fish and Wildlife Area</td>
<td></td>
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<tr>
<td>LaSalle County</td>
<td></td>
</tr>
<tr>
<td>Recreational Use Restrictions</td>
<td>- Waterfowl refuge or hunting area; LaSalle Lake is closed to all fishing and boating from October 16 until March 15; during October and March, the lake is closed on Mondays and Tuesdays</td>
</tr>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 18&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Striped, White, or Hybrid Striped Bass (16)</td>
<td>- 10 Creel/3 Fish 17&quot; or Longer Daily (17)</td>
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<tr>
<td>Levings Lake, Rockford Park District</td>
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<tr>
<td>Winnebago County</td>
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</tr>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
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<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
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<tr>
<td>Lincoln Log Cabin Pond, Lincoln Log Cabin Historical Site</td>
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<td>Coles County</td>
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</tr>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>- 15&quot; Minimum Length Limit</td>
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<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
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<tr>
<td>Lincoln Park North Lagoon, Chicago Park District</td>
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<tr>
<td>Cook County</td>
<td></td>
</tr>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 4 Fish Daily Creel Limit</td>
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</tbody>
</table>
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Lincoln Park South Lagoon, Chicago Park District
Cook County
   All Fish - 2 Pole and Line Fishing Only (1)
   Channel Catfish - 4 Fish Daily Creel Limit

Lincoln Trail Lake, Lincoln Trail State Park
Clark County
   All Fish - 2 Pole and Line Fishing Only (1)
   Channel Catfish - 6 Fish Daily Creel Limit
   Large or Smallmouth Bass - 14-18" Slot Length Limit (14" to 18" protected)
   Large or Smallmouth Bass (14) - 4 Creel/1 Fish >18" Daily (daily Catch Limit for large or smallmouth bass, singly or in the aggregate, shall not exceed 4 fish per day, no more than one of which shall be greater than 18" in length)

Litchfield City Lake, City of Litchfield
Montgomery County
   Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit – 1 Fish 15" or Over and 2 Fish Under 15" Total Length (25)
   White, Black or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Loami Reservoir, City of Loami
Sangamon County
   All Fish - 2 Pole and Line Fishing Only (1)
   Channel Catfish - 6 Fish Daily Creel Limit
   Large or Smallmouth Bass - 15" Minimum Length Limit

Lou Yeager Lake, City of Litchfield
Montgomery County
   Large or Smallmouth Bass - 15" Minimum Length Limit
   Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Lyerla Lake, Union County Conservation Area
Union County
   All Fish - 2 Pole and Line Fishing Only (1)(5)
   Channel Catfish - 6 Fish Daily Creel Limit

Mackinaw Ponds 1, 2, and 3, Mackinaw State Fish and Wildlife Area
DEPARTMENT OF NATURAL RESOURCES

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Tazewell County
- Large or Smallmouth Bass - 15” Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Macon County Conservation District Ponds (see also Rock Springs Pond and Rock Springs Bike Trail Pond), Macon County Conservation District
- Macon County
  - All Fish - 2 Pole and Line Fishing Only (1)

Mallard Lake, DuPage County Forest Preserve District
- DuPage County
  - All Fish - 2 Pole and Line Fishing Only (1)
  - Channel Catfish - 3 Fish Daily Creel Limit
  - Channel Catfish - 12” Minimum Length Limit
  - Large or Smallmouth Bass - 15” Minimum Length Limit
  - Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
  - Walleye, Sauger, or Hybrid Walleye - 16” Minimum Length Limit
  - Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
  - White, Black, or Hybrid Crappie - 9” Minimum Length Limit
  - White, Black, or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Maple Lake, Cook County Preserve District
- Cook County
  - All Fish - 2 Pole and Line Fishing Only (1) (36)
  - Channel Catfish - 6 Fish Daily Creel Limit
  - Large or Smallmouth Bass - 14” Minimum Length Limit

Marissa City Lake, City of Marissa
- St. Clair County
  - All Fish - 2 Pole and Line Fishing Only (1)
  - Channel Catfish - 6 Fish Daily Creel Limit

Marquette Park Lagoon, Chicago Park District
- Cook County
  - All Fish - 2 Pole and Line Fishing Only (1)
  - Channel Catfish - 4 Fish Daily Creel Limit

Marshall County Conservation Area (Fishing Ditch), Marshall County Conservation Area (33)
- Marshall County
NOTICE OF ADOPTED AMENDMENTS

All Fish - 2 Pole and Line Fishing Only (1)

Marshall County Conservation Area – Sparland Unit (19)
Marshall County

Mascoutah Reservoir, City of Mascoutah
St. Clair County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Matthiessen Lake, Matthiessen State Park
LaSalle County
  All Fish - 2 Pole and Line Fishing Only (1)(5)
  Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
  Channel Catfish - 6 Fish Daily Creel limit
  Large or Smallmouth Bass - 14" Minimum Length Limit

Mattoon Lake, City of Mattoon
Coles County
  All Fish - 2 Pole and Line Fishing Only (1)
  Large or Smallmouth Bass - 14" Minimum Length Limit

Mautino Fish and Wildlife Area, Mautino Fish and Wildlife Area
Bureau County
  All Fish - 2 Pole and Line Fishing Only (1) (34)
  Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Mauvaise Terre/Morgan Lake, City of Jacksonville
Morgan County
  Large or Smallmouth Bass - 15" Minimum Length Limit

Mazonia Lakes & Ponds (excluding Ponderosa Lake), Mazonia State Fish and Wildlife Area (33)
Grundy/Kankakee/Will Counties
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

McCullom Lake, City of McHenry
McHenry County
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

McKinley Park Lagoon, Chicago Park District
Cook County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 4 Fish Daily Creel Limit

McLeansboro City Lakes, City of McLeansboro
Hamilton County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Meredosia Lake – Cass County Portion Only (meandered waters only) (33)
Cass County
- Meandered waters only; All boat traffic is prohibited from operating on meandered waters (except non-motorized boats may be used to assist in the retrieval of waterfowl shot from private land) from the period from one week before waterfowl season opens until the season closes; hunting and/or any other activity is prohibited during the period from one week before waterfowl season opens until the season closes
DEPARTMENT OF NATURAL RESOURCES

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Mermet State Lake, Mermet Lake Conservation Area (33)
Massac County
  All Fish - 2 Pole and Line Fishing Only (5)
  Bluegill or Redear Sunfish - 8" Minimum Length Limit
  Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit
  White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Middle Fork Forest Preserve Pond, Champaign County Forest Preserve
Champaign County
  All Fish - 2 Pole and Line Fishing Only (1)
  Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit

Middle Fork of the Vermilion River, Kickapoo State Park and Middle Fork Wildlife Area
Vermilion County
  All Fish - 2 Pole and Line Fishing Only (1)

Mill Creek Lake, Clark County Park District
Clark County
  Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 12-15" Slot Length Limit (3)
  Pure Muskellunge - 42" Minimum Length Limit

Mill Pond, Pearl City Park District
Stephenson County
  All Fish - 2 Pole and Line Fishing Only (1)
  Large or Smallmouth Bass - 14" Minimum Length Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Mill Race Ponds, Belvidere Park District
Boone County
  Trout - Spring Closed Season (11)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Miller Park Lake, City of Bloomington
McLean County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Trout - Spring Closed Season (11)

Mineral Springs Park Lagoon, City of Pekin
Tazewell County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Trout - Fall Closed Season (10)

Mississippi River Pools 16, 17, 18, 21, 22, 24, 25, 26 (19)
Multiple Counties
- Recreational Use Restrictions
  - Any tagged sport fishing device may not be left unattended for more than 24 hours or must be completely removed
  - Tailwaters of Lock and Dam 12 (down to Mill Creek, an Iowa tributary located at River Mile 556.0) and tailwaters of Lock and Dam 13 (down to the downstream end of Stamp Island, River Mile 521.5) closed to all fishing from December 1 through March 15
- All Fish - Anglers must not use more than 2 poles and each pole must not have more than 2 hooks or lures while trolling
- Bluegill or Pumpkinseed Sunfish - 25 Fish Daily Creel Limit singly or in aggregate
- Large or Smallmouth Bass - 14" Minimum Length Limit
- Large or Smallmouth Bass (14) - 5 Fish Daily Creel Limit
- Northern Pike - 5 Fish Daily Creel Limit
- Paddlefish - Snagging for paddlefish is permitted from January 1 through April 15 within a 500 yard downstream limit below locks and dams on the Mississippi River between Illinois and Iowa except the tailwaters of Lock and Dam
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

12 and 13 are closed to all fishing from December 1 through March 15; daily catch limit is 2 fish

<table>
<thead>
<tr>
<th>Species</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rock Bass</td>
<td>25 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Striped, White, Yellow or Hybrid</td>
<td>25 Fish Daily Creel Limit singly or in aggregate – statewide regulation limiting daily creel to 3 fish 17&quot; or longer is not in effect on the Mississippi River between Illinois and Iowa</td>
</tr>
<tr>
<td>Striped Bass</td>
<td></td>
</tr>
<tr>
<td>Walleye and Sauger (14)</td>
<td>6 Fish Daily Creel Limit with no more than 1 walleye greater than 27&quot; in total length</td>
</tr>
<tr>
<td>Walleye</td>
<td>15&quot; Minimum Length Limit with a 20-27&quot; Protected Slot Length Limit (24)</td>
</tr>
<tr>
<td>White, Black or Hybrid Crappie (15)</td>
<td>25 Fish Daily Creel Limit singly or in aggregate</td>
</tr>
<tr>
<td>Yellow Perch</td>
<td>25 Fish Daily Creel Limit</td>
</tr>
</tbody>
</table>

Mississippi River (between IL & MO), State of Illinois
Multiple Counties
Recreational Use Restrictions
- Boating prohibited on refuge area (Ellis Bay) immediately upstream of Melvin Price Lock and Dam 26 overflow dike from October 15-April 15
- Any tagged sport fishing device may not be left unattended for more than 24 hours or must be completely removed

All Nongame Species Combined
(Excludes endangered and threatened species and the following game species: Crappie, Channel/Blue/Flathead Catfish, Rock Bass, Warmouth, White/Yellow/Striped/Hybrid Striped Bass, Trout, Largemouth/Smallmouth/Spotted Bass, Muskellunge, Northern Pike, Chain/Grass Pickerel, Walleye, Sauger, Paddlefish)

<table>
<thead>
<tr>
<th>Species</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Channel or Blue Catfish (14)</td>
<td>20 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Flathead Catfish</td>
<td>10 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Largemouth, Smallmouth, Spotted Bass</td>
<td>12&quot; Minimum Length Limit or</td>
</tr>
</tbody>
</table>
NOTICE OF ADOPTED AMENDMENTS

Northern Pike - 1 Fish Daily Creel Limit
Paddlefish - Snagging for paddlefish is permitted from September 15 though December 15 and March 15 through May 15 within a 300 yard downstream limit below locks and dams on the Mississippi River between Illinois and Missouri; daily catch limit is 2 fish
Striped, White, Yellow or Hybrid Striped Bass - 30 Fish Daily Creel Limit singly or in aggregate – statewide regulation limiting daily creel to 3 fish 17" or longer is not in effect on the Mississippi River between Illinois and Missouri
Walleye and Sauger (14) - 8 Fish Daily Creel Limit
White, Black or Hybrid Crappie (15) - 30 Fish Daily Creel Limit

Monee Reservoir, Will County Forest Preserve District
Will County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Montrose Lake, City of Montrose
Cumberland County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Mt. Olive City Lakes (Old and New), City of Mt. Olive
Macoupin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Mt. Pulaski Park District Lake, Mt. Pulaski Park District
Logan County
All Fish - 2 Pole and Line Fishing Only (1)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Mt. Sterling Lake, City of Mt. Sterling
Brown County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 12-15" Slot Length Limit (3)

Mt. Vernon City Park Lake, City of Mt. Vernon
Jefferson County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Mt. Vernon Game Farm Pond, Mt. Vernon Game Farm
Jefferson County
  All Fish - 2 Pole and Line Fishing Only (1)
  Trout - Fall Closed Season (10)
  Trout - Spring Closed Season (11)

Mundelein Park District Ponds, City of Mundelein
Lake County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Nashville City Lake, City of Nashville
Washington County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 18" Minimum Length Limit

Newton Lake, Newton Lake State Fish and Wildlife Area (41)
Jasper County
  Recreational Use Restrictions - The cold water arm of Newton Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters during waterfowl season commencing with regular duck season through the close of the Canada goose and regular duck season
### DEPARTMENT OF NATURAL RESOURCES

#### NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 18&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 3 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>White, Black, or Hybrid Crappie (15)</td>
<td>- 10 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>White, Black, or Hybrid Crappie</td>
<td>- 10&quot; Minimum Length Limit</td>
</tr>
</tbody>
</table>

**Norris City Reservoir, City of Norris City, White County**

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 15&quot; Minimum Length Limit</td>
</tr>
</tbody>
</table>

**North Marcum Campground Pond, U.S. Army Corps of Engineers, Franklin County**

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recreational Use Restrictions</td>
<td>- Fishing permitted only by persons under 16 years of age</td>
</tr>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 3 Fish Daily Creel Limit</td>
</tr>
</tbody>
</table>

**Oakford Conservation Area (Menard County) (19), Menard County**

<table>
<thead>
<tr>
<th>Fish Type</th>
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<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
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</tbody>
</table>

**Oakland City Lake, City Lake, City of Oakland, Coles County**

<table>
<thead>
<tr>
<th>Fish Type</th>
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<tr>
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<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
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**Oblong Lake, City of Oblong, Crawford County**

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Regulations</th>
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</thead>
<tbody>
<tr>
<td>All Fish</td>
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</tr>
<tr>
<td>Channel Catfish</td>
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</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 15&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 3 Fish Daily Creel Limit</td>
</tr>
</tbody>
</table>

**Ohio River (between Illinois & Kentucky), State of Illinois, Multiple Counties (19)**

<table>
<thead>
<tr>
<th>Fish Type</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 12&quot; Minimum Length Limit</td>
</tr>
</tbody>
</table>
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Northern Pike - No Length or Creel Limit
Muskie or Tiger Muskie - 2 Fish Daily Creel Limit
Muskie or Tiger Muskie - 30" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye(14) - 10 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15) - 30 Fish Daily Creel Limit
Striped, White, Yellow or Hybrid Striped Bass - 30 Creel/4 Fish 15" or Longer Daily (32)

Ohio River – Smithland Pool Tributary Streams (in Pope/Hardin/Gallatin Counties, excluding Wabash River and Saline River Above Route 1 Bridge) (19)
Multiple Counties
Large and Smallmouth Bass - 12" Minimum Length Limit

Old Kinmundy Reservoir, City of Kinmundy
Marion County
All Fish - 2 Pole and Line Fishing Only (1)(5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Olsen Lake, Rock Cut State Park
Winnebago County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Omaha City Reservoir, City of Omaha
Gallatin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit

Otter Lake, Otter Lake Water Commission
Macoupin County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

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Striped, White, or Hybrid Striped Bass  - 10 Creel/3 Fish 17" or Longer Daily (17)
(Pure Muskellunge  - 48" Minimum Length Limit (40)

Palmyra – Modesto Water Commission Lake, Palmyra/Modesto Water Commission
Macoupin County
All Fish  - 2 Pole and Line Fishing Only (1)
Channel Catfish  - 6 Fish Daily Creel Limit
Large or Smallmouth Bass  - 15" Minimum Length Limit
Large or Smallmouth Bass (14)  - 3 Fish Daily Creel Limit

Pana Lake, City of Pana
Shelby and Christian Counties
Recreational Use Restrictions  - All live bait in excess of 8" must be rigged
All Fish  - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish  - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14)  - 10 Fish Daily Creel Limit
Channel Catfish  - 6 Fish Daily Creel Limit
Large or Smallmouth Bass  - 14" Minimum Length Limit

Paris East & West Lakes, City of Paris
Edgar County
All Fish  - 2 Pole and Line Fishing Only (1)
Channel Catfish  - 6 Fish Daily Creel Limit
Large or Smallmouth Bass  - 14" Minimum Length Limit

Peabody River King, Pit #3 Lakes and Ponds, River King State Conservation Area (see also
Willow Lake for additional regulations)
St Clair County
All Fish  - 2 Pole and Line Fishing Only (1) (34)
Channel Catfish  - 6 Fish Daily Creel Limit
Large or Smallmouth Bass  - 15" Minimum Length Limit
Large or Smallmouth Bass (14)  - 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15)  - 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie  - 9" Minimum Length Limit

Pecatonica River and Tributaries, State of Illinois
Winnebago/Stephenson Counties
Smallmouth Bass  - 14" Minimum Length Limit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Pekin Lake
Tazewell County

Perry Farm Pond, Bourbonnais Park District
Kankakee County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit

Piasa (19)
Madison/Jersey Counties

Pierce Lake, Rock Cut State Park
Winnebago County
  Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
  All Fish - 2 Pole and Line Fishing Only (1) (7)
  Bluegill or Redear Sunfish - 8" Minimum Length Limit
  Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit
  Pure Muskellunge - 48" Minimum Length Limit (40)
  White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Pike County Conservation Area (19)
Pike County

Pinckneyville Lake, City of Pinckneyville
Perry County
  Large or Smallmouth Bass - 18" Minimum Length Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Pine Creek
Ogle County
  Trout - Spring Closed Season (11)

Pine Creek (within the boundaries of White Pines Forest State Park)
Ogle County
  All Fish - 2 Pole and Line Fishing Only (1)
NOTICE OF ADOPTED AMENDMENTS

Trout - Spring Closed Season (11)

Pine Lake, Village of University Park
Will County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit

Piscasaw Creek
McHenry County
  Trout - 9" Minimum Length Limit
  Trout - Spring Closed Season (11)

Pittsfield City Lake, City of Pittsfield
Pike County
  All Fish - 2 Pole and Line Fishing Only (1) (7)
  Large or Smallmouth Bass - 14" Minimum Length Limit
  Striped, White, or Hybrid Striped Bass - 17" Minimum Length
  Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Pocahontas Park Ponds, City of Pocahontas
Bond County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit

Ponderosa Lake, Mazonia State Fish and Wildlife Area (33)
Grundy County
  All Fish - 2 Pole and Line Fishing Only (1)
  Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
  White, Black or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Powerton Lake, Powerton Lake Fish and Wildlife Area (39)
Tazewell County
  Recreational Use Restrictions - Powerton Lake shall be closed to boat traffic except for legal waterfowl hunters from one week prior to regular waterfowl season to February 15, and closed to all unauthorized
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

entry during regular Canada goose and duck season

All Fish - 2 Pole and Line Fishing Only (1)
Channel or Blue Catfish (14) - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass (16) - 10 Creel/3 Fish 17" or Longer Daily (17)
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Prospect Pond, City of Moline
Rock Island County
Trout - Fall Closed Season (10)

Pyramid State Park – Blue Wing Lake, Green Wing Lake and Goldeneye Lake, Pyramid State Park
Perry County
Recreational Use Restrictions - Waterfowl Hunting Area (from October 28 through February 28 fishing is permitted in designated areas only, and fishing hours are from ½ hour before sunrise to 2 p.m.)

All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit

Pyramid State Park – Captain, Denmark, and Galum and East Conant Areas – All Lakes and Ponds except Blue Wing Lake, Green Wing Lake and Goldeneye Lake, Pyramid State Park
Perry County
Recreational Use Restrictions - Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting prohibited from October 28 through February 28)

All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 18" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
NOTICE OF ADOPTED AMENDMENTS

White, Black, or Hybrid Crappie (15)  - 25 Fish Daily Creel Limit

Pyramid State Park Lakes & Ponds (excluding Captain, Denmark and Galum Areas), Pyramid State Park
Perry County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit

Ramsey Lake, Ramsey Lake State Park
Fayette County
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14” Minimum Length Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9” Minimum Length Limit

Ramsey Lake State Park Ponds, Ramsey Lake State Park
Fayette County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14” Minimum Length Limit

Randolph County Lake, Randolph County Conservation Area
Randolph County
- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14” Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- Trout - Fall Closed Season (10)

Red Hills Lake, Red Hills State Park
Lawrence County
- All Fish - 2 Pole and Line Fishing Only (1)
- Bluegill or Redear Sunfish - 8” Minimum Length Limit
- Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15” Minimum Length Limit

Red's Landing Wildlife Management Area (19)
**Calhoun County**
(Walk-in area closed to trespassing 7 days prior to duck season)

**Redwing Slough/Deer Lake (33)**
Lake County

**Rend Lake, U.S. Army Corps of Engineers (22) (33)**
Franklin and Jefferson Counties

<table>
<thead>
<tr>
<th>Species</th>
<th>Regulations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Channel Catfish</td>
<td>All jugs must be attended at all times while fishing (2)</td>
</tr>
<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Striped, White, Yellow, or Hybrid Striped Bass (8)</td>
<td>- 20 Creel/3 Fish 17&quot; or Longer Daily</td>
</tr>
<tr>
<td>White, Black or Hybrid Crappie (15)</td>
<td>- 25 Creel/5 Fish 10&quot; or Longer Daily</td>
</tr>
</tbody>
</table>

**Rend Lake Project Ponds – Jackie Branch Pond, Ina N. Borrow Pit, Green Heron Pond, North Marcum Campground Pond, U.S. Army Corps of Engineers**
Franklin and Jefferson Counties

<table>
<thead>
<tr>
<th>Recreational Use Restrictions</th>
<th>See kids only fishing regulations for North Marcum Campground Pond</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Bluegill or Redear Sunfish (14)</td>
<td>- 10 Fish Daily Creel Limit</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 6 Fish Daily Creel Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Large or Smallmouth Bass (14)</td>
<td>- 1 Fish Daily Creel Limit</td>
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</tbody>
</table>

**Rice Lake Fish and Wildlife Area (33)**
Fulton County

**Ridge Lake, Fox Ridge State Park**
Coles County

<table>
<thead>
<tr>
<th>Recreational Use Restrictions</th>
<th>Waterfowl Refuge or Hunting Area (19)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Fish</td>
<td>- 2 Pole and Line Fishing Only (1)</td>
</tr>
<tr>
<td>Channel Catfish</td>
<td>- 14&quot; Minimum Length Limit</td>
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<tr>
<td>Large or Smallmouth Bass</td>
<td>- 14&quot; Minimum Length Limit</td>
</tr>
</tbody>
</table>

**Riis Park Lagoon, Chicago Park District**
Cook County

| All Fish                     | - 2 Pole and Line Fishing Only (1)     |
| Channel Catfish              | - 46 Fish Daily Creel Limit            |
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Riprap Landing (19)
Calhoun County

River Bend Forest Preserve Lakes (Sunset Lake and Shadow Lake), Champaign County Forest Preserve District
Champaign County
   All Fish - 2 Pole and Line Fishing Only (1)
   Bluegill or Redear Sunfish - 8" Minimum Length Limit
   Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
   Channel Catfish - 6 Fish Daily Creel Limit
   Large or Smallmouth Bass - 15" Minimum Length Limit
   Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Riverside Park Lagoon, Moline Park District
Rock Island County
   All Fish - 2 Pole and Line Fishing Only (1)
   Channel Catfish - 6 Fish Daily Creel Limit

Rock Creek, State of Illinois
Kankakee County
   Trout - Spring Closed Season (11)

Rock River, from the Sears and Steel Dam downstream to confluence of the Mississippi River, State of Illinois
Rock Island County
   Walleye - 15" Minimum Length Limit with a 20-27" Protected Slot Length Limit (24)
   Walleye and Sauger (14) - 6 Fish Daily Creel Limit with no more than 1 walleye greater than 27" in total length

Rock River, Wisconsin State Line downstream to confluence of the Mississippi River, including tributaries, State of Illinois
Multiple Counties
   Smallmouth Bass - 14" Minimum Length Limit

Rock Springs Bike Trail Pond, Macon County Conservation District
Macon County
   All Fish - 2 Pole and Line Fishing Only (1)
   Channel Catfish - 6 Fish Daily Creel Limit
### Notice of Adopted Amendments

**Large or Smallmouth Bass** - 15" Minimum Length Limit
**Large or Smallmouth Bass (14)** - 1 Fish Daily Creel Limit

**Rock Springs Pond, Macon County Conservation District**
**Macon County**
- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Channel Catfish** - 6 Fish Daily Creel Limit
- **Large or Smallmouth Bass** - 15" Minimum Length Limit
- **Large or Smallmouth Bass (14)** - 1 Fish Daily Creel Limit
- **Trout** - Fall Closed Season (10)

**Roodhouse Park Lake, City of Roodhouse**
**Green County**
- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Channel Catfish** - 6 Fish Daily Creel Limit

**Route 154 Day Use Pond, State of Illinois**
**Randolph County**
- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Channel Catfish** - 6 Fish Daily Creel Limit
- **Large or Smallmouth Bass** - 15" Minimum Length Limit
- **Large or Smallmouth Bass (14)** - 1 Fish Daily Creel Limit

**Sag Quarry East, Cook County Forest Preserve District**
**Cook County**
- **Rainbow Trout** - Spring Closed Season (11)

**Sahara Woods Fish and Wildlife Area, State of Illinois**
**Saline County**
- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Bluegill or Redear Sunfish (14)** - 15 Fish Daily Creel Limit
- **Channel Catfish** - 6 Fish Daily Creel Limit
- **Large or Smallmouth Bass** - 18" Minimum Length Limit
- **Large or Smallmouth Bass (14)** - 1 Fish Daily Creel Limit
- **White, Black, or Hybrid Crappie (15)** - 15 Fish Daily Creel Limit

**St. Elmo South Lake, City of St. Elmo**
**Fayette County**
- **All Fish** - 2 Pole and Line Fishing Only (1)
- **Channel Catfish** - 6 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass - 14" Minimum Length Limit

Salem Reservoir, City of Salem
Marion County
  All Fish - 2 Pole and Line Fishing Only (1) (5)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit

Sam Dale Lake, Sam Dale Conservation Area
Wayne County
  All Fish - 2 Pole and Line Fishing Only (1)(5)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit

Sam Dale Trout Pond, Sam Dale Conservation Area
Wayne County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit
  Trout - Fall Closed Season (10)
  Trout - Spring Closed Season (11)

Sam Parr Lake, Sam Parr State Park
Jasper County
  All Fish - 2 Pole and Line Fishing Only (1) (5)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit

Sand Lake, Illinois Beach State Park
Lake County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
  Trout - Fall Closed Season (10)
  Trout - Spring Closed Season (11)

Sanganois Conservation Area (33) (42)
Mason/Cass/Schuyler/Menard Counties
Notices of Adopted Amendments

Sangchris Lake, Sangchris Lake State Park
Christian/Sangamon Counties

Recreational Use Restrictions - Posted waterfowl refuge closed to all boat traffic during waterfowl season. Bank fishing along the dam shall be permitted. Fishing shall be prohibited in the east and west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season.

- All Fish - 2 Pole and Line Fishing Only (1) (34)
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 10" Minimum Length Limit

Sangchris Lake Park Ponds, Sangchris Lake State Park
Sangamon County

- All Fish - 2 Pole and Line Fishing Only (1)

Schiller Pond, Cook County Forest Preserve District
Cook County

- All Fish - 2 Pole and Line Fishing Only (1) (36)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Schuy-Rush Lake, City of Rushville
Schuyler County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- White, Black or Hybrid Crappie - 9" Minimum Length Limit

Senior Citizen's Pond, Kankakee River State Park
Kankakee County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Sesser City Lake, City of Sesser
Franklin County
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass - 18" Minimum Length Limit
 Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Shabbona Lake, Shabbona Lake State Park
DeKalb County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
 All Fish - 2 Pole and Line Fishing Only (1) (7)
 Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
 Channel Catfish - 6 Fish Daily Creel Limit
 Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
 Large or Smallmouth Bass - 14" Minimum Length Limit
 Pure Muskellunge - 48" Minimum Length Limit (40)
 Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit
 White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Shawnee National Forest Lakes and Ponds less than 10 acres, U.S. Forest Service
Multiple Counties
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Largemouth, Smallmouth or Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Bay Creek Lake #5 and #8 (Sugar Creek Lake), U.S. Forest Service
Pope County
 All Fish - 2 Pole and Line Fishing Only (1)
 Channel Catfish - 6 Fish Daily Creel Limit
 Largemouth, Smallmouth and Spotted Bass - 15" Minimum Length Limit

Shawnee National Forest – Dutchman Lake, U.S. Forest Service
Johnson County
 All Fish - 2 Pole and Line Fishing Only (1)
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<td>Shawnee National Forest – Lake Glendale, U.S. Forest Service, Pope County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<td>Largemouth, Smallmouth or Spotted Bass - 15&quot; Minimum Length Limit</td>
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<tr>
<td>Shawnee National Forest – Little Cache #1, U.S. Forest Service, Johnson County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<td>Largemouth or Smallmouth Bass - 15&quot; Minimum Length Limit</td>
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<tr>
<td>Shawnee National Forest – Little Cedar Lake, U.S. Forest Service, Jackson County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<td>Largemouth, Smallmouth or Spotted Bass - 15&quot; Minimum Length Limit</td>
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<tr>
<td>Shawnee National Forest – One Horse Gap Lake, U.S. Forest Service, Pope County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<td>Largemouth, Smallmouth or Spotted Bass - 15&quot; Minimum Length Limit</td>
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<tr>
<td>Shawnee National Forest – Pounds Hollow Lake, U.S. Forest Service, Gallatin County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<td></td>
<td>Largemouth, Smallmouth or Spotted Bass - 15&quot; Minimum Length Limit</td>
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<tr>
<td>Shawnee National Forest – Tecumseh Lake, U.S. Forest Service, Hardin County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<tr>
<td></td>
<td>Largemouth, Smallmouth or Spotted Bass - 15&quot; Minimum Length Limit</td>
</tr>
<tr>
<td>Shawnee National Forest – Turkey Bayou, U.S. Forest Service</td>
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</tr>
</tbody>
</table>
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Jackson County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass: 15" Minimum Length Limit

Shawnee National Forest – Whoopie Cat Lake, U.S. Forest Service

Hardin Counties
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit
- Largemouth, Smallmouth or Spotted Bass: 15" Minimum Length Limit

Sherman Park Lagoon, Chicago Park District

Cook County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 4 Fish Daily Creel Limit

Siloam Springs Lake, Siloam Springs State Park

Adams County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit
- Large or Smallmouth Bass: 12-15" Slot Length Limit (3)
- Trout: Fall Closed Season (10)
- Trout: Spring Closed Season (11)

Siloam Springs State Park Buckhorn Unit Waters, Siloam Springs State Park

Brown County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 6 Fish Daily Creel Limit
- Bluegill or Redear Sunfish: 8" Minimum Length Limit
- Bluegill or Redear Sunfish (14): 10 Fish Daily Creel Limit
- Large or Smallmouth Bass: 18" Minimum Length Limit
- Large or Smallmouth Bass (14): 1 Fish Daily Creel Limit

Silver Lake, Dupage County Forest Preserve District

Dupage County
- All Fish: 2 Pole and Line Fishing Only (1)
- Channel Catfish: 3 Fish Daily Creel Limit
- Channel Catfish: 12" Minimum Length Limit
- Largemouth or Smallmouth Bass: 15" Minimum Length Limit
- Large or Smallmouth Bass (14): 3 Fish Daily Creel Limit
NOTICE OF ADOPTED AMENDMENTS

Trout - Spring Closed Season (11)
Walleye, Sauger, or Hybrid Walleye - 16" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
White, Black or Hybrid Crappie - 9" Minimum Length Limit
White, Black or Hybrid Crappie (15) - 15 Fish Daily Creel Limit

Silver Springs S.P. (Big Lake) & Ponds, Silver Springs State Fish and Wildlife Area
Kendall County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Skokie Lagoons, Cook County Forest Preserve District
Cook County
All Fish - 2 Pole and Line Fishing Only (1) (36)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye - 18" Minimum Length Limit

Small Pit Pond, Boone County Conservation District
Boone County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Snakeden Hollow State Fish and Wildlife Area – McMaster Lake & Other Site Waters, State of Illinois
Knox County
Recreational Use Restrictions - Waterfowl Refuge or Hunting Area (all use other than waterfowl hunting prohibited from October 1 through the end of the Canada goose season)
- All live bait in excess of 8" must be rigged with a quick set rig (43)

All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit with only one fish 15" or longer
Pure Muskelunge - 42" Minimum Length Limit
Walleye, Sauger, or Hybrid Walleye (14) - 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie (15) - 5 Fish Daily Creel Limit

Sparta City Lakes, City of Sparta
Randolph County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Sparta "T" Lake, City of Sparta
Randolph County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 15 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
White, Black, or Hybrid Crappie - 9" Minimum Length Limit
White, Black, or Hybrid Crappie (15) - 10 Fish Daily Creel Limit

Spencer Lake, Boone County Conservation District
Boone County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Sportsmans' Club Pond, Macon County Conservation District
Macon County
All Fish - 2 Pole and Line Fishing Only (1)
Trout - Spring Closed Season (11)

Spring Lake, City of Macomb
McDonough County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1) (5)
DEPARTMENT OF NATURAL RESOURCES

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Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Spring Lakes (North & South), Spring Lake Conservation Area (33)
Tazewell County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1) (34)(7)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Pure Muskellunge - 48" Minimum Length Limit (40)
White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
White, Black, or Hybrid Crappie - 9" Minimum Length Limit

Spring Pond, Flagg-Rochelle Park District
Ogle County
All Fish - 2 Pole and Line Fishing Only (1)
Large or Smallmouth Bass - 14" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Starved Rock State Park (19)
LaSalle County

Staunton City Lake, City of Staunton
Macoupin County
Recreational Use Restrictions - All live bait in excess of 8" must be rigged with a quick set rig (43)
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Steven A. Forbes State Park (19) (see also Forbes State Lake and Forbes State Park Ponds)
Marion County
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Sterling Lake, Lake County Forest Preserve District
Lake County

- Recreational Use Restrictions
  All live bait in excess of 8" must be rigged with a quick set rig (43)

- All Fish
  - 2 Pole and Line Fishing Only (1)

- Channel Catfish
  - 6 Fish Daily Creel Limit

- Large or Smallmouth Bass (14)
  - 1 Fish Daily Creel Limit

- Large or Smallmouth Bass
  - 15" Minimum Length Limit

- Pure Muskellunge
  - 48" Minimum Length Limit

Storm Lake, DeKalb Park District
DeKalb County

- All Fish
  - 2 Pole and Line Fishing Only (1)

- Channel Catfish
  - 6 Fish Daily Creel Limit

- Large or Smallmouth Bass
  - 14" Minimum Length Limit

Stump Lake Wildlife Management Area (33)
Jersey County

Tampier Lake, Cook County Forest Preserve District
Cook County

- All Fish
  - 2 Pole and Line Fishing Only (36)

- Bluegill or Redear Sunfish
  - 8" Minimum Length Limit

- Bluegill or Redear Sunfish (14)
  - 10 Fish Daily Creel Limit

- Channel Catfish
  - 6 Fish Daily Creel Limit

- Large or Smallmouth Bass
  - 14" Minimum Length Limit

- Walleye, Sauger, or Hybrid Walleye
  - 18" Minimum Length Limit

Taylorville Park District Pond, Taylorville Park District
Christian County

- All Fish
  - 2 Pole and Line Fishing Only (1)

- Trout
  - Spring Closed Season (11)

Ten Mile Creek Lakes, Ten Mile Creek State Fish and Wildlife Area
Hamilton/Jefferson Counties (19)
(Areas designated as refuge are closed to all access during the Canada goose season)

- All Fish
  - 2 Pole and Line Fishing Only (1)

- Channel Catfish
  - 6 Fish Daily Creel Limit

- Large or Smallmouth Bass
  - 14" Minimum Length Limit
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Tilton City Lake, City of Tilton
Vermilion County
  Large or Smallmouth Bass - 15" Minimum Length Limit
  Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Toledo Reservoir, City of Toledo
Cumberland County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit

Turkey Bluff Ponds, State of Illinois
Randolph County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large and Smallmouth Bass - 15" Minimum Length Limit
  Large and Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Turner Lake, Chain O'Lakes State Park
Lake County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 1 Fish Daily Creel Limit
  Large or Smallmouth Bass (14) - 15" Minimum Length Limit

Tuscola City Lake, City of Tuscola
Douglas County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 14" Minimum Length Limit

Union County Conservation Area
Union County
(All fishing and boat traffic prohibited October 15-March 1)

Valley Lake, Wildwood Park District
Lake County
  All Fish - 2 Pole and Line Fishing Only (1)
  Channel Catfish - 6 Fish Daily Creel Limit
  Large or Smallmouth Bass - 15" Minimum Length Limit
**DEPARTMENT OF NATURAL RESOURCES**

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<td><strong>Valmeyer Lake, City of Valmeyer</strong></td>
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<tr>
<td>Monroe County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<td>Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit</td>
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<td><strong>Vanhorn Woods Pond, Plainfield Park District</strong></td>
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<td>Will County</td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<td>Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit</td>
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<td><strong>Vernor Lake, City of Olney</strong></td>
<td>All Fish - 2 Pole and Line Fishing Only (1)</td>
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<tr>
<td>Richland County</td>
<td>Channel Catfish - 6 Fish Daily Creel Limit</td>
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<td>Large or Smallmouth Bass - 14&quot; Minimum Length Limit</td>
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<td><strong>Villa Grove East Lake, City of Villa Grove</strong></td>
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<td>Douglas County</td>
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<td><strong>Villa Grove West Lake, City of Villa Grove</strong></td>
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<td>Trout - Fall Closed Season (10)</td>
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<td><strong>Virginia City Reservoir, City of Virginia</strong></td>
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<tr>
<td>Cass County</td>
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<td>Large or Smallmouth Bass - 15&quot; Minimum Length Limit</td>
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</tbody>
</table>
NOTICE OF ADOPTED AMENDMENTS

Waddams Creek
Stephenson County
Trout - Spring Closed Season (11)

Walnut Point Lake, Walnut Point State Fish and Wildlife Area
Douglas County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12-15" Slot Length Limit (3)

Walton Park Lake, City of Litchfield
Montgomery County
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish - 8" Minimum Length Limit
Bluegill or Redear Sunfish (14) - 10 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

Wampum Lake, Cook County Forest Preserve District
Cook County
All Fish - 2 Pole and Line Fishing Only (1) (36)
Bluegill or Redear Sunfish - Catch and Release Only (9)
Large or Smallmouth Bass - 14" Minimum Length Limit

Washington County Lake, Washington County Conservation Area
Washington County
All Fish - 2 Pole and Line Fishing Only (1) (5)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14" Minimum Length Limit
Striped, White, or Hybrid Striped Bass - 17" Minimum Length Limit
Striped, White, or Hybrid Striped Bass (16) - 3 Fish Daily Creel Limit

Washington Park Lagoon, Chicago Park District
Cook County
All Fish - 2 Pole and Line Fishing Only (1)
NOTICE OF ADOPTED AMENDMENTS

Channel Catfish - 4 Fish Daily Creel Limit

Washington Park Pond, Springfield Park District
Sangamon County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 3 Fish Daily Creel Limit
Trout - Fall Closed Season (10)
Trout - Spring Closed Season (11)

Waverly Lake, City of Waverly
Morgan County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit

Weinberg-King Pond, Weinberg-King State Park
Schuyler County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

Weldon Springs Lake, Weldon Springs State Park
DeWitt County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

West Frankfort New City Lake, City of West Frankfort
Franklin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15" Minimum Length Limit
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit

West Frankfort Old City Lake, City of West Frankfort
Franklin County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

West Salem Reservoir, City of West Salem
DEPARTMENT OF NATURAL RESOURCES

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Edwards County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 14” Minimum Length Limit

White Hall City Lake, City of White Hall

Greene County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit

White Oaks Park Lake, City of Bloomington

McLean County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 15” Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Wilderness Pond, Fox Ridge State Park

Coles County
Recreational Use Restrictions - Waterfowl Refuge or Hunting Area (19)
All Fish - 2 Pole and Line Fishing Only (1)
Bluegill or Redear Sunfish (14) - 5 Fish Daily Creel Limit
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 18” Minimum Length Limit
Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Wildlife Prairie State Park, State of Illinois

Peoria County
All Fish - 2 Pole and Line Fishing Only (1)
Channel Catfish - 6 Fish Daily Creel Limit
Large or Smallmouth Bass - 12-18” Protected Slot Length Limit (no possession allowed within the protected slot length limit)
Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
Bluegill or Redear Sunfish (14) - 25 Fish Daily Creel Limit
White, Black or Hybrid Crappie - 9” Minimum Length Limit
White, Black or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
Pure or Hybrid Muskellunge - 42” Minimum Length Limit

William W. Powers Conservation Area (33)
NOTICE OF ADOPTED AMENDMENTS

Cook County

Willow Lake, Peabody River King State Conservation Area
St. Clair County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 3 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie (15) - 25 Fish Daily Creel Limit
- White, Black, or Hybrid Crappie - 9" Minimum Length Limit
- Trout - Fall Closed Season (10)

Wolf Lake, William W. Powers Conservation Area (33)
Cook County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 14" Minimum Length Limit

Woodford Co. Cons. Area (Fishing Ditch), Woodford County Conservation Area (33)
Woodford County

- All Fish - 2 Pole and Line Fishing Only (1)

Woodlawn Pond, Frankfort Square Park District
Will County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit

Wyman Lake, City of Sullivan
Moultrie County

- All Fish - 2 Pole and Line Fishing Only (1)
- Channel Catfish - 6 Fish Daily Creel Limit
- Large or Smallmouth Bass - 15" Minimum Length Limit
- Large or Smallmouth Bass (14) - 1 Fish Daily Creel Limit
- Trout - Spring Closed Season (11)

Yellow Creek
Stephenson County

- Trout - Spring Closed Season (11)
Section 810.70  Free Fishing Days

During the period of June 9, 10, 11 and 12, 2006, it shall be legal for any person to fish in waters wholly or in part within the jurisdiction of the State, including the Illinois portion of Lake Michigan, without possessing a sport fishing license, salmon stamp or inland trout stamp.

(Source: Amended at 30 Ill. Reg. 4810, effective March 1, 2006)
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Permits and General Provisions

2) **Code Citation:** 35 Ill. Adm. Code 201

3) **Section Number:** Adopted Action:
   
   201.146 Amended

4) **Statutory Authority:** Implementing Sections 10, 39, and 39.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39, and 39.5]

5) **Effective Date of Amendment:** March 3, 2006

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, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** October 7, 2005; 29 Ill. Reg. 14738 and October 14, 2005; 29 Ill. Reg. 15489

10) **Has JCAR issued a Statement of Objection to this amendment?** No

11) **Differences between proposal and final version:** The Board is adopting two rulemakings separately proposed on the dates cited in #9 above that both amend Section 201.146, but this combination of the proposed amendments is the only change the Board has made to either rulemaking since 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 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 this rulemaking can be found in the Board's March 2, 2006 opinion and order in Board dockets R05-19 and R05-20. Combined, these rulemakings add five categories to the existing list of
exemptions from state air permit requirements in Section 201.146. The Board proposed the exemptions at first notice as two separate rulemakings, in dockets R05-19 and R05-20, but since both dockets amended the same Section in Part 201, the Board is adopting both sets of amendments together.

Exemption for replacing or adding air pollution control equipment at existing emission units. This exemption applies only to existing units that are permitted and have operated in compliance for the past year. The new pollution control equipment must maintain or improve air pollution control over the prior levels of target pollutants and not result in a net increase in emissions of any collateral pollutant. This exemption does not apply if the installation or operation of the new or replacement pollution controls would trigger or change applicability of different regulatory requirements. Finally, required monitoring equipment must be carried over to the replacement control device and must incorporate current technology.

Exemption for sources with federally enforceable state operating permits (FESOP) having a low potential to emit. This provision affects some projects at FESOP sources that do not fit under any of the existing listed exemptions under Section 201.146 and that are still insignificant from a permitting standpoint. Under this second exemption, permits are not necessary for projects at minor FESOP sources with a low potential to emit (less than 0.1 pound per hour or 0.44 tons per year) any regulated air pollutant absent air pollution equipment from the new or modified unit that have no outstanding compliance or enforcement issues. Also, raw materials and fuels that cause or contribute to emissions must not contain a hazardous air pollutant equal to or greater than 0.01 percent by weight. Further, this exemption is not available to a source that must meet New Source Performance Standards and New Source Review requirements under the Clean Air Act or if outstanding compliance or enforcement issues exist.

Exemption for minor sources that are not CAAPPs or FESOPs. This third exemption is limited to sources with the low potential to emit any regulated air pollutant absent air pollution equipment from the new or modified unit that have no outstanding compliance or enforcement issues. This exemption is available for minor sources that have a slightly greater potential to emit (up to 0.5 pounds per hour) so long as the facility notifies the Agency of its intent to construct or install a new emissions unit or modification. Only after notification can the facility begin construction, installation, or modification. This provision requires permitting if the additional emissions from the project could change the sources' status with respect to its potential to emit. This exemption is also not available to a source that must meet New Source Performance Standards and New Source Review requirements under the Clean Air Act.
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**Insignificant activities exemption.** This subsection creates a list of permit exempt insignificant activities similar to those for Clean Air Act Permit Program sources. See 35 Ill. Adm. Code 201.210 through 210.211. Owners or operators must notify the Agency when they add insignificant activities. Facilities must still comply with otherwise applicable emission standards or other regulatory requirements.

**Plastic injection molding (PIM) operations.** This subsection (III) revises the Board's regulations regarding exemptions from air construction and operating permit requirements to add a category for plastic injection molding (PIM) operations to the existing list of permit exemptions in Section 201.146.

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

Amy Antoniolli  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL  60601  
312-814-3665

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 R05-19 and 20 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

The full text of the Adopted 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 a: PERMITS AND GENERAL PROVISIONS

PART 201
PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

Section
201.101 Other Definitions
201.102 Definitions
201.103 Abbreviations and Units
201.104 Incorporations by Reference

SUBPART B: GENERAL PROVISIONS

Section
201.121 Existence of Permit No Defense
201.122 Proof of Emissions
201.123 Burden of Persuasion Regarding Exceptions
201.124 Annual Report
201.125 Severability
201.126 Repealer

SUBPART C: PROHIBITIONS

Section
201.141 Prohibition of Air Pollution
201.142 Construction Permit Required
201.143 Operating Permits for New Sources
201.144 Operating Permits for Existing Sources
201.146 Exemptions from State Permit Requirements
201.147 Former Permits
201.148 Operation Without Compliance Program and Project Completion Schedule
201.149 Operation During Malfunction, Breakdown or Startups
201.150 Circumvention
201.151 Design of Effluent Exhaust Systems
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SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

Section
201.152 Contents of Application for Construction Permit
201.153 Incomplete Applications (Repealed)
201.154 Signatures (Repealed)
201.155 Standards for Issuance (Repealed)
201.156 Conditions
201.157 Contents of Application for Operating Permit
201.158 Incomplete Applications
201.159 Signatures
201.160 Standards for Issuance
201.161 Conditions
201.162 Duration
201.163 Joint Construction and Operating Permits
201.164 Design Criteria
201.165 Hearings
201.166 Revocation
201.167 Revisions to Permits
201.168 Appeals from Conditions
201.169 Special Provisions for Certain Operating Permits
201.170 Portable Emission Units

SUBPART E: SPECIAL PROVISIONS FOR OPERATING PERMITS FOR CERTAIN SMALLER SOURCES

Section
201.180 Applicability (Repealed)
201.181 Expiration and Renewal (Repealed)
201.187 Requirement for a Revised Permit (Repealed)

SUBPART F: CAAPP PERMITS

Section
201.207 Applicability
201.208 Supplemental Information
201.209 Emissions of Hazardous Air Pollutants
201.210 Categories of Insignificant Activities or Emission Levels
201.211 Application for Classification as an Insignificant Activity
201.212 Revisions to Lists of Insignificant Activities or Emission Levels
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SUBPART G: EXPERIMENTAL PERMITS (Reserved)

SUBPART H: COMPLIANCE PROGRAMS AND PROJECT COMPLETION SCHEDULES

Section
201.241 Contents of Compliance Program
201.242 Contents of Project Completion Schedule
201.243 Standards for Approval
201.244 Revisions
201.245 Effects of Approval
201.246 Records and Reports
201.247 Submission and Approval Dates

SUBPART I: MALFUNCTIONS, BREAKDOWNS OR STARTUPS

Section
201.261 Contents of Request for Permission to Operate During a Malfunction, Breakdown or Startup
201.262 Standards for Granting Permission to Operate During a Malfunction, Breakdown or Startup
201.263 Records and Reports
201.264 Continued Operation or Startup Prior to Granting of Operating Permit
201.265 Effect of Granting of Permission to Operate During a Malfunction, Breakdown or Startup

SUBPART J: MONITORING AND TESTING

Section
201.281 Permit Monitoring Equipment Requirements
201.282 Testing
201.283 Records and Reports

SUBPART K: RECORDS AND REPORTS

Section
201.301 Records
201.302 Reports
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SUBPART L: CONTINUOUS MONITORING

Section
201.401 Continuous Monitoring Requirements
201.402 Alternative Monitoring
201.403 Exempt Sources
201.404 Monitoring System Malfunction
201.405 Excess Emission Reporting
201.406 Data Reduction
201.407 Retention of Information
201.408 Compliance Schedules

201.APPENDIX A Rule into Section Table
201.APPENDIX B Section into Rule Table
201.APPENDIX C Past Compliance Dates

AUTHORITY: Implementing Sections 10, 39, and 39.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39, and 39.5].


Section 201.146 Exemptions from State Permit Requirements

Construction or operating permits, pursuant to Sections 201.142, 201.143 and 201.144 of this Part, are not required for the classes of equipment and activities listed below in this Section. The permitting exemptions in this Section do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements, including the obligation to obtain a permit pursuant to Sections 9.1(d) and 39.5 of the Act, Sections 165, 173 and 502 of the
Clean Air Act or any other applicable permit or registration requirements.

a) Air contaminant detectors or recorders, combustion controllers or combustion shutoffs;

b) Air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

c) Each fuel burning emission unit for indirect systems and for heating and reheating furnace systems used exclusively for residential, or commercial establishments using gas and/or fuel oil exclusively with a design heat input capacity of less than 14.6 MW (50 mmbtu/hr), except that a permit shall be required for any such emission unit with a design heat input capacity of at least 10 mmbtu/hr that was constructed, reconstructed or modified after June 9, 1989 and that is subject to 40 CFR 60, Subpart D;

d) Each fuel burning emission unit other than those listed in subsection (c) of this Section for direct systems used for comfort heating purposes and indirect heating systems with a design heat input capacity of less than 2930 kW (10 mmbtu/hr);

e) Internal combustion engines or boilers (including the fuel system) of motor vehicles, locomotives, air craft, watercraft, lifttrucks and other vehicles powered by nonroad engines;

f) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated laboratory fume hoods, vacuum producing devices and control devices installed primarily to address potential accidental releases;

g) Coating operations located at a source using not in excess of 18,925 l (5,000 gal) of coating (including thinner) per year;

h) Any emission unit acquired exclusively for domestic use, except that a permit shall be required for any incinerator and for any fuel combustion emission unit using solid fuel with a design heat input capacity of 14.6 MW (50 mmbtu/hr) or more;

i) Any stationary internal combustion engine with a rated power output of less than 1118 kW (1500 horsepower), except that a permit shall be required for any stationary gas turbine engine with a rated heat input at peak load of 10.7
gigajoules/hr (10 mmbtu/hr) or more that is constructed, reconstructed or modified after October 3, 1977 and that is subject to requirements of 40 CFR 60, Subpart GG;

j) Rest room facilities and associated cleanup operations, and stacks or vents used to prevent the escape of sewer gases through plumbing traps;

k) Safety devices designed to protect life and limb, provided that a permit is not otherwise required for the emission unit with which the safety device is associated;

l) Storage tanks for liquids for retail dispensing except for storage tanks that are subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);

m) Printing operations with aggregate organic solvent usage that never exceeds 2,839 l (750 gal) per year from all printing lines at the source, including organic solvent from inks, dilutents, fountain solutions and cleaning materials;

n) Storage tanks of:

1) Organic liquids with a capacity of less than 37,850 l (10,000 gal), provided the storage tank is not used to store any material listed as a hazardous air pollutant pursuant to Section 112(b) of the Clean Air Act, and provided the storage tank is not subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);

2) Any size containing exclusively soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials; or

3) Any size containing virgin or re-refined distillate oil, hydrocarbon condensate from natural gas pipeline or storage systems, lubricating oil or residual fuel oils.

o) Threaded pipe connections, vessel manways, flanges, valves, pump seals, pressure relief valves, pressure relief devices and pumps;

p) Sampling connections used exclusively to withdraw materials for testing and
analyses;

q) All storage tanks of Illinois crude oil with capacity of less than 151,400 l (40,000 gal) located on oil field sites;

r) All organic material-water single or multiple compartment effluent water separator facilities for Illinois crude oil of vapor pressure of less than 34.5 kPa absolute (5 psia);

s) Grain-handling operations, exclusive of grain-drying operations, with an annual grain through-put not exceeding 300,000 bushels;

t) Grain-drying operations with a total grain-drying capacity not exceeding 750 bushels per hour for 5% moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers;

u) Portable grain-handling equipment and one-turn storage space;

v) Cold cleaning degreasers that are not in-line cleaning machines, where the vapor pressure of the solvents used never exceeds 2 kPa (15 mmHg or 0.3 psi) measured at 38°C (100°F) or 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F);

w) Coin-operated dry cleaning operations;

x) Dry cleaning operations at a source that consume less than 30 gallons per month of perchloroethylene;

y) Brazing, soldering, wave soldering or welding equipment, including associated ventilation hoods;

z) Cafeterias, kitchens, and other similar facilities, including smokehouses, used for preparing food or beverages, but not including facilities used in the manufacturing and wholesale distribution of food, beverages, food or beverage products, or food or beverage components;

aa) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals (other than beryllium), plastics, concrete, rubber, paper stock, wood or wood products, where such
POLLUTION CONTROL BOARD

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equipment is either:

1) Used for maintenance activity;
2) Manually operated;
3) Exhausted inside a building; or
4) Vented externally with emissions controlled by an appropriately operated cyclonic inertial separator (cyclone), filter, electro-static precipitor or a scrubber.

bb) Feed mills that produce no more than 10,000 tons of feed per calendar year, provided that a permit is not otherwise required for the source pursuant to Section 201.142, 201.143 or 201.144;

c) Extruders used for the extrusion of metals, minerals, plastics, rubber or wood, excluding:

1) Extruders used in the manufacture of polymers;
2) Extruders using foaming agents or release agents that contain volatile organic materials or Class I or II substances subject to the requirements of Title VI of the Clean Air Act; and
3) Extruders processing scrap material that was produced using foaming agents containing volatile organic materials or Class I or II substances subject to the requirements of Title VI of the Clean Air Act.

d) Furnaces used for melting metals, other than beryllium, with a brim full capacity of less than 450 cubic inches by volume;

e) Equipment used for the melting or application of less than 22,767 kg/yr (50,000 lbs/yr) of wax to which no organic solvent has been added;

f) Equipment used for filling drums, pails or other packaging containers, excluding aerosol cans, with soaps, detergents, surfactants, lubricating oils, waxes, vegetable oils, greases, animal fats, glycerin, sweeteners, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;
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gg) Loading and unloading systems for railcars, tank trucks, or watercraft that handle only the following liquid materials: soaps, detergents, surfactants, lubricating oils, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;

hh) Equipment used for the mixing and blending of materials at ambient temperatures to make water based adhesives, provided each material mixed or blended contains less than 5% organic solvent by weight;

ii) Die casting machines where a metal or plastic is formed under pressure in a die located at a source with a through-put of less than 2,000,000 lbs of metal or plastic per year, in the aggregate, from all die casting machines;

jj) Air pollution control devices used exclusively with other equipment that is exempt from permitting, as provided in this Section;

kk) An emission unit for which a registration system designed to identify sources and emission units subject to emission control requirements is in place, such as the registration system found at 35 Ill. Adm. Code 218.586 (Gasoline Dispensing Operations – Motor Vehicle Fueling Operations) and 35 Ill. Adm. Code 218, Subpart HH (Motor Vehicle Refinishing);

ll) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy;

mm) Equipment used for hydraulic or hydrostatic testing;

nn) General vehicle maintenance and servicing activities conducted at a source, motor vehicle repair shops, and motor vehicle body shops, but not including:

1) Gasoline fuel handling; and

2) Motor vehicle refinishing.

oo) Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing, provided no organic solvent has been added to the water;
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pp) Administrative activities including, but not limited to, paper shredding, copying, photographic activities and blueprinting machines. This does not include incinerators;

qq) Laundry dryers, extractors, and tumblers processing that have been cleaned with water solutions of bleach or detergents that are:

1) Located at a source and process clothing, bedding and other fabric items used at the source, provided that any organic solvent present in such items before processing that is retained from cleanup operations shall be addressed as part of the VOM emissions from use of cleaning materials;

2) Located at a commercial laundry; or

3) Coin operated.

rr) Housekeeping activities for cleaning purposes, including collecting spilled and accumulated materials, including operation of fixed vacuum cleaning systems specifically for such purposes, but not including use of cleaning materials that contain organic solvent;

ss) Refrigeration systems, including storage tanks used in refrigeration systems, but excluding any combustion equipment associated with such systems;

tt) Activities associated with the construction, on-site repair, maintenance or dismantlement of buildings, utility lines, pipelines, wells, excavations, earthworks and other structures that do not constitute emission units;

uu) Piping and storage systems for natural gas, propane and liquefied petroleum gas;

vv) Water treatment or storage systems, as follows:

1) Systems for potable water or boiler feedwater;

2) Systems, including cooling towers, for process water, provided that such water has not been in direct or indirect contact with process streams that contain volatile organic material or materials listed as hazardous air pollutants pursuant to Section 112(b) of the Clean Air Act.

ww) Lawn care, landscape maintenance and grounds keeping activities;
xx) Containers, reservoirs or tanks used exclusively in dipping operations to coat objects with oils, waxes or greases, provided no organic solvent has been mixed with such materials;

yy) Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. sections 1261 et seq.), where the product is used at a source in the same manner as normal consumer use;

zz) Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;

aaa) Activities associated with the construction, repair or maintenance of roads or other paved or open areas, including operation of street sweepers, vacuum trucks, spray trucks and other vehicles related to the control of fugitive emissions of such roads or other areas;

bbb) Storage and handling of drums or other transportable containers, where the containers are sealed during storage and handling;

ccc) Activities at a source associated with the maintenance, repair or dismantlement of an emission unit or other equipment installed at the source, not including the shutdown of the unit or equipment, including preparation for maintenance, repair or dismantlement, and preparation for subsequent startup, including preparation of a shutdown vessel for entry, replacement of insulation, welding and cutting, and steam purging of a vessel prior to startup;

ddd) Equipment used for corona arc discharge surface treatment of plastic with a power rating of 5 kW or less or equipped with an ozone destruction device;

eee) Equipment used to seal or cut plastic bags for commercial, industrial or domestic use;

fff) Each direct-fired gas dryer used for a washing, cleaning, coating or printing line, excluding:

1) Dryers with a rated heat input capacity of 2930 kW (10 mmbtu/hr) or more; and

2) Dryers for which emissions other than those attributable to combustion of
POLLUTION CONTROL BOARD

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fuel in the dryer, including emissions attributable to use or application of cleaning agents, washing materials, coatings or inks or other process materials that contain volatile organic material are not addressed as part of the permitting of such line, if a permit is otherwise required for the line; and

ggg) Municipal solid waste landfills with a maximum total design capacity of less than 2.5 million Mg or 2.5 million m³ that are not required to install a gas collection and control system pursuant to 35 Ill. Adm. Code 220 or 800 through 849 or Section 9.1 of the Act; and.

hhh) Replacement or addition of air pollution control equipment for existing emission units in circumstances where:

1) The existing emission unit is permitted and has operated in compliance for the past year;

2) The new control equipment will provide equal or better control of the target pollutants;

3) The new control device will not be accompanied by a net increase in emissions of any non-targeted criteria air pollutant;

4) Different State or federal regulatory requirements or newly proposed regulatory requirements will not apply to the unit; and

BOARD NOTE: All sources must comply with underlying federal regulations and future State regulations.

5) Where the existing air pollution control equipment had required monitoring equipment, the new air pollution control equipment will be equipped with the instrumentation and monitoring devices that are typically installed on the new equipment of that type.

BOARD NOTE: For major sources subject to Section 39.5 of the Act, where the new air pollution control equipment will require a different compliance determination method in the facility's CAAPP permit, the facility may need a permit modification to address the changed compliance determination method.
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iii) Replacement, addition, or modification of emission units at facilities with federally enforceable State operating permits limiting their potential to emit in circumstances where:

1) The potential to emit any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit, is less than 0.1 pound per hour or 0.44 tons per year;

2) The raw materials and fuels used or present in the emission unit that cause or contribute to emissions, based on the information contained in Material Safety Data Sheets for those materials, do not contain equal to or greater than 0.01 percent by weight of any hazardous air pollutant as defined under Section 112(b) of the federal Clean Air Act;

3) The emission unit or modification is not subject to an emission standard or other regulatory requirement pursuant to Section 111 of the federal Clean Air Act;

4) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with emissions from existing units or other proposed units, trigger permitting requirements under Section 39.5, permitting requirements under Section 165 or 173 of the federal Clean Air Act, or the requirement to obtain a revised federally enforceable State operating permit limiting the source's potential to emit; and

5) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation, Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source.

jjj) Replacement, addition, or modification of emission units at permitted sources that are not major sources subject to Section 39.5 and that do not have a federally enforceable state operating permit limiting their potential to emit, in circumstances where:

1) The potential to emit of any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit is either:
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A) Less than 0.1 pound per hour or 0.44 tons per year; or

B) Less than 0.5 pound per hour, and the permittee provides prior notification to the Agency of the intent to construct or install the unit. The unit may be constructed, installed or modified immediately after the notification is filed;

2) The emission unit or modification is not subject to an emission standard or other regulatory requirement under Section 111 or 112 of the federal Clean Air Act;

3) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with the emissions from existing units or other proposed units, trigger permitting requirements under Section 39.5 or the requirement to obtain a federally enforceable permit limiting the source's potential to emit; and

4) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation, Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source.

kkk) The owner or operator of a CAAPP source is not required to obtain an air pollution control construction permit for the construction or modification of an emission unit or activity that is an insignificant activity as addressed by Section 201.210 or 201.211 of this Part. Section 201.212 of this Part must still be followed, as applicable. Other than excusing the owner or operator of a CAAPP source from the requirement to obtain an air pollution control construction permit for the emission units or activities, nothing in this subsection shall alter or affect the liability of the CAAPP source for compliance with emission standards and other requirements that apply to the emission units or activities, either individually or in conjunction with other emission units or activities constructed, modified or located at the source.

lll) Plastic injection molding equipment with an annual throughput not exceeding 5,000 tons of plastic resin in the aggregate from all plastic injection molding equipment at the source, and all associated plastic resin loading, unloading, conveying, mixing, storage, grinding, and drying equipment and associated mold release and mold cleaning agents.
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 30 Ill. Reg. 4901, effective March 3, 2006)
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Water Quality Standards

2) **Code Citation:** 35 Ill. Adm. Code 302

3) **Section Numbers**: Adopted Action:
   - 302.207 Amended
   - 302.307 Added
   - 302.525 Amended

4) **Statutory Authority:** Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/11(b), 13, and 27]

5) **Effective Date of Amendments:** March 1, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** April 29, 2005; 29 Ill. Reg. 5873

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** In response to public comments and the complete record, the Board retained the 3.75 pCi/L combined radium limit as a general use water quality standard, but expressed that limit as an average measured over the length of a year. Therefore, while the concentration of radium 226 and 228 combined may be higher than 3.75 pCi/L at times due to environmental conditions, the water body will still meet the standard as long as the concentration of combined radium averaged over the period of a year remains at or below 3.75 pCi/L. Determining compliance in this way will provide relief to POTWs while more precisely tailoring the standard to meet the Board's goal of protecting human health and the environment, including riparian mammals. Additionally, as suggested by the United States Environmental Protection Agency (USEPA) and the Illinois Environmental Protection Agency (IEPA), the Board also adopted a Public and Food Processing Water Supply standard of 5 pCi/L combined radium 226 and 228 in Section 302.307 to ensure that public water supplies meet the federal drinking water maximum contaminant level for radium.
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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 this rulemaking can be found in the Board's February 16, 2006 opinion and order in Board docket R04-21. The Board's amendments to the water quality standards adopt a general use water quality standard of 3.75 pCi/L combined radium 226 and 228 to replace the existing radium 226 standard of 1 pCi/L. This standard, like the current one, will apply to all general use waters of the State, as well as the Lake Michigan Basin. The Board is also adopting a Public and Food Processing Water Supply standard of 5 pCi/L combined radium 226 and 228 in Section 302.307, as an instantaneous standard, to ensure that public water supplies meet the federal USEPA drinking water maximum contaminant level for radium. This rulemaking is based on a proposal filed by the IEPA, and the public and food processing water supply standard is intended to correspond to the USEPA's Maximum Contaminant Level for finished drinking water. This final drinking water standard became effective December 8, 2003 (National Primary Drinking Water Regulations; Radionuclide; Final Rule. 65 Fed. Reg. 76707 (Dec. 7, 2000)). The Board adopted these federal amendments in its identical in substance rulemaking SDWA Update, USEPA Amendments (July 1, 2000 through December 31, 2000) (R01-20) at 25 Ill. Reg. 13611, effective October 9, 2001

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

Amy Antoniolli
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-3665

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
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NOTICE OF ADOPTED AMENDMENTS

number R04-21 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:
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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD

PART 302
WATER QUALITY STANDARDS

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AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].

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SUBPART B: GENERAL USE WATER QUALITY STANDARDS

Section 302.207 Radioactivity

a) Gross beta (STORET number 03501) concentration shall not exceed 100 picocuries per liter (pCi/L).

b) Strontium Concentrations of radium 226 (STORET number 09501) and strontium 90 (STORET number 13501) concentration must not exceed 1 and 2 pCi/L, respectively.

c) The annual average radium 226 and 228 (STORET number 11503) combined concentration must not exceed 3.75 picocuries per liter (pCi/L). (Source: Amended at 30 Ill. Reg. 4919, effective March 1, 2006)

SUBPART C: PUBLIC AND FOOD PROCESSING WATER SUPPLY STANDARDS

Section 302.307 Radium 226 and 228

Radium 226 and 228 (STORET number 11503) combined concentration must not exceed 5 picocuries per liter (pCi/L) at any time. (Source: Added at 30 Ill. Reg. 4919, effective March 1, 2006)

SUBPART E: LAKE MICHIGAN BASIN WATER QUALITY STANDARDS

Section 302.525 Radioactivity
POLLUTION CONTROL BOARD

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Except as provided in Section 302.102, all waters of the Lake Michigan Basin must meet the following concentrations in any sample:

a) Gross beta (STORET number 03501) concentrations must not exceed 100 picocuries per liter (pCi/L).

b) Strontium Concentrations of radium 226 (STORET number 09501) and strontium 90 (STORET number 13501) concentration shall not exceed 1 and 2 (pCi/L) picocuries per liter, respectively.

c) The annual average radium 226 and 228 (STORET number 11503) combined concentration must not exceed 3.75 picocuries per liter (pCi/L).

(Source: Amended at 30 Ill. Reg. 4919, effective March 1, 2006)
POLLUTION CONTROL BOARD

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

3) Section Numbers:    Adopted Action:
732.100    Amendment
732.101    Amendment
732.103    Amendment
732.104    Amendment
732.106    Amendment
732.108    Added
732.110    Added
732.112    Added
732.114    Added
732.200    Amendment
732.202    Amendment
732.203    Amendment
732.204    Amendment
732.300    Amendment
732.302    Amendment
732.303    Amendment
732.304    Amendment
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732.306    Amendment
732.307    Amendment
732.308    Amendment
732.309    Amendment
732.310    Amendment
732.311    Amendment
732.312    Amendment
732.400    Amendment
732.402    Amendment
732.403    Amendment
732.404    Amendment
732.405    Amendment
732.406    Amendment
732.407    Amendment
732.408    Amendment
732.409    Amendment
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732.411 Amendment
732.500 Amendment
732.501 Repealed
732.502 Repealed
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732.APPENDIX A Amendment
732.APPENDIX B Amendment
732.APPENDIX C Amendment
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732.APPENDIX D  Added
732.APPENDIX E  Added


5) **Effective Date of Amendments:** March 1, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** Yes; all materials are incorporated pursuant to Section 6.02(b) of the Illinois Administrative Procedure Act.

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.

11) **Notice of Proposal Published in Illinois Register:** March 11, 2005; 29 Ill. Reg. 3538

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** The Board made one major change to its First Notice proposal. That difference is in the reimbursement of professional consulting services, which the Board has amended at Second Notice to be reimbursed on a time and materials basis.

The Board also opened a subdocket B for the purpose of developing scopes of work to be used in reimbursing professional consulting services in the remediation of underground storage tank (UST) sites in Illinois. A hearing is scheduled in subdocket B for March 23, 2006.

In addition to opening a subdocket, the Board made several changes to the proposed rulemaking in response to the First Notice comments. Some of the more significant changes include allowing for reimbursement of handling charges for a subcontractor if the primary contractor has a financial interest in the subcontractor, removing professional services from eligibility for bidding, adding an additional member - appointed by members of PIPE - to the LUST advisory committee, deleting the requirement that engineers or geologists maintain records to be available for an Agency audit (that
requirement is now limited to the maintenance of records by the owner or operator), and adding a requirement for the Board to publish the results of the IEPA's triennial review of reimbursement rates in the Board's publication, the *Environmental Register*.

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 February 16, 2006, in Board docket R04-22/23. The amendments to Part 732 are part of a larger rulemaking that includes the adoption of a new Part 734 (also published in this issue of the *Illinois Register*), which is applicable to releases reported after June 24, 2002.

The amendments to Part 732 set forth corrective action measures that must be taken in response to a leak and procedures for seeking payment from the Underground Storage Tank Fund (UST Fund). The amendments to Part 732 also reflect changes from P.A. 92-554, effective June 24, 2002 and P.A. 92-735, effective July 25, 2003, which allow a Licensed Professional Geologist to certify certain information. The amendments are designed, for the most part to streamline the process for obtaining payment from the UST Fund. The streamlining will be accomplished by specifying maximum amounts that will be reimbursed for remediation activities. The rulemaking also includes bidding as an alternative to the maximum reimbursement amounts for UST remediation specified in the proposal.

Additionally, the rulemaking calls for the establishment of a "LUST Advisory Committee" comprised of numerous groups involved in the UST program. The Committee is required to meet quarterly to review the Illinois Environmental Protection Agency's implementation of the rules.

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

Marie Tipsord  
Illinois Pollution Control Board  
100 W. Randolph  11-500  
Chicago, IL  60601
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

312-814-4925

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 R04-22/23 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us)

The full text of the Adopted Amendments begins on the next page:
POLLUTION CONTROL BOARD

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

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

SUBPART A: GENERAL

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

SUBPART B: EARLY ACTION

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

SUBPART C: SITE EVALUATION AND CLASSIFICATION

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

SUBPART D: CORRECTIVE ACTION

Section
732.400  General
732.401  Agency Authority to Initiate
732.402  No Further Action Site
732.403  Low Priority Site
732.404  High Priority Site
732.405  Plan Submittal and Review
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732.407  Alternative Technologies
732.408  Remediation Objectives
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732.410  "No Further Remediation" Letter (Repealed)
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SUBPART E: REVIEW OF SELECTION AND REVIEW PROCEDURES FOR PLANS, BUDGET PLANS, AND REPORTS

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

SUBPART F: PAYMENT FROM THE FUND OR REIMBURSEMENT
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Section
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732.601 Applications for Payment
732.602 Review of Applications for Payment
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732.604 Limitations on Total Payments
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732.606 Ineligible Corrective Action Costs
732.607 Payment for Handling Charges
732.608 Apportionment of Costs
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732.610 Indemnification
732.611 Costs Covered by Insurance, Agreement or Court Order
732.612 Determination and Collection of Excess Payments
732.614 Audits and Access to Records; Records Retention

SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

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

SUBPART H: MAXIMUM PAYMENT AMOUNTS

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


SUBPART A: GENERAL

Section 732.100  Applicability

a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to Illinois
Emergency Management Agency (IEMA) on or after September 23, 1994, but prior to June 24, 2002, in accordance with regulations adopted by the Office of the State Fire Marshal (OSFM). It also applies to owners or operators that, prior to June 24, 2002, elected to proceed in accordance with this Part pursuant to Section 732.101 of this Part. This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release has been confirmed and required to be reported to Illinois Emergency Management Agency (IEMA) on or after September 23, 1994 in accordance with regulations adopted by the Office of State Fire Marshal (OSFM). It does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Environmental Protection Act (Act) [415 ILCS 5/57.5]. Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to IEMA on or before September 12, 1993, may elect to proceed in accordance with this Part pursuant to Section 732.101.

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

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

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

1) Equipment or machinery that contains petroleum substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
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2) Any underground storage tank system whose capacity is 110 gallons or less.

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

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

5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 et seq. (1972)).

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.101 Election to Proceed under Part 732

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

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.103 Definitions

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

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

"Agency" means the Illinois Environmental Protection Agency.

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

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

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

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

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

"Confirmed Exceedence" means laboratory verification of an exceedence of the applicable remediation groundwater quality standards or objectives.

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

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

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

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

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

"Environmental Land Use Control" means Environmental Land Use Control as defined in 35 Ill. Adm. Code 742.200, an instrument that meets the requirements of these regulations and is placed in the chain of title to real property that limits or places requirements upon the use of the property for the purpose of protecting human health or the environment, is binding upon the property owner, heirs, successors, assigns, and lessees, and runs in perpetuity or until the Agency approves, in writing, removal of the limitation or requirement from the chain of title.

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

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

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

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

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

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

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

"GIS" means Geographic Information System.
"GPS" means Global Positioning System.

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure [415 ILCS 5/3.210][415 ILCS 5/3.64].

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

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

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

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

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

"IEMA" means the Illinois Emergency Management Agency.

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

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

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

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

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

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

"Line Item Estimate" means an estimate of the costs associated with each line item (including, but not necessarily limited to, personnel, equipment, travel, etc.) that an owner or operator anticipates will be incurred for the development, implementation and completion of a plan or report.

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

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

"Natural Pathway" means natural routes for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.
"Non-community Water Supply" means a public water supply that is not a community water supply [415 ILCS 5/3.145].

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

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

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (Derived from 42 USC 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground shall not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use or dispensing of regulated substances;

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

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

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including a government corporation), partnership, association, state municipality, commission, political subdivision of a state, or any interstate body and shall include the United States Government and each department, agency, and instrumentality of the United States. (Derived from 42 USC 6991)
"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60°F and 14.7 pounds per square inch absolute). (Derived from 42 USC 6991)

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

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices [415 ILCS 5/3.340][415 ILCS 5/3.65].


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

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

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

"Regulated recharge area" means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination [415 ILCS 5/3.390][415 ILCS 5/3.67].

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

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

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

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

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

"Setback Zone" means a geographic area, designated pursuant to the Act or regulations (see 35 Ill. Adm. Code, Subtitle F), containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater [415 ILCS 5/3.450],[415 ILCS 5/3.61].

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

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

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

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

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

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

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

"Township Road" means a township road as defined in the Illinois Highway Code [605 ILCS 5].
"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

- Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
- Septic tank;
- Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 USC App. 1671 et seq.), or the Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App. 2001 et seq.), or which is an intrastate pipeline facility regulated under State laws as provided in either of these provisions of law, and that is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;
- Surface impoundment, pit, pond, or lagoon;
- Storm water or waste water collection system;
- Flow-through process tank;
- Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
- Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated on or above the surface of the floor. (Derived from 42 USC § 6991)

The term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit [415 ILCS 5/57.2].
"UST System" or "Tank System" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.104 Incorporations by Reference

a) The Board incorporates the following material by reference:

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


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


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


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

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


USGS. United States Geological Survey, 1961 Stout Street, Denver, CO 80294 (303) 844-4169


be) This Section incorporates no later editions or amendments.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.106 Laboratory Certification

All quantitative analyses of samples collected on or after January 1, 2003, and utilizing any of the approved test methods identified in 35 Ill. Adm. Code 186.180, shall be completed by an accredited laboratory in accordance with the requirements of 35 Ill. Adm. Code 186. A certification from the accredited laboratory stating that the samples were analyzed in accordance with the requirements of this Section shall be included with the sample results when they are submitted to the Agency. Quantitative analyses not utilizing an accredited laboratory in accordance with Part 186 shall be deemed invalid.
Section 732.108  Licensed Professional Engineer or Licensed Professional Geologist Supervision

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

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

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

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

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

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

3) The maps must show the following:

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

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

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

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

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

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

I certify under penalty of law that all activities that are the subject of this plan, budget plan, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget plan, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in the plan, budget plan, or report has been completed in accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill. Adm. Code 732, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Agency, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].
e) Except in the case of sites subject to Section 732.703(c) or (d) of this Part, reports documenting the completion of corrective action at a site must contain a form addressing site ownership. At a minimum, the form must identify the land use limitations proposed for the site, if land use limitations are proposed; the site's common address, legal description, and real estate tax/parcel index number; and the names and addresses of all title holders of record of the site or any portion of the site. The form must also contain the following certification, by original signature, of all title holders of record of the site or any portion of the site, or the agent(s) of such person(s):

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

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.112 Notification of Field Activities

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

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.114 LUST Advisory Committee

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

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART B: EARLY ACTION

Section 732.200 General

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.202 Early Action

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

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

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

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

b) Within 20 days after initial notification to IEMA of a release plus 14 days, after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, the owner or operator shall perform the following initial abatement measures:
1) Remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment;

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

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

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

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

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

c) Within 20 days after initial notification to IEMA of a release plus 14 days, the owner or operator after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, owners or operators shall submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section and any resulting information or data. The report shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

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

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

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

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

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

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

f) Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system, or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal (see 41 Ill. Adm. Code 160, 170, 180, 200). The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. For purposes of payment for early action costs, however, fill material shall not be removed in an amount in excess of 4 feet from the outside dimensions of the tank. Early action may also include disposal in accordance with applicable regulations or ex situ treatment of contaminated fill material removed from within 4 feet from the outside dimensions of the tank, in accordance with Section 57.7(a)(1)(B) of the
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Act [415 ILCS 5/57.6(b)].

For purposes of payment from the Fund reimbursement, the activities set forth in subsection (f) of this Section shall be performed within 45 days after initial notification to IEMA of a release plus 147 days, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days plus 147 days. The owner or operator shall notify the Agency in writing of such circumstances within 45 days after initial notification to IEMA of a release plus 147 days. Costs incurred beyond 45 days plus 147 days shall be eligible if the Agency determines that they are consistent with early action.

BOARD NOTE: Owners or operators seeking payment from the Fund reimbursement are to first notify IEMA of a suspected release and then confirm the release within 14 seven days to IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code 170.560 and 170.580, 170.600. The Board is setting the beginning of the payment reimbursement period at subsection (g) to correspond to the notification and confirmation to IEMA.

The owner or operator shall determine whether the areas or locations of soil contamination exposed as a result of early action excavation (e.g., excavation boundaries, piping runs) meet the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants applicable Tier 1 remediation objectives pursuant to 35 Ill. Adm. Code 742, Subpart E. Six samples shall be collected, one on each sidewall and two at the bottom of the excavation. If contaminated backfill is returned to the excavation, 2 representative samples must be collected and analyzed for the applicable indicator contaminants. Additional samples may be required for a multiple tank excavation.

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

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

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

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

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

E) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section 732.310(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) through (D) of this Section must then be analyzed for the applicable used oil indicator contaminants.
2) At a minimum, for each UST that remains in place, the owner or operator must collect and analyze soil samples as described in subsections (h)(2)(A) through (D). The Agency must allow an alternate location for, or excuse the drilling of, one or more borings if drilling in the following locations is made impracticable by site-specific circumstances.

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

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

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

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

3)++ If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, and if none of the criteria set forth in subsections (h)(4)(A) through (C) are met, within 30 days after the completion of early action activities there is no evidence that contaminated soils may be or may have been in contact with groundwater, the owner or operator shall submit a corrective action completion report demonstrating compliance with those remediation objectives. The report must include, but is not limited to, the following:

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

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

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

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

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

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

4)(2) If the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have not been met, or if one or more of the following criteria are met, there is evidence that contaminated soils may be or may have been in contact with groundwater, the owner or operator shall continue evaluation in accordance with Subpart C of this Part.

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

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

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

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

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

BOARD NOTE: Section 57.7(a)(1)(B) of the Act limits payment or reimbursement from the Fund for removal of contaminated fill material during early action activities. Owners or operators proceeding with activities set forth in subsection (f) of this Section are advised that they may not be entitled to full payment or reimbursement. See Subpart E of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)
Section 732.203 Free Product Removal

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

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

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

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

4) Within 45 days after the confirmation of presence of free product from a UST, prepare and submit to the Agency a free product removal report on forms prescribed and provided by the Agency and, if specified by the Agency, by written notice, in an electronic format. The report shall, at a minimum, provide the following:

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

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

C) The type of free product recovery system used;

D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
E) The type of treatment applied to, and the effluent quality expected from, any discharge;

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

G) The disposition of the recovered free product; and

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

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

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

b) For purposes of payment from the Fund reimbursement, owners or operators are not required to obtain Agency approval pursuant to Section 732.202(g) for free product removal activities conducted within more than 45 days after the confirmation of the presence of free product initial notification to IEMA of a release.

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

d) Any owner or operator intending to seek payment from the Fund must, prior to conducting free product removal activities more than 45 days after the
confirmation of the presence of free product, submit to the Agency a free product removal budget plan with the corresponding free product removal plan. The budget plan must include, but not be limited to, an estimate of all costs associated with the development, implementation, and completion of the free product removal plan, excluding handling charges. The budget plan should be consistent with the eligible and ineligible costs listed in Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan the Agency may require a comparison between the costs of the proposed method of free product removal and other methods of free product removal.

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

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

g) If, following approval of any free product removal plan or associated budget plan, an owner or operator determines that a revised removal plan or budget plan is necessary in order to complete free product removal, the owner or operator must submit, as applicable, an amended free product removal plan or associated budget plan to the Agency for review. The Agency must review and approve, reject, or require modification of the amended removal plan or budget plan in accordance with Subpart E of this Part. BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all free product removal plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.
Section 732.204 Application for Payment of Early Action Costs

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

SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section 732.300 General

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

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

1) Upon completion of the remediation, the owner or operator shall submit a corrective action completion report, demonstrating compliance with the required levels. The corrective action completion report must include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the remediation and the procedures used.
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for the collection and analysis of samples, soil boring logs, actual analytical results, laboratory certification, site maps, well logs, and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site. With the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the corrective action completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), stating as follows:

I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the corrective action completion report; and

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

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

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

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

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

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

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

A) If there is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; Tier 1 residential numbers set forth in 35 Ill. Adm. Code 742 Appendix B (e.g., as found during release confirmation or previous corrective action measures);
B) If free product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part; or

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

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

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

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

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

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

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

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

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

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.302 No Further Action Sites

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

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

A) "Berg Circular"

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

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

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

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

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

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

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.303 Low Priority Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as Low Priority if all of the following criteria are met:
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a) The physical soil classification and groundwater investigation procedures confirm the following:

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

2) "Berg Circular"

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

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

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

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

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

d) There is no designated Class III special resource groundwater within 200 feet of the UST system; and
After completing early action measures in accordance with Subpart B of this Part, there are no surface bodies of water adversely affected by the presence of a visible sheen or free product layer as a result of the release of petroleum.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.304 High Priority Sites

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

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

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

2) "Berg Circular"

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

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

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

b) The UST system is within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;
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c) After completing early action measures in accordance with Subpart B of this Part, there is evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.305 Plan Submittal and Review

a) Unless an owner or operator elects to classify a site under Section 732.312, prior to conducting any site evaluation activities, the owner or operator shall submit to the Agency a site classification plan, including but not limited to a physical soil classification and groundwater investigation plan, satisfying the minimum requirements for site evaluation activities as set forth in Section 732.307. The plans shall be designed to collect data sufficient to determine the site classification in accordance with Section 732.302, 732.303 or 732.304 of this Part. Site classification plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

b) In addition to the plan required in subsection (a) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency:

1) An application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part; and
2) A site classification budget plan with the corresponding site classification plan. The budget plan shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation and completion of the site evaluation activities required in Section 732.307, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in
Subpart H of this Part. Site classification budget plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

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

d) Notwithstanding subsections (a), (b), and (e) of this Section, an owner or operator may proceed to conduct site evaluation activities in accordance with this Subpart prior to the submittal or approval of an otherwise required site classification plan or budget plan (including physical soil classification and groundwater investigation plans, costs associated with activities to date, and anticipated further costs). However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment or reimbursement for any related costs or the issuance of a No Further Remediation Letter. If the owner or operator has obtained Agency approval of a Site Classification Work Plan and site classification completion report without submittal of a budget plan pursuant to subsection (b) of this Section, the owner or operator may, as an alternative to submitting a budget plan, submit, on a form provided by the Agency and attached to the application for payment, the actual costs incurred in performing site evaluation activities. **BOARD NOTE:** Owners or operators proceeding under subsection (d) of this Section are advised that they may not be entitled to full payment from the Fund or reimbursement. **Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter.** See Subpart F of this Part.

e) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review by the Agency. The Agency shall have the authority to review and approve, reject, or require modifications of the amended classification plan or budget plan in accordance with the procedures contained in Subpart E of this Part. **BOARD NOTE:** Owners and operators are advised that the total payment from the Fund for all site classification plans and associated budget plans submitted by an owner or operator...
operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.306 Deferred Site Classification; Priority List for Payment

a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the Fund may elect to defer site classification activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met. An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the Underground Storage Tank Fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met. (Section 57.8(b) of the Act)

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

2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment in an amount equal to the total of the approved budget plans and shall provide notice of insufficient funds to owners or operators in accordance with Section 732.503(g) of this Part of the availability of funds in accordance with Section 732.503(h). Funds shall not be deemed available for owners or operators electing to defer site classification so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.

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

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

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

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

5) Upon approval of an election receiving written notification that an owner or operator elects to defer site classification until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment based solely on the date the Agency receives a complete written election of deferral, with the earliest dates having the highest priority. The Agency's record of the date of receipt shall be deemed conclusive, unless a contrary date is proven by a dated, signed receipt from registered or certified mail.

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

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

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

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

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

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

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

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

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

2) The release does not pose a threat to human health or the environment through migratory pathways following the investigation of migration pathways requirements of Section 732.307(g).

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.307 Site Evaluation

a) Except as provided in Section 732.300(b), or unless an owner or operator submits a report pursuant to Section 732.202(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met or elects to classify a site under Section 732.312, the owner or operator of any site for which a release of petroleum has been confirmed in accordance with regulations promulgated by the OSFM and reported to IEMA shall arrange for site evaluation and classification in accordance with the requirements of this Section. A Licensed Professional Engineer or Licensed Professional Geologist (or, where appropriate, persons working under the direction of a Licensed Professional Engineer or Licensed Professional Geologist) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified by the supervising Licensed Professional Engineer or Licensed Professional Geologist.

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

c) Method One for Physical Soil Classification:

1) Soil Borings

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

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

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

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

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

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

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

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

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

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

iii) Methods for quality control can be implemented; and

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

2) Soil Properties

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


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(Moisture) Content of Soil by the Microwave Oven Method," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;


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

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

3) Hydraulic Conductivity

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

i) Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.
ii) The screen must be contained within the saturated zone.

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


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


iv) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Standard Test Method D 1587-83, incorporated by reference in Section 732.104 of this Part, or other Agency approved method. The boring from which the thin-walled tubes are collected must be logged in accordance with the requirements of Section 732.308(a) of this Part.
4) If the results of the physical soil classification or groundwater investigation reveal that the actual site geologic characteristics are different from those generally mapped by the Illinois State Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part, the site classification shall be determined using the actual site geologic characteristics.

d) Method Two for Physical Soil Classification:

1) Soil Borings

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

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

2) Soil Properties

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

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

B) Either:

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

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

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

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

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

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

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

D) Is not capable of hydraulic conductivity of $1 \times 10^{-4}$ cm/sec or greater.

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

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

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

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

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

1) The Licensed Professional Engineer shall conduct a survey of water supply wells for the purpose of identifying and locating all community water supply wells within 2500 feet of the UST system and all potable water supply wells within 200 feet of the UST system. The survey shall include, but not be limited to, contacting the Illinois State Geological Survey and the Illinois State Water Survey. The unit of local government with authority over the site shall be contacted to determine if there is a local ordinance or policy regulating the usage of potable water supply wells.

2) The Licensed Professional Engineer shall provide a map to scale showing the locations of all community water supply wells and potable water supply wells including the designated minimum and maximum setback zones of the wells identified pursuant to subsection (f)(1) of this Section. Radii of 200, 400, 1000, and 2500 feet from the UST system shall be marked on the map.

3) The Licensed Professional Engineer shall provide a table indicating the setback zone for each community water supply well and potable water supply well identified pursuant to subsection (f)(1) of this Section and the distance from the UST system to the well. The locations of each well shall be identified on the map by numbers corresponding to the information provided in the table.

4) The Licensed Professional Engineer shall determine if the UST system is within the regulated recharge area of any community water supply well or potable water supply well. The sources consulted in making this determination shall be described in the site classification completion report.

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

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

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

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

A) Soil sampling and laboratory analysis of samples; and

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

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

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

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

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

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

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

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

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

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

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

**Groundwater Investigation**

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

2) Applicable indicator contaminants and groundwater quality standards shall be those identified pursuant to Sections 732.310 and 732.311 of this Part.

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

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

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

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

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

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

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

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

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

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


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

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

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

ii) The methodology must be consistent with the methodologies contained in "Methods for Chemical Analysis of Water and Wastes," "Methods for the
D) In addition to analytical results, sampling and analytical reports shall contain the following information:

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

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

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

iv) Chain of custody and control; and

v) Field and lab blanks.

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

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

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

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

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

B) The presence or absence of a water bearing unit under subsection (j)(6)(A)(i) of this Section shall be determined on the basis of at least one soil boring to the depth necessary to perform physical soil classification under the selected method (Method One under subsection (c) of this Section or Method Two under subsection (d) of this Section), unless auger refusal occurs because of the density of a geologic material or because bedrock is encountered. If auger refusal occurs, then the Licensed Professional Engineer or Licensed Professional Geologist must demonstrate the depth to a water bearing unit from the available site specific or regional information.

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)
Section 732.308  Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells

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

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

   A) Sampling device, sample number and amount of recovery;
   B) Total depth of boring to the nearest 6 inches;
   C) Detailed field observations describing materials encountered in boring, including soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;
   D) Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);
   E) Locations of sample(s) used for physical or chemical analysis; and
   F) Groundwater levels while boring and at completion.

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

   A) Moisture content;
   B) Unconfined compression strength in tons per square foot (TSF) using a hand penetrometer;
   C) Unified Soil Classification System (USCS) soil classification group symbol in accordance with ASTM Standard D 2487-93, "Standard Test Method for Classification of Soils for Engineering
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Purposes," incorporated by reference in Section 732.104 of this Part, or other Agency approved method; and

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.309 Site Classification Completion Report

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

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

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

   B) The location and extent of regulated recharge areas and wellhead protection areas identified pursuant to Section 732.307(f) of this Part;
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C) The current extent of groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

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

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

3) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to Section 732.307(f) of this Part, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

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

For No Further Action sites, with the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the site classification completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), state as follows:

I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording
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of a No Further Remediation Letter containing the terms and conditions identified in the site classification completion report.

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.310 Indicator Contaminants

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

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

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

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

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

f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic naphthas, moderately volatile hydrocarbon solvents and petroleum extender oils, the indicator contaminants shall be the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B of this Part. The Agency may add degradation products or mixtures of any of the above pollutants in accordance
For used oil the indicator contaminants shall be determined by the results of a used oil soil sample analysis. In accordance with Section 732.202(h) of this Part, soil samples must be collected from the walls and floor of the used oil UST excavation if the UST is removed, or from borings drilled along each side of the used oil UST if the UST remains in place. The sample that appears to be the most contaminated as a result of a release from the used oil UST must then be analyzed for the following parameters. If none of the samples appear to be contaminated a soil sample must be collected from the floor of the used oil UST excavation below the former location of the UST if the UST is removed, or from soil located at the same elevation as the bottom of the used oil UST if the UST remains in place, and analyzed for the following parameters:

Prior to the submission of a site classification plan, the owner or operator shall collect a grab sample from a location representative of soil that is the most contaminated as a result of the release from the used oil UST. If an area of contamination cannot be identified, the sample shall be collected from beneath the used oil UST. The sample shall be analyzed for:

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

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

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

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

i) An owner or operator of a site exempt from having to address MTBE as an indicator contaminant pursuant to subsection (h) of this Section may elect to include MTBE as an indicator contaminant under the circumstances listed in subsections (1) or (2) of this subsection (i). Following circumstances:

Elections to include MTBE as an indicator contaminant must be made by submitting to the Agency a written notification of such election signed by the owner or operator. The election must be effective upon the Agency's receipt of the notification and cannot be withdrawn once made. Owners or operators electing to include MTBE as an indicator contaminant must remediate MTBE contamination in accordance with the requirements of this Part.

1) If the Agency has not issued a No Further Remediation Letter for the release site by June 1, 2002 (the effective date of the amendments establishing MTBE as an indicator contaminant); or

2) If the Agency has issued a No Further Remediation Letter for the release and the release at the site has caused off-site groundwater contamination exceeding the remediation objective for MTBE set forth in 35 Ill. Adm. Code 742, provided that the owner or operator complies with all applicable requirements of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.311 Indicator Contaminant Groundwater Remediation Objectives

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.312 Classification by Exposure Pathway Exclusion

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

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

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

b) Upon completion of early action requirements pursuant to Subpart B of this Part, the owner or operator shall determine whether the areas or locations addressed under early action (e.g., backfill) meet the requirements applicable for a Tier 1 evaluation pursuant to 35 Ill. Adm. Code 742, Subpart E.

1) If the remediation objectives have been met, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels.

2) If the remediation objectives have not been met, evaluation shall continue in accordance with subsection (c) of this Section.

be) TheIf, upon completion of early action requirements pursuant to Subpart B of this Part, the requirements under subsection (b) of this Section have not been met, then the owner or operator, prior to conducting any site evaluation activities, shall submit to the Agency a site classification plan including, but not limited to, a contaminant identification and groundwater investigation plan (if one or more of the criteria set forth in Section 732.202(h)(4)(A) through (C) of this Part are met) applicable in accordance with Section 732.300(b)(1)), satisfying the minimum requirements for site evaluation activities as set forth in this Section. Site classification plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic
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The plans shall be designed to:

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

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

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

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

ef) In addition to the plan required in subsection (be) of this Section and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency:

1) An application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part, except as provided in subsection (f)(2) of this Section; and
2) A site classification budget plan with the corresponding site classification plan. The budget plan shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation and completion of the site evaluation activities required under subsection (be) of this Section, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part.
Sites shall be classified as No Further Action if the Licensed Professional Engineer or Licensed Professional Geologist determines that all applicable exposure routes can be excluded from further consideration pursuant to 35 Ill. Adm. Code 742, Subpart C.

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

Within 30 days after the completion of a site evaluation in accordance with this Section, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by this Section, as well as the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions. The report shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format, shall be signed by the owner or operator, and shall contain the certification of a Licensed Professional Engineer or Licensed Professional Geologist of the site's classification as No Further Action or High Priority in accordance with this Section. For any site classified as High Priority, the report shall also contain the certification of a Licensed Professional Engineer or Licensed Professional Geologist as to which exposure routes, if any, have been excluded from further consideration under 35 Ill. Adm. Code 742, Subpart C. With the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the site classification completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), stating as follows:

I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the site classification completion report.
The Agency shall have the authority to review and approve, reject, or require modification of any classification plan, budget plan, or report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

Notwithstanding subsections (b) and (e) of this Section, prior to March 1, 2006 an owner or operator may proceed to conduct site evaluation activities in accordance with this Section prior to the submittal or approval of any otherwise required site classification plan or budget plan and associated budget plans. However, any such classification plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to receiving payment or reimbursement for any related costs or the issuance of a No Further Remediation Letter. On or after March 1, 2006, owners and operators desiring to proceed with the exclusion of human exposure pathways under 35 Ill. Adm. Code 742, Subpart C, must elect pursuant to 35 Ill. Adm. Code 734.105 to proceed in accordance with 35 Ill. Adm. Code 734 and conduct site investigation and corrective action in accordance with that Part instead of meeting the requirements of this Section. If the owner or operator has obtained Agency approval of a Site Classification Work Plan and site classification completion report without submittal of a budget plan pursuant to subsection (b) of this Section, the owner or operator may, as an alternative to submitting a budget plan, submit, on a form provided by the Agency and attached to the application for payment, the actual costs incurred in performing site evaluation activities.

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

BOARD NOTE: Owners or operators proceeding under subsection (a)(2) or (jk) of this Section are advised that they may not be entitled to full payment from the Fund and that applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter or reimbursement. Furthermore, owners or operators may only be reimbursed for one method of site classification. See Subpart F of this Part.
Owners and operators are also advised that the total payment from the Fund for all corrective action plans and associated budget plans submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART D: CORRECTIVE ACTION

Section 732.400 General

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

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

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)
Section 732.402  No Further Action Site

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

(Source:  Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.403  Low Priority Site

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

b) The owner or operator of a site certified as Low Priority by a Licensed Professional Engineer and approved as such by the Agency shall develop a groundwater monitoring plan designed to satisfy the following requirements at a minimum:

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

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

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

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

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

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

c) Prior to the implementation of groundwater monitoring, except as provided under subsection (b)(6) of this Section, the owner or operator shall submit the groundwater monitoring plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a groundwater monitoring budget plan also shall be submitted to the Agency for review. The groundwater monitoring budget plan shall include a line item estimate of all costs associated with the implementation and completion of the groundwater monitoring plan. Groundwater monitoring plans and budgets shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

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

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

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

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

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

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

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

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.404 High Priority Site

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

b) The owner or operator of a site certified as High Priority by a Licensed Professional Engineer and approved as such by the Agency or reclassified as High Priority by the Agency pursuant to Section 732.403(g) shall develop a corrective action plan based on site conditions and designed to achieve the following as
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applicable to the site:

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

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

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

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

   D) Threats to potable water supplies are remediated; and

   E) Threats to bodies of surface water are remediated.

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

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

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

e) Except where provided otherwise pursuant to Section 732.312 of this Part, in developing the corrective action plan, additional investigation activities beyond those required for the site evaluation and classification may be necessary to determine the full extent of soil or groundwater contamination and of threats to human health or the environment. Such activities may include, but are not limited to, additional soil borings with sampling and analysis or additional groundwater monitoring wells with sampling and analysis. Such activities as are technically necessary and consistent with generally accepted engineering practices may be performed without submitting a work plan or receiving prior approval from the Agency, and associated costs may be included in a High Priority corrective action budget plan. A description of these activities and the results shall be included as a part of the corrective action plan.

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

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

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

2) The Agency may require additional investigation of potable water supply wells, regulated recharge areas, or wellhead protection areas if site-specific circumstances warrant. Such circumstances must include, but is not limited to, the existence of one or more parcels of property within 200 feet of the current or modeled extent of soil or groundwater contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants where potable water is likely to be used, but that is not served by a public water supply or a well identified pursuant to Section 732.307(f)(1) of this Part or subsection (e)(1) of this Section. The additional investigation may include, but is not limited to, physical well surveys (e.g., interviewing property owners, investigating individual properties for wellheads, distributing door hangers or other material that requests information about the existence of potable wells on the property, etc.).

f) The owner or operator shall submit the corrective action plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a corrective action budget plan also shall be submitted to the Agency for review. The corrective action plan budget shall include a line item estimate of all costs associated with the implementation and completion of the corrective action plan. The corrective action plan and corrective action plan budget shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

g) Within 30 days after completing the performance of the High Priority corrective action plan, the owner or operator shall submit to the Agency a corrective action completion report in accordance with Section 732.409 of this Part.
h) Within 120 days, the Agency shall review the corrective action completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter to the owner or operator in accordance with Subpart G of this Part upon approval by the Agency.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.405 Plan Submittal and Review

a) Prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Agency a Low Priority groundwater monitoring plan or a High Priority corrective action plan satisfying the minimum requirements for such activities as set forth in Section 732.403 or 732.404 of this Part, as applicable. Groundwater monitoring and corrective action plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

b) In addition to the plans required in subsections (a), (e), and (f) of this Section and prior to conducting any groundwater monitoring or corrective action activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a groundwater monitoring or corrective action budget plan with the corresponding groundwater monitoring or corrective action plan. Such budget plans shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an item estimate of all costs associated with the development, implementation and completion of the applicable activities, excluding handling charges. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget plan the Agency may require a comparison between the costs of the proposed method of remediation and other methods of remediation. Groundwater monitoring and corrective action budget plans shall be submitted on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

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

d) Notwithstanding subsections (a), (b), (e), and (f) of this Section and except as provided at Section 732.407 of this Part, an owner or operator may proceed to
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conduct Low Priority groundwater monitoring or High Priority corrective action activities in accordance with this Subpart D prior to the submittal or approval of an otherwise required groundwater monitoring plan or budget plan or corrective action plan or budget plan. However, any such plan and budget plan shall be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment or reimbursement for any related costs or the issuance of a No Further Remediation Letter. If the owner or operator has obtained Agency approval of a Low Priority groundwater monitoring plan and a Low Priority groundwater monitoring completion report, or has obtained Agency approval of a High Priority corrective action plan and a High Priority corrective action completion report, without the submittal of a budget plan pursuant to subsection (b) of this Section, the owner or operator may, as an alternative to submitting a budget plan, submit, on a form provided by the Agency and attached to the application for payment, the actual costs incurred in performing the applicable activities required, for a Low Priority site, in Section 732.403 of this Part or, for a High Priority site, in Section 732.404 of this Part.

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

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

f) If the Agency determines any approved corrective action plan has not achieved applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit a revised corrective action plan. If the owner or operator intends to seek payment from the Fund, the owner or operator must also submit a revised budget plan. Any action by the Agency to require a revised corrective action plan pursuant to this subsection (f) shall be subject to appeal to
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the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.406 Deferred Corrective Action; Priority List for Payment

a) An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met. An owner or operator who has received approval for any budget plan submitted pursuant to this Part and who is eligible for payment from the underground storage tank fund may elect to defer site classification, low priority groundwater monitoring, or remediation activities until funds are available in an amount equal to the amount approved in the budget plan if the requirements of subsection (b) of this Section are met [415 ILCS 5/57.8(b)].

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

2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment of approved budget plans and shall provide notice of insufficient funds to owners or operators of the availability of funds in accordance with Section 732.503(g) of this Part. Funds shall not be deemed available for owners or operators electing to defer corrective action so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.

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

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

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

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

53) Upon approval of an election receiving written notification that an owner or operator elects to defer low priority groundwater monitoring or high priority corrective action activities until funds are available, the Agency shall place the site on a priority list for payment and notification of availability of sufficient funds. Sites shall enter the priority list for payment and move up based solely on the date the Agency receives a complete written election of deferral, with the earliest dates having the highest priority. The Agency's record of the date of receipt shall be deemed conclusive, unless a contrary date is proven by a dated, signed receipt from registered or certified mail.

64) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner's or operator's site. After such notification the owner or operator shall commence corrective action.
Authorization of payment of encumbered funds for deferred low priority groundwater monitoring or high priority corrective action activities shall be approved in accordance with the requirements of Subpart F of this Part.

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

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

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

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

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

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

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

2) The release does not pose a threat to human health or the environment through migratory pathways following the investigation of migration pathways requirements of Section 732.307(g) of this Part.

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.407 Alternative Technologies

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

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

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

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

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

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

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.408 Remediation Objectives
For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Section 732.300(b), 732.400(b), or 732.400(c) of this Part, the owner or operator shall propose remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742.

Owners and operators seeking payment from the Fund that perform on-site corrective action in accordance with Tier 2 remediation objectives of 35 Ill. Adm. Code 742 must determine the following parameters on a site-specific basis:

- Hydraulic conductivity (K)
- Soil bulk density ($\rho_b$)
- Soil particle density ($\rho_s$)
- Moisture content (w)
- Organic carbon content ($f_{OC}$)

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports

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

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

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

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

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

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

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


B) One or more tables listing the setback zones for each community water supply well and other potable water supply wells identified pursuant to Section 732.404(e) of this Part;
C) A narrative that, at a minimum, identifies each entity contacted to identify potable water supply wells pursuant to Section 732.404(e) of this Part, the name and title of each person contacted at each entity, and field observations associated with the identification of potable water supply wells; and

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

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

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

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

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

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

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

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

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

b) The applicable report shall be submitted on forms prescribed and provided by the Agency, and, if specified by the Agency by written notice, in an electronic format, shall be signed by the owner or operator, and shall be accompanied by a certification from a Licensed Professional Engineer, in accordance with subsection (a) of this Section, that the information presented in the applicable report is accurate and complete, that groundwater monitoring or corrective action have been completed in accordance with the requirements of the Act and this Subpart D, and that no further remediation is required at the site. With the exception of Federal Landholding Entities subject to Section 732.703(d), the owner or operator must sign and submit, with the corrective action completion report, a form prescribed and provided by the Agency addressing ownership of the site. Where the owner or operator owns the site, the owner or operator must so indicate on the form. Where the owner or operator either does not own or does not solely own the site, the owner or operator must provide, on the form, a certification by original signature of the title holder(s) of record for the remediation site or each portion thereof, or the agent(s) of such person(s), stating as follows:

I hereby certify that I have reviewed the attached report and that I accept the terms and conditions set forth therein, including any land use limitations, that apply to property I own. I further certify that I have no objection to the recording of a No Further Remediation Letter containing the terms and conditions identified in the corrective action completion report.

c) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.
Section 732.411 Off-site Access

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

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

1) Citation to Title XVI Section 57 of the Act stating the legal responsibility of the owner or operator to remediate the contamination caused by the release;

2) That, if the property owner denies access to the owner or operator, the owner or operator may seek to gain entry by a court order pursuant to Section 22.2c22.2(c) of the Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8) Any existing on-site engineered barriers or institutional controls that might have an impact on the area of suspected off-site contamination, and the nature and extent of such impact; and
9) Any other applicable information assembled in compliance with this Part.

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

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

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART E: REVIEW OF SELECTION AND REVIEW PROCEDURES FOR PLANS, BUDGET PLANS, AND REPORTS

Section 732.500 General

a) The Agency shall have the authority to review any plan, budget plan, or report, including any amended plan, budget plan, or report, submitted pursuant to this Part. All such reviews shall be subject to the procedures set forth in the Act and this Subpart E.

b) For purposes of this Part, "plan" shall mean:

1) Any physical soil classification or groundwater investigation plan or associated budget plan submitted pursuant to Subpart C of this Part;

2) Any groundwater monitoring plan or associated budget plan submitted pursuant to Subpart D of this Part; or

3) Any site-specific corrective action plan or associated budget plan submitted pursuant to Subpart D of this Part.

e) For purposes of this Part, "report" shall mean:

1) Any early action report or free product removal report submitted pursuant to Subpart B of this Part;

2) Any site classification completion report submitted pursuant to Subpart C of this Part;
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3) Any annual groundwater monitoring report submitted pursuant to Subpart D of this Part;

4) Any groundwater monitoring completion report submitted pursuant to Subpart D of this Part; or

5) Any corrective action completion report submitted pursuant to Subpart D of this Part or Section 732.300(b) or 732.400(b).

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.501 Submittal of Plans or Reports (Repealed)

All plans or reports shall be made on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. Plans or reports shall be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

(Source: Repealed at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.502 Completeness Review (Repealed)

a) The Agency shall review for completeness all plans submitted pursuant to this Part 732. The completeness review shall be sufficient to determine whether all information and documentation required by the Agency form for the particular plan are present. The review shall not be used to determine the technical sufficiency of a particular plan or of the information or documentation submitted along with the plan.

b) The Agency shall have 45 days from the receipt of a plan to finish the completeness review. If the completeness review finds that the plan is complete, the Agency shall notify the owner or operator in writing and proceed, where appropriate, to approval, rejection or modification of the substantive portions of the plan. If the completeness review finds that the plan is incomplete, the Agency shall notify the owner or operator in writing. The notification shall include an explanation of the specific type of information or documentation that the Agency deems necessary to complete the plan.
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1) The Agency may, to the extent consistent with Agency deadlines, provide the owner or operator with a reasonable opportunity to correct deficiencies prior to a final determination on completeness.

2) The Agency shall mail notice of incompleteness by registered or certified mail, post marked with a date stamp and with return receipt requested. The decision shall be deemed to have taken place on the post marked date that such notice is mailed.

3) All time limits for Agency final action on a plan or report shall be calculated from the date the Agency receives a plan or report. Receipt of an amended plan or report, after a notice of incompleteness, shall restart all time limits for Agency final action on that plan or report.

e) Any budget plan submitted must be preceded or accompanied by an associated technical plan in order for the budget plan to be deemed complete.

d) The failure of the Agency to notify an owner or operator within 45 days that a plan is incomplete shall result in the plan being deemed complete. Any action by the Agency pursuant to this Section shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.

(Source: Repealed at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.503 Full Review of Plans, Budget Plans, or Reports

a) The Agency may review In addition to the completeness review for plans conducted pursuant to Section 732.502 of this Part, the Agency may conduct a full review of plans or reports selected in accordance with the requirements of Section 732.504 of this Part. A full review may include any or all technical or financial information, or both, relied upon by the owner or operator or the Licensed Professional Engineer or Licensed Professional Geologist in developing any plan, budget plan, or report selected for review. The Agency may also full review also may include the review of any other plans, budget plans, or reports submitted in conjunction with the site.

b) The Agency shall have the authority to approve, reject or require modification of any plan, budget plan, or report it reviews that has been given a full review. The Agency shall notify the owner or operator in writing of its final action on any
such plan, budget plan, or report, except in the case of 20 day, 45 day or free product removal reports, in which case no notification is necessary. Except as provided in subsections (c) and (d) and (e) of this Section, if the Agency fails to notify the owner or operator of its final action on a plan, budget plan, or report within 120 days after the receipt of a plan, budget plan, or report, the owner or operator may deem the plan, budget plan, or report rejected by operation of law. If the Agency rejects a plan, budget plan, or report or requires modifications, the written notification shall contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete the full review;

2) An explanation of the Sections of the Act or regulations that may be violated if the plan, budget plan, or report is approved; and

3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan, budget plan, or report is approved.

c) For High Priority corrective action plans submitted by owners or operators not seeking payment reimbursement from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrective action completion report required pursuant to Section 732.409 of this Part.

d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan, budget plan, or report by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 60 days.

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

f) Any action by the Agency to reject or require modification, or rejection by failure to act, of a plan, budget plan, or report shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If the owner or operator elects to incorporate modifications required by the Agency rather than appeal, a revised plan or report shall be submitted to the Agency within 35 days after the receipt of the Agency's written notification. If no revised plan or report is submitted to the
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Agency or no appeal to the Board is filed within the specified time frames, the plan or report shall be deemed approved as modified by the Agency. If any plan or report is rejected by operation of law, in lieu of an immediate appeal to the Board the owner or operator may either resubmit the plan or report to the Agency or file a joint request for a 90-day extension in the manner provided for extensions of permit decisions in Section 40 of the Act.

g) Notification of Selection for Full Review

1) Owners or operators submitting plans shall be notified by the Agency within 60 days after the date the plan is deemed complete if the plan has not been selected for full review in accordance with Section 732.504 of this Part. Failure of the Agency to so notify the owner or operator shall mean that the plan has been selected for full review. Notification by the Agency that the plan has not been selected for full review shall constitute approval of the plan.

2) Owners or operators submitting reports shall be notified by the Agency within 60 days after the receipt of the report if the report has not been selected for full review in accordance with Section 732.504 of this Part, except in the case of 20-day, 45-day or free product reports, in which case no notification of selection is necessary. Failure of the Agency to so notify the owner or operator shall mean that the report has been selected for full review. Notification by the Agency that the report has not been selected for full review shall constitute approval of the report.

3) Notice shall be sent and the date of notification shall be computed in accordance with subsection (e) of this Section.

gh) In accordance with Sections 732.306 and 732.406 of this Part, upon the approval of any budget plan by the Agency, the Agency shall include as part of the final notice to the owner or operator a notice of insufficient funds if the Fund does not contain sufficient funds to provide payment of the total costs approved in the budget plan statement of whether or not the Fund contains sufficient resources in order to immediately commence the approved measures.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.504 Selection of Plans or Reports for Full Review (Repealed)
a) The Agency shall select for full review a reasonable number of each type of plan or report. The number of plans or reports selected for full review shall be determined by the Agency based on the resources available to the Agency, the potential environmental impact at the site, the financial and technical complexity of the plan or report, and experience with prior reviews. To assure consistency and fairness in the selection process, the Agency shall follow a selection process that has the following goals:

1) A full technical and financial review of every "High Priority" corrective action plan, associated budget plan, and completion report submitted pursuant to Subpart D of this Part;

2) A full technical and financial review of every corrective action plan, associated budget plan, and completion report submitted pursuant to Sections 732.300(b) or 732.400(c) of this Part;

3) A full technical review of approximately 20% of the site classification reports submitted pursuant to Subpart C of this Part;

4) Site Classification Plans

   A) A full technical review of any site classification plan (including physical soil classification and groundwater investigation plans) for which the associated site classification report was selected for full review or that has an associated budget plan exceeding the typical cost for such plans as determined by the Agency;

   B) A full financial review of any site classification budget plan exceeding the typical cost for such plans as determined by the Agency;

5) "Low Priority" Groundwater Monitoring Plans

   A) A full technical review of any "Low Priority" groundwater monitoring plan that has an associated budget plan exceeding the typical cost for such plans as determined by the Agency;

   B) A full financial review of any "Low Priority" groundwater monitoring budget plan exceeding the typical cost for such plans as determined by the Agency;
6) A full technical review of any "Low Priority" annual groundwater sampling and analysis report or any groundwater monitoring completion report submitted pursuant to Subpart D of this Part;

7) A full technical review of any 20-day report, 45-day report, or free product report submitted pursuant to Subpart B of this Part in conjunction with the review of another plan or report selected in accordance with this Section.

b) The Agency may conduct a full review of any plan or report not selected in accordance with the provisions of this Section if the Agency has reason to believe that such review is necessary in conjunction with the review of another plan or report selected for that site.

e) Notwithstanding any other limitations on reviews, the Agency may conduct a full technical review on any plan or report identified in this Section that concerns a site for which an investigation has been or may be initiated pursuant to Section 732.105 of this Part.

d) Agency decisions on whether or not to select a plan or report for full review shall not be subject to appeal.

(Source: Repealed at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.505 Standards for Review of Plans, Budget Plans, or Reports

a) A full technical review shall consist of a detailed review of the steps proposed or completed to accomplish the goals of the plan and to achieve compliance with the Act and regulations. Items to be reviewed, if applicable, shall include, but not be limited to, number and placement of wells and borings, number and types of samples and analysis, results of sample analysis, and protocols to be followed in making determinations. The overall goal of the technical review for plans shall be to determine if the plan is sufficient to satisfy the requirements of the Act and regulations and has been prepared in accordance with generally accepted engineering practices or principles of professional geology. The overall goal of the technical review for reports shall be to determine if the plan has been fully implemented in accordance with generally accepted engineering practices or principles of professional geology, if the conclusions are consistent with the information obtained while implementing the plan, and if the requirements of the Act and regulations have been satisfied.
b) If the Licensed Professional Engineer or Licensed Professional Geologist certifies that there is no evidence that, through natural or manmade pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces, the Licensed Professional Engineer's or Licensed Professional Geologist's certification to that effect shall be presumed correct unless the Agency's review reveals objective evidence to the contrary.

c) A full financial review shall consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed shall include, but are not be limited to, costs associated with any materials, activities or services that are included in the budget plan. The overall goal of the financial review shall be to assure that costs associated with materials, activities and services shall be reasonable, shall be consistent with the associated technical plan, shall be incurred in the performance of corrective action activities, and shall not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations and must not exceed the maximum payment amounts set forth in Subpart H of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART F: PAYMENT FROM THE FUND OR REIMBURSEMENT

Section 732.601 Applications for Payment

a) An owner or operator seeking payment from the Fund shall submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The owner or operator may submit an application for partial payment or final payment. Costs for which payment is sought must be approved in a budget plan, provided, however, that no budget plan shall be required for early action activities conducted pursuant to Subpart B of this Part other than free product removal activities conducted more than 45 days after confirmation of the presence of free product for materials, activities or services contained in an approved budget plan. An application for payment also may be submitted for materials, activities or services for early action conducted pursuant to Subpart B of this Part and for which no budget plan is required.
b) A complete application for payment shall consist of the following elements:

1) A certification from a Licensed Professional Engineer or a Licensed Professional Geologist acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or, for early action activities, in accordance with Subpart B of this Part;

2) A statement of the amounts approved in the corresponding budget plan and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought have been expended in conformance with the elements of a budget plan approved by the Agency;

3) A copy of the OSFM or Agency eligibility and deductibility determination;

4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;

5) A federal taxpayer identification number and legal status disclosure certification;

6) A private insurance coverage form;

7) A minority/women's business usage form;

8) Designation of the address to which payment and notice of final action on the application for payment are to be sent;

9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and

10) Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.

c) The address designated on the application for payment may be changed only by
subsequent notification to the Agency, on a form provided by the Agency, of a change in address.

d) Applications for payment and change of address forms shall be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

e) Applications for partial or final payment may be submitted no more frequently than once every 90 days.

f) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, other than costs associated with free product removal activities conducted more than 45 days after confirmation of the presence of free product, or applications for payment/budget plans submitted pursuant to Section 732.305(e), 732.312(l), 732.405(e), and 732.405(f) of this Part, in no case shall the Agency review an application for payment unless there is an approved budget plan on file corresponding to the application for payment.

g) In no case shall the Agency authorize payment to an owner or operator in amounts greater than the amounts approved by the Agency in a corresponding budget plan. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart E of this Part using amended budget plans as required under in accordance with Section 732.305(e) or 732.405(e) of this Part.

h) Applications for payment of costs associated with site classification may not be submitted prior to approval or modification of the site classification completion report.

i) Applications for payment of costs associated with site classification, low priority groundwater monitoring, or high priority corrective action that was deferred pursuant to Section 732.306 or 732.406 of this Part may not be submitted prior to approval or modification of the corresponding site classification completion report, low priority groundwater monitoring completion report, or high priority corrective action completion report.

j) All applications for payment of corrective action costs must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part. For releases for which the Agency issued a No
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Further Remediation Letter prior to March 1, 2006, all applications for payment must be submitted no later than March 1, 2007.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.602  Review of Applications for Payment

a) At a minimum, the Agency must review each application for payment submitted pursuant to this Part to determine the following:

1) whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part;

2) for costs incurred pursuant to Subpart B of this Part, other than free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought are reasonable, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part;

3) for costs incurred pursuant to Subpart C of this Part and free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought exceed the amounts approved in the corresponding budget plan, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part and a plan approved by the Agency; and

4) Whether the amounts sought are eligible for payment.

The Agency shall conduct a review of any application for payment submitted pursuant to this Part. Each application for payment shall be reviewed to determine whether the application contains all of the elements and supporting documentation required by Section 732.601(b) of this Part and whether the amounts sought for payment have been certified in accordance with Section 732.601(b)(2) of this Part as equal to or less than the amounts approved in the corresponding budget plan. Any action by the Agency pursuant to this subsection shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.
b) The Agency may conduct a full review of any application for payment:

1) If the amounts sought for payment exceed the amounts approved in the corresponding budget plan;

2) If the Agency has reason to believe that the application for payment is fraudulent; or

3) If the application for payment includes costs for early action activities conducted pursuant to Subpart B of this Part and either of the following circumstances exists:
   A) The application for payment is solely for early action costs that have not been approved as part of a prior budget plan; or
   B) The application for payment includes early action costs that have not been approved as part of a prior budget plan, except that only the portion of the application for the unapproved early action costs may be given a full review.

When conducting a full review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in subsection (c) of this Section.

c) A full review of an application for payment shall be sufficient to determine which line items contained in the application for payment have caused the application for payment to exceed the corresponding approved budget plan pursuant to subsection (b)(1) of this Section, which line items, if any, are ineligible for payment pursuant to subsection (b)(2) or (b)(3) of this Section, and whether there is sufficient documentation to demonstrate that line items have been completed in accordance with a plan approved by the Agency. The Agency’s full review may include review of any or all elements and supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The full review also may include the review of any plans, budget plans, or reports previously submitted for the site to ensure that the application for payment is consistent with work proposed and actually performed in conjunction with the site.

d) Following a review, the Agency shall have the authority to approve, deny or
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require modification of applications for payment or portions thereof. The Agency shall notify the owner or operator in writing of its final action on any such application for payment. Except as provided in subsection (e) or subsection (f) of this Section, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification shall contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete the full review;

2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and

3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.

e) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 30 days.

f) The Agency shall mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. The Agency shall mail notices of final action on applications for payment, and direct the Comptroller to mail payments to the owner or operator, at the address designated for receipt of payment in the application for payment or on a change of address form, provided by the Agency, submitted subsequent to submittal of the application for payment.

g) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If the owner or operator elects to incorporate modifications required by the Agency rather than appeal, a revised application for payment shall be submitted to the Agency within 35 days after the receipt of the Agency's written notification. If no revised application for payment is

h) submitted to the Agency within 35 days after the receipt of the Agency's written notification, the application for payment shall not be considered approved.
Section 732.603 Authorization for Payment; Priority List

a) Within 60 days after notification to an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency shall forward to the Office of the State Comptroller in accordance with subsection (d) or (e) of this Section a voucher in the amount approved. If the owner or operator has filed an appeal with the Board of the Agency's final decision on an application for payment, the Agency shall have 60 days after the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal. Notwithstanding the time limits imposed by this Section, the Agency shall not forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.

b) The following rules shall apply regarding deductibles:

1) Any deductible, as determined by the OSFM or the Agency, shall be subtracted from any amount approved for payment by the Agency or by operation of law or ordered by the Board or courts;

2) Only one deductible shall apply per occurrence;

3) If multiple incident numbers are issued for a single site in the same calendar year, only one deductible shall apply for those incidents, even if the incidents relate to more than one occurrence; and

4) Where more than one deductible determination is made, the higher deductible shall apply.

c) The Agency shall instruct the Office of the State Comptroller to issue payment to the owner or operator at the address designated in accordance with Section 732.601(b)(8) or (c) of this Part. In no case shall the Agency authorize the Office of the State Comptroller to issue payment to an agent, designee, or entity that who has conducted corrective action activities for the owner or operator.
d) For owners or operators who have deferred site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, payment shall be authorized from funds encumbered pursuant to Section 732.306(a)(6) or 732.406(a)(6) of this Part upon approval of the application for payment by the Agency or by operation of law.

e) For owners or operators not electing to defer site classification or corrective action in accordance with Section 732.306 or 732.406 of this Part, the Agency shall form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section.

1) All such applications for payment shall be assigned a date that is the date upon which the complete application for partial or final payment was received by the Agency. This date shall determine the owner's or operator's priority for payment in accordance with subsection (e)(2) of this Section, with the earliest dates receiving the highest priority.

2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment shall be assigned priority in accordance with subsection (e)(1) of this Section. The assigned date shall be the only factor determining the priority for payment for those applications approved for payment.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.604 Limitations on Total Payments

a) Limitations per occurrence:

1) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of corrective action incurred by the owner or operator in an amount in excess of $1,000,000 per occurrence. The Agency shall not approve any payment from the fund to pay an owner or operator for costs of corrective action incurred by such owner or operator in an amount in excess of $1,000,000 per occurrence. (Section 57.8(g) of the Act)

2) The Agency must not approve any payment from the Fund to pay an owner or operator for costs of indemnification of the owner or operator in
an amount in excess of $1,000,000 per occurrence. The Agency shall not approve any payment from the fund to pay an owner or operator for costs of indemnification of such owner or operator in an amount in excess of $1,000,000 per occurrence. (Section 57.8(g) of the Act)

b) Aggregate limitations:

1) Notwithstanding any other provision of this Part, the Agency must not approve payment to an owner or operator from the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by the owner or operator in Illinois:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Number of Tanks</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000,000</td>
<td>fewer than 101</td>
</tr>
<tr>
<td>$2,000,000</td>
<td>101 or more</td>
</tr>
</tbody>
</table>

2) Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section will not be eligible for payment in subsequent years. Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section shall not be eligible for payment in subsequent years. (Section 57.8(d) of the Act)

c) For purposes of subsection (b) of this Section, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator [415 ILCS
For purposes of subsection (b) of this Section, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator. (Section 57.8(d) of the Act)

d) For purposes of subsection (b) of this Section, owner or operator includes:

1) any subsidiary, parent, or joint stock company of the owner or operator; and

2) any company owned by any parent, subsidiary, or joint stock company of the owner or operator [415 ILCS 5/57.8(d)(3)].

For purposes of subsection (b) of this Section, owner or operator includes:

1) any subsidiary, parent, or joint stock company of the owner or operator; and

2) any company owned by any parent, subsidiary, or joint stock company of the owner or operator. (Section 57.8(d) of the Act)

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.605 Eligible Corrective Action Costs

a) Types of costs that may be eligible for payment from the Fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include but are not limited to reasonable costs for:

1) Early action activities conducted pursuant to Subpart B of this Part;

2) Engineer or geologist Engineering oversight services;

3) Remedial investigation and design;

4) Feasibility studies;

5) Laboratory services necessary to determine site classification and whether the established remediation corrective action objectives have been met;
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5) The installation and operation of groundwater investigation and groundwater monitoring wells;

6) The removal, treatment, transportation, and disposal of soil contaminated by petroleum at levels in excess of the established remediation corrective action objectives;

7) The removal, treatment, transportation, and disposal of water contaminated by petroleum at levels in excess of the established remediation corrective action objectives;

8) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established remediation corrective action objectives;

9) Groundwater corrective action systems;

10) Alternative technology, including but not limited to feasibility studies approved by the Agency;

11) Recovery of free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water phase petroleum from groundwater;

12) The removal and disposal of any UST if a release of petroleum from the UST was identified and IEMA was notified prior to its removal, with the exception of any UST deemed ineligible by the OSFM Office of State Fire Marshal;

13) Costs incurred as a result of a release of petroleum because of vandalism, theft or fraudulent activity by a party other than an owner, operator or agent of an owner or operator;

14) Engineering costs associated with seeking payment or reimbursement from the Fund including, but not limited to, completion of an application for partial or final payment;

15) Costs associated with obtaining an Eligibility and Deductibility
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Determination from the OSFM or the Agency;

16) Costs for destruction and replacement of concrete, asphalt, or paving to the extent necessary to conduct corrective action and if the concrete, asphalt, or paving was installed prior to the initiation of corrective action activities, the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer, and the destruction and replacement and its costs are approved by the Agency in writing prior to the destruction and replacement. The costs for destruction and replacement of concrete, asphalt, and paving must not be paid more than once. Costs associated with the replacement of concrete, asphalt, or paving must not be paid in excess of the cost to install, in the same area and to the same depth, the same material that was destroyed (e.g., replacing four inches of concrete with four inches of concrete);

17) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer and such activity and its costs are approved by the Agency in writing prior to the destruction or dismantling and re-assembly. Such costs must not be paid in excess of a total $10,000 per occurrence. For purposes of this subsection (a)(17) and (18), destruction, dismantling, or reassembly of above grade structures does not include costs associated with replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies; and

18) Preparation of reports submitted pursuant to Section 732.202(h)(3) of this Part, free product removal plans and associated budget plans, free product removal reports, site classification plans (including physical soil classification and groundwater investigation plans) and associated budget plans, site classification reports, groundwater monitoring plans and associated budget plans, groundwater monitoring completion reports, High Priority corrective action plans and associated budget plans, and High Priority corrective action completion reports;

19) Costs associated with the removal or abandonment of a potable water supply well, and replacement of the well or connection to a public water supply, whichever is less, if a Licensed Professional Engineer or Licensed Professional Geologist certifies that such activity is necessary to the
performance of corrective action and that the property served by the well cannot receive an adequate supply of potable water from an existing source other than the removed or abandoned well, and the Agency approves such activity in writing. If the well being removed or abandoned is a public water supply well, the Licensed Professional Engineer or Licensed Professional Geologist is required to certify only that the removal or abandonment of the well is necessary to the performance of corrective action; and

20) Costs associated with the repair or replacement of potable water supply lines damaged to the point of requiring repair or replacement as a direct result of the release, if such activity is certified by a Licensed Professional Engineer or Licensed Professional Geologist as necessary for the protection of the potable water supply and approved by the Agency in writing.

b) An owner or operator may submit a budget plan or application for partial or final payment that includes an itemized accounting of costs associated with activities, materials or services not identified in subsection (a) of this Section if the owner or operator submits detailed information demonstrating that the activities, materials or services not identified in subsection (a) of this Section are essential to the completion of the minimum corrective action requirements of the Act and this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.606 Ineligible Corrective Action Costs

Costs ineligible for payment from the Fund include but are not limited to:

a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 732.202(f), and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 732.202(f) of this Part;

b) Costs or losses resulting from business interruption;
c) Costs incurred as a result of vandalism, theft or fraudulent activity by the owner or operator or agent of an owner or operator, including the creation of spills, leaks or releases;

d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies, including but not limited to those structures destroyed or damaged during corrective action activities;

e) **Costs of corrective action or indemnification incurred by an owner or operator prior to July 28, 1989** [415 ILCS 5/57.8(j)];

f) Costs associated with the procurement of a generator identification number;

g) **Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;**

h) Purchase costs of non-expendable materials, supplies, equipment or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment or tools;

i) Costs associated with activities that violate any provision of the Act or Board, OSFM or Agency regulations;

j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;

k) **Costs for removal, disposal or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the OSFM before the owner or operator provided notice to IEMA of a release of petroleum;**

l) Costs associated with the installation of new USTs, the repair of existing USTs and removal and disposal of USTs determined to be ineligible by the Office of **the**
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State Fire Marshal;

m) Costs exceeding those contained in a budget plan or amended budget plan approved by the Agency;

n) Costs of corrective action of indemnification incurred before providing notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;

o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;

p) Costs associated with improperly installed sampling or monitoring wells;

q) Costs associated with improperly collected, transported, or analyzed laboratory samples;

r) Costs associated with the analysis of laboratory samples not approved by the Agency for constituents other than applicable indicator contaminants or groundwater objectives;

s) Costs for any corrective activities, services or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;

t) Interest or finance costs charged as direct costs;

u) Insurance costs charged as direct costs;

v) Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs;

w) Costs associated with the compaction and density testing of backfill material;

x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;

y) Costs related to activities, materials or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act[415 ILCS 5] and regulations;
z) Costs incurred after completion of early action activities in accordance with Subpart B by owners or operators choosing, pursuant to Section 732.300(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;

aa) Costs incurred after completion of site classification activities in accordance with Subpart C by owners or operators choosing, pursuant to Section 732.400(b) or (c) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;

bb) Costs of alternative technology that exceed the costs of conventional technology;

cc) Costs for investigative activities and related services or materials for developing a High Priority corrective action plan that are unnecessary, or inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services;

dd) Costs to prepare site classification plans and associated budget plans under Section 732.305 of this Part, to perform site classification under Section 732.307 of this Part, or to prepare site classification completion reports under Section 732.309 of this Part, for sites where owners or operators have elected to classify under Section 732.312 of this Part;

ee) Costs to prepare site classification plans and associated budget plans under Section 732.312 of this Part, to perform site classification under Section 732.312 of this Part, or to prepare site classification completion reports under Section 732.312 of this Part, for sites where owners or operators have performed classification activities under Sections 732.305, 732.307, or 732.309 of this Part;

ff) Costs requested that are based on mathematical errors;

gg) Costs that lack supporting documentation;

hh) Costs proposed as part of a budget plan that are unreasonable;

ii) Costs incurred during early action that are unreasonable;

jj) Costs incurred on or after the date the owner or operator enters at a site that has entered the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release;
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kk) Costs incurred for additional remediation after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. This subsection (kk) does not apply to the following:

1) Costs, except costs incurred for MTBE remediation pursuant to Section 732.310(i)(2) of this Part;

2) Monitoring well abandonment costs;

3) County recorder or registrar of titles fees for recording the No Further Remediation Letter;

4) Costs associated with seeking payment from the Fund; and

5) Costs associated with remediation to Tier 1 remediation objectives on-site if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives in response to the release;

ll) Handling charges for subcontractor subcontractor’s costs that have been billed directly to the owner or operator;

mm) Handling charges for subcontractor subcontractor’s costs when the contractor has not submitted proof of payment of the subcontractor costs paid the subcontractor;

nn) Costs associated with standby and demurrage; and

oo) Costs associated with a corrective action plan incurred after the Agency notifies the owner or operator, pursuant to Section 732.405(f) of this Part, that a revised corrective action plan is required, provided, however, that costs associated with any subsequently approved corrective action plan will be eligible for reimbursement if they meet the requirements of this Part;

pp) Costs incurred after the effective date of an owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734;

qq) Costs associated with the preparation of free product removal reports not submitted in accordance with the schedule established in Section 732.203(a)(5) of this Part.
rr) Costs submitted more than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;

ss) Costs for the destruction and replacement of concrete, asphalt, or paving, except as otherwise provided in Section 732.605(a)(16) of this Part;

tt) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, utilities, or other items during corrective action activities, except as otherwise provided in Section 732.605(a)(16) or (17) of this Part;

uu) Costs associated with oversight by an owner or operator;

vv) Handling charges charged by persons other than the owner’s or operator’s primary contractor;

ww) Costs associated with the installation of concrete, asphalt, or paving as an engineered barrier to the extent they exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. This subsection does not apply if the concrete, asphalt, or paving being used as an engineered barrier was replaced pursuant to Section 732.605(a)(16) of this Part;

xx) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release, unless approved by the Agency in writing prior to the treatment or disposal;

vv) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply, except as otherwise provided in Section 732.605(a)(19) of this Part;

zz) Costs associated with the repair or replacement of potable water supply lines, except as otherwise provided in Section 732.605(a)(20) of this Part;

aaa) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines, except as otherwise provided in Sections 732.605(a)(19) or (20) of this Part;
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bbb) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance that are approved in a budget plan;

ccc) Costs that exceed the maximum payment amounts set forth in Subpart H of this Part;

ddd) Costs associated with on-site corrective action to achieve remediation objectives that are more stringent than the Tier 2 remediation objectives developed in accordance with 35 Ill. Adm. Code 742. This subsection (ddd) does not apply if Karst geology prevents the development of Tier 2 remediation objectives for on-site remediation, or if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives on-site in response to the release;

ee) Costs associated with groundwater remediation if a groundwater ordinance already approved by the Agency for use as an institutional control in accordance with 35 Ill. Adm. Code 742 can be used as an institutional control for the release being remediated.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.607 Payment for Handling Charges

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

<table>
<thead>
<tr>
<th>Subcontract or Field Purchase Cost</th>
<th>Eligible Handling Charges as a Percentage of Cost:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – $5,000</td>
<td>..................................................12%</td>
</tr>
<tr>
<td>$5,001 – $15,000</td>
<td>..................................................$600 + 10% of amt. over $5,000</td>
</tr>
<tr>
<td>$15,001 – $50,000</td>
<td>..................................................$1,600 + 8% of amt. over $15,000</td>
</tr>
<tr>
<td>$50,001 – $100,000</td>
<td>..................................................$4,400 + 5% of amt. over $50,000</td>
</tr>
<tr>
<td>$100,001 – $1,000,000</td>
<td>..................................................$6,900 + 2% of amt. over $100,000</td>
</tr>
</tbody>
</table>

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table (Section 57.8(g) of the Act):
### NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>SUBCONTRACT OR FIELD PURCHASE COST:</th>
<th>ELIGIBLE HANDLING CHARGES AS A PERCENTAGE OF COST:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $5,000</td>
<td>12%</td>
</tr>
<tr>
<td>$5,001 - $15,000</td>
<td>$600 PLUS 10% OF AMOUNT OVER $5,000</td>
</tr>
<tr>
<td>$15,001 - $50,000</td>
<td>$1,600 PLUS 8% OF AMOUNT OVER $15,000</td>
</tr>
<tr>
<td>$50,001 - $100,000</td>
<td>$4,400 PLUS 5% OF AMOUNT OVER $50,000</td>
</tr>
<tr>
<td>$100,001 - $1,000,000</td>
<td>$6,900 PLUS 2% OF AMOUNT OVER $100,000 [415 ILCS 5/57.8(f)]</td>
</tr>
</tbody>
</table>

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

#### Section 732.608 Apportionment of Costs

**a)** The Agency may apportion payment of costs if:

1) *The owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and The owner or operator was deemed eligible to access the fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and*

2) *The owner or operator failed to justify all costs attributable to each underground storage tank at the site.* [415 ILCS 5/57.8(m)]

**b)** The Agency will determine, based on volume or number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

#### Section 732.610 Indemnification

**a)** *An owner or operator seeking indemnification from the Fund for payment of costs incurred as a result of a release of petroleum from an underground storage tank*
must submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

1) A complete application for payment must contain the following:

A) A certified statement by the owner or operator of the amount sought for payment;

B) Proof of the legally enforceable judgment, final order, or determination against the owner or operator, or the legally enforceable settlement entered into by the owner or operator, for which indemnification is sought. The proof must include, but is not limited to, the following:

i) A copy of the judgment certified by the court clerk as a true and correct copy, a copy of the final order or determination certified by the issuing agency of State government or subdivision thereof as a true and correct copy, or a copy of the settlement certified by the owner or operator as a true and correct copy; and

ii) Documentation demonstrating that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from the UST for which the release was reported, and that the UST is owned or operated by the owner or operator;

C) A copy of the OSFM or Agency eligibility and deductibility determination;

D) Proof that approval of the indemnification requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;

E) A federal taxpayer identification number and legal status disclosure certification;

F) A private insurance coverage form; and
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G) Designation of the address to which payment and notice of final action on the request for indemnification are to be sent to the owner or operator.

2) The owner's or operator's address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change of address.

3) Applications for payment must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

b)a) Upon submittal of a request for indemnification for payment of costs incurred as a result of a release of petroleum from an underground storage tank, the Agency shall review the application for payment in accordance with this Subpart F. In addition, the Agency must review each application for payment to determine the following:

1) Whether the application contains all of the information and supporting documentation required by subsection (a) of this Section;

2) Whether there is sufficient documentation of a legally enforceable judgment entered against the owner or operator in a court of law, final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or settlement entered into by the owner or operator;

3) Whether there is sufficient documentation that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator; and

4) Whether the amounts sought for indemnification are eligible for payment.

c)b) If the application for payment of the costs of indemnification is deemed complete and otherwise satisfies all applicable requirements of this Subpart F, the Agency shall forward the request for indemnification to the Office of the Attorney General for review and approval in accordance with Section 57.8(c) of the Act. The
owner or operator's request for indemnification shall not be placed on the priority list for payment until the Agency has received the written approval of the Attorney General. The approved application for payment shall then enter the priority list established at Section 732.603(d)(1) of this Part based on the date the complete application was received by the Agency in accordance with Section 57.8(c) of the Act.

d) Costs ineligible for indemnification from the Fund include, but are not limited to:

1) Amounts an owner or operator is not legally obligated to pay pursuant to a judgment entered against the owner or operator in a court of law, a final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or any settlement entered into by the owner or operator;

2) Amounts of a judgment, final order, determination, or settlement that do not arise out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator;

3) Amounts incurred prior to July 28, 1989;

4) Amounts incurred prior to notification of the release of petroleum to IEMA in accordance with Section 732.202 of this Part;

5) Amounts arising out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank for which the owner or operator is not eligible to access the Fund;

6) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;

7) Amounts associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;

8) Amounts associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice
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issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;

9) Amounts associated with a release that has not been reported to IEMA or is not required to be reported to IEMA;

10) Amounts incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release; and

11) Amounts incurred after the effective date of the owner's or operator's election to proceed in accordance with 35 Ill. Adm. Code 734.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.612 Determination and Collection of Excess Payments

a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section.

1) Upon identifying an excess payment, the Agency shall notify the owner or operator receiving the excess payment by certified or registered mail, return receipt requested.

2) The notification letter shall state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.

3) The Agency's determination of an excess payment shall be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

b) An excess payment from the Fund includes, but is not limited to:

1) Payment for a non-corrective action cost;

2) Payment in excess of the limitations on payments set forth in Sections 732.604 and 732.607 and Subpart H of this Part;

3) Payment received through fraudulent means;
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4) Payment calculated on the basis of an arithmetic error;

5) Payment calculated by the Agency in reliance on incorrect information;

6) Payment of costs that are not eligible for payment.

c) Excess payments may be collected using any of the following procedures:

1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section or pursuant to a Board order affirming such determination upon appeal, the Agency may attempt to negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section shall prohibit the Agency from exercising at any time its options at subsection (c)(2) or (c)(3) of this Section or any other collection methods available to the Agency by law.

2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.

3) The Agency may deem an excess payment amount to be a claim or debt owed the Agency, and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.5 of the "State Comptroller Act". [15 ILCS 405/10.05] (1993).

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.614 Audits and Access to Records; Records Retention

a) Owners or operators that submit a report, plan, budget, application for payment, or any other data or document under this Part must maintain all books, records, documents, and other evidence directly pertinent to the report, plan, budget, application for payment, data, or document, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents, and other evidence must be
b) The Agency or any of its duly authorized representatives must have access to the books, records, documents, and other evidence set forth in subsection (a) of this Section during normal business hours for the purpose of inspection, audit, and copying. Owners or operators must provide proper facilities for such access and inspection.

c) Owners or operators must maintain the books, records, documents, and other evidence set forth in subsection (a) of this Section and make them available to the Agency or its authorized representative until the latest of the following:

1) The expiration of 4 years after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part.

2) For books, records, documents, or other evidence relating to an appeal, litigation, or other dispute or claim, the expiration of 3 years after the date of the final disposition of the appeal, litigation, or other dispute or claim; or

3) The expiration of any other applicable record retention period.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

Section 732.701 Issuance of a No Further Remediation Letter

a) Upon approval by the Agency of a report submitted pursuant to Section 732.202(h)(3) of this Part, a No Further Action site classification report, a Low Priority groundwater monitoring completion report, or a High Priority corrective action completion report, the Agency shall issue to the owner or operator a No Further Remediation Letter. The No Further Remediation Letter shall have the legal effect prescribed in Section 57.10 of the Act. The No Further Remediation Letter shall be denied if the Agency rejects or requires modification of the applicable report.

b) The Agency shall have 120 days after the date of receipt of a complete report to
issue a No Further Remediation Letter and may include the No Further Remediation Letter as part of the notification of approval of the applicable report in accordance with Subpart E of this Part. If the Agency fails to send the No Further Remediation Letter within 120 days, it shall be deemed denied by operation of law.

c) The notice of denial of a No Further Remediation Letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If any request for a No Further Remediation Letter is denied by operation of law, in lieu of an immediate repeal to the Board the owner or operator may either resubmit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

d) The Agency shall mail the No Further Remediation Letter by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the postmarked date that the letter is mailed.

e) The Agency at any time may correct errors in No Further Remediation Letters that arise from oversight, omission or clerical mistake. Upon correction of the No Further Remediation Letter, the Agency shall mail the corrected letter to the owner or operator as set forth in subsection (d)(e) of this Section. The corrected letter shall be perfected by recording in accordance with the requirements of Section 732.703 of this Part.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.702 Contents of a No Further Remediation Letter

A No Further Remediation Letter issued pursuant to this Part shall include all of the following:

a) An acknowledgment that the requirements of the applicable report were satisfied;

b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for purposes of Section 732.703(d) of this Part, other means sufficient to identify site location
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with particularity;

c) A statement that the remediation objectives were determined in accordance with 35 Ill. Adm. Code 742, and the identification of any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;

d) A statement that the Agency's issuance of the No Further Remediation Letter signifies that:

1) All corrective action requirements under Title XVI of the Act and this Part applicable to the occurrence have been complied with;

2) All corrective action concerning the remediation of the occurrence has been completed; and

3) No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment [415 ILCS 5/57.10(c)], or, if the No Further Remediation Letter is issued pursuant to Section 732.411(e) of this Part, that the owner or operator has demonstrated to the Agency's satisfaction an inability to obtain access to an off-site property despite best efforts and therefore is not required to perform corrective action on the off-site property in order to satisfy the corrective action requirements of this Part, but is not relieved of responsibility to clean up portions of the release that have migrated off-site;

e) The prohibition under Section 732.703(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;

f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;

g) The recording obligations pursuant to Section 732.703 of this Part;

h) The opportunity to request a change in the recorded land use pursuant to Section 732.703(e) of this Part;
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i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and

j) Any other provisions agreed to by the Agency and the owner or operator.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.703 Duty to Record a No Further Remediation Letter

a) Except as provided in subsections (c) and (d) of this Section, an owner or operator receiving a No Further Remediation Letter from the Agency pursuant to this Subpart G shall submit the letter, with a copy of any applicable institutional controls (as set forth in 35 Ill. Adm. Code 742, Subpart J) proposed as part of a corrective action completion report, to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter and any attachments shall be filed in accordance with Illinois law so that they form a permanent part of the chain of title for the site. Upon the lapse of the 45-day period for recording, pursuant to Section 732.704(a)(5) of this Part, the Agency may void an unrecorded No Further Remediation Letter for failure to record it in a timely manner.

b) Except as provided in subsections (c) and (d) of this Section, a No Further Remediation Letter shall be perfected upon the date of the official recording of such letter. The owner or operator shall obtain and submit to the Agency, within 30 days after the official recording date, a certified or otherwise accurate and official copy of the letter and any attachments as recorded. An unperfected No Further Remediation Letter is effective only as between the Agency and the owner or operator. The Agency may, pursuant to Section 732.704(a)(5) of this Part, void a No Further Remediation Letter for failure to perfect in a timely manner in accordance with subsection (a) of this Section.

c) For sites located in an Illinois Department of Transportation (IDOT) right-of-way, the following requirements shall apply:

1) In order for the No Further Remediation Letter to be perfected, the highway authority with jurisdiction over the right-of-way must enter into a Memorandum of Agreement (MOA) with the Agency. The MOA...
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must include, but is not limited to:

A) The name of the site, if any, and any highway authority IDOT or Agency identifiers (e.g., incident number, Illinois inventory identification number);

B) The address of the site (or other description sufficient to identify the location of the site with certainty);

C) A copy of the No Further Remediation Letter for each site subject to the MOA;

D) Procedures for tracking sites subject to the MOA so that all highway authority offices and personnel IDOT bureaus whose responsibilities (e.g., land acquisition, maintenance, construction, utility permits) may affect land use limitations will have notice of any environmental concerns and land use limitations applicable to a site;

E) Provisions addressing future conveyances (including title or any lesser form of interest) or jurisdictional transfers of the site to any other agency, private person or entity and the steps that will be taken to ensure the long-term integrity of any land use limitations including, but not limited to, the following:

i) Upon creation of a deed, the recording of the No Further Remediation Letter and any other land use limitations requiring recording under 35 Ill. Adm. Code 742, with copies of the recorded instruments sent to the Agency within 30 days after recording;

ii) Any other arrangements necessary to ensure that property that is conveyed or transferred remains subject to any land use limitations approved and implemented as part of the corrective action plan and the No Further Remediation Letter; and

iii) Notice to the Agency at least 60 days prior to any such intended conveyance or transfer indicating the mechanism(s) to be used to ensure that any land use
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limitations will be operated or maintained as required in the corrective action plan and No Further Remediation Letter; and

F) Provisions for notifying the Agency if any actions taken by the highway authority, IDOT or its permittees at the site result in the failure or inability to restore the site to meet the requirements of the corrective action plan and the No Further Remediation Letter.

2) Failure to comply with the requirements of this subsection (c) may result in voidance of the No Further Remediation Letter pursuant to Section 732.704 of this Part as well as any other penalties that may be available.

d) For sites located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title, the following requirements shall apply:

1) To perfect a No Further Remediation Letter containing any restriction on future land use(s), the Federal Landholding Entity or Entities responsible for the site must enter into a Land Use Control Memorandum of Agreement (LUC MOA) with the Agency that requires the Federal Landholding Entity to do, at a minimum, the following:

A) Identify the location on the Federally Owned Property of the site subject to the No Further Remediation Letter. Such identification shall be by means of common address, notations in any available facility master land use plan, site specific GIS or GPS coordinates, plat maps, or any other means that identify the site in question with particularity;

B) Implement periodic site inspection procedures that ensure oversight by the Federal Landholding Entities of any land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

C) Implement procedures for the Federal Landholding Entities to periodically advise the Agency of continued compliance with all maintenance and inspection requirements set forth in the LUC MOA;
D) Implement procedures for the Federal Landholding Entities to notify the Agency of any planned or emergency changes in land use that may adversely impact land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

E) Notify the Agency at least 60 days in advance of a conveyance by deed or fee simple title, by the Federal Landholding Entities, of the site or sites subject to the No Further Remediation Letter, to any entity that will not remain or become a Federal Landholding Entity, and provide the Agency with information about how the Federal Landholding Entities will ensure the No Further Remediation Letter is recorded on the chain of title upon transfer of the property; and

F) Attach to the LUC MOA a copy of the No Further Remediation Letter for each site subject to the LUC MOA.

2) To perfect a No Further Remediation letter containing no restriction(s) on future land use, the Federal Landholding Entity shall submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter shall be filed in accordance with Illinois law so it forms a permanent part of the chain of title. The Federal Landholding Entity shall obtain and submit to the Agency, within 30 days after recording, a copy of the letter demonstrating that the recording requirements have been satisfied.

3) Failure to comply with the requirements of this subsection (d) and the LUC MOA may result in voidance of the No Further Remediation Letter as well as any other penalties that may be available.

e) At no time shall any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation set forth in the No Further Remediation Letter. The land use limitation specified in the No Further Remediation Letter may be revised only by the perfecting of a subsequent No Further Remediation Letter, issued pursuant to Title XVII of the Act and regulations thereunder, following further investigation or remediation that demonstrates the attainment of objectives appropriate for the new land use.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)
Section 732.704 Voidance of a No Further Remediation Letter

a) The No Further Remediation Letter shall be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but shall not be limited to:

1) Any violations of institutional controls or land use restrictions, if applicable;

2) The failure of the owner or operator or any subsequent transferee to operate and maintain preventive, engineering and institutional controls or comply with a groundwater monitoring plan, if applicable;

3) Obtaining the No Further Remediation Letter by fraud or misrepresentation;

4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based which:

   A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based;

   B) results in the following:

      i) the site no longer satisfying the criteria of a No Further Action site classification;

      ii) the site no longer satisfying the criteria of a Low Priority site classification;

      iii) failing to meet the remediation objectives established for a High Priority site; and

   C) pose a threat to human health or the environment;
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5) Upon the lapse of the 45 day period for recording perfection of the No Further Remediation Letter for recording, the failure to record and thereby perfect the No Further Remediation Letter in a timely manner;

6) The disturbance or removal of contamination left in place under an approved plan;

7) The failure to comply with the requirements of Section 732.703(c) and the Memorandum of Agreement entered in accordance with Section 732.703(c) for a site that is located in a highway authority right-of-way or IDOT right-of-way;

8) The failure to comply with the requirements of Section 732.703(d) and the LUC MOA entered in accordance with Section 732.703(d) for a site located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title;

9) The failure to comply with the requirements of Section 732.703(d) of this Part or the failure to record a No Further Remediation Letter perfected in accordance with Section 732.703(d) within 45 days following the transfer of the Federally Owned Property subject to the No Further Remediation Letter to any entity that will not remain or become a Federal Landholding Entity; or

10) The failure to comply with the notice or confirmation requirements of 35 Ill. Adm. Code 742.1015(b)(5) and (c).

b) If the Agency seeks to void a No Further Remediation Letter, it shall provide Notice of Voidance to the current title holder of the site and the owner or operator at his or her last known address.

1) The Notice of Voidance shall specify the cause for the voidance and describe the facts in support of the cause.

2) The Agency shall mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.

c) Within 35 days after receipt of the Notice of Voidance, the current title holder and owner or operator of the site at the time the No Further Remediation Letter was
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issued may appeal the Agency's decision to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency shall have the burden of proof in such action.

1) If the Agency's action is appealed, the action shall not become effective until the appeal process has been exhausted and a final decision is reached by the Board or courts.

A) Upon receiving a notice of appeal, the Agency shall file a Notice of lis pendens with the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.

B) If the Agency's action is not upheld on appeal, the Notice of lis pendens shall be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.

2) If the Agency's action is not appealed or is upheld on appeal, the Agency shall submit the Notice of Voidance to the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The Notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)

SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 732.800 Applicability

a) Methods for Determining Maximum Amounts. This Subpart H provides three methods for determining the maximum amounts that can be paid from the Fund for eligible corrective action costs. All costs associated with conducting
corrective action are grouped into the tasks set forth in Sections 732.810 through 732.850 of this Part.

1) The first method for determining the maximum amount that can be paid for each task is to use the maximum amounts for each task set forth in those Sections, and in Section 732.870. In some cases the maximum amounts are specific dollar amounts, and in other cases the maximum amounts are determined on a site-specific basis.

2) As an alternative to using the amounts set forth in Sections 732.810 through 732.850 of this Part, the second method for determining the maximum amounts that can be paid for one or more tasks is bidding in accordance with Section 732.855 of this Part. As stated in that Section, when bidding is used, if the lowest bid for a particular task is less than the amount set forth in Sections 732.810 through 732.850, the amount in Sections 732.810 through 732.850 of this Part may be used instead of the lowest bid.

3) The third method for determining maximum amounts that can be paid from the Fund applies to unusual or extraordinary circumstances. The maximum amounts for such circumstances can be determined in accordance with Section 732.860 of this Part.

b) The costs listed under each task set forth in Sections 732.810 through 732.850 of this Part identify only some of the costs associated with each task. They are not intended as an exclusive list of all costs associated with each task for the purposes of payment from the Fund.

c) This Subpart H sets forth only the methods that can be used to determine the maximum amounts that can be paid from the Fund for eligible corrective action costs. Whether a particular cost is eligible for payment must be determined in accordance with Subpart F of this Part.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.810 UST Removal or Abandonment Costs

Payment for costs associated with UST removal or abandonment of each UST must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the excavation, removal, disposal, and abandonment of UST systems.
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<table>
<thead>
<tr>
<th>UST Volume</th>
<th>Maximum Total Amount per UST</th>
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<td>110 – 999 gallons</td>
<td>$2,100</td>
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<tr>
<td>1,000 – 14,999 gallons</td>
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<tr>
<td>15,000 or more gallons</td>
<td>$4,100</td>
</tr>
</tbody>
</table>

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.815 Free Product or Groundwater Removal and Disposal

Payment for costs associated with the removal and disposal of free product or groundwater must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of free product or groundwater, and the design, construction, installation, operation, maintenance, and closure of free product or groundwater removal systems.

a) Payment for costs associated with each round of free product or groundwater removal via hand bailing or a vacuum truck must not exceed a total of $0.68 per gallon or $200, whichever is greater.

b) Payment for costs associated with the removal of free product or groundwater via a method other than hand bailing or vacuum truck must be determined on a time and materials basis and must not exceed the amounts set forth in Section 732.850 of this Part. Such costs must include, but are not limited to, those associated with the design, construction, installation, operation, maintenance, and closure of free product and groundwater removal systems.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.820 Drilling, Well Installation, and Well Abandonment

Payment for costs associated with drilling, well installation, and well abandonment must not exceed the amounts set forth in this Section.

a) Payment for costs associated with each round of drilling must not exceed the following amounts. Such costs must include, but are not limited to, those associated with mobilization, drilling labor, decontamination, and drilling for the purposes of soil sampling or well installation.
NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>Type of Drilling</th>
<th>Maximum Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hollow-stem auger</td>
<td>greater of $23 per foot or $1,500</td>
</tr>
<tr>
<td>Direct-push platform</td>
<td></td>
</tr>
<tr>
<td>– for sampling or other</td>
<td>greater of $18 per foot or $1,200</td>
</tr>
<tr>
<td>non-injection purposes</td>
<td></td>
</tr>
<tr>
<td>– for injection purposes</td>
<td>greater of $15 per foot or $1,200</td>
</tr>
</tbody>
</table>

b) Payment for costs associated with the installation of monitoring wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

<table>
<thead>
<tr>
<th>Type of Borehole</th>
<th>Maximum Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hollow-stem auger</td>
<td>$16.50/foot (well length)</td>
</tr>
<tr>
<td>Direct-push platform</td>
<td>$12.50/foot (well length)</td>
</tr>
</tbody>
</table>

c) Payment for costs associated with the installation of recovery wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

<table>
<thead>
<tr>
<th>Well Diameter</th>
<th>Maximum Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 or 6 inches</td>
<td>$25/foot (well length)</td>
</tr>
<tr>
<td>8 inches or greater</td>
<td>$41/foot (well length)</td>
</tr>
</tbody>
</table>

d) Payment for costs associated with the abandonment of monitoring wells must not exceed $10 per foot of well length.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

**Section 732.825 Soil Removal and Disposal**

Payment for costs associated with soil removal, transportation, and disposal must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives or visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and the purchase, transportation, and placement of material used to backfill the resulting excavation.
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

a) Payment for costs associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives, visibly contaminated fill removed pursuant to Section 732.202(f) of this Part, and concrete, asphalt, or paving overlying such contaminated soil or fill must not exceed a total of $57 per cubic yard.

1) Except as provided in subsection (a)(2) of this Section, the volume of soil removed and disposed of must be determined by the following equation, using the dimensions of the resulting excavation: \((\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth}) \times 1.05\). A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Appendix C of this Part.

b) Payment for costs associated with the purchase, transportation, and placement of material used to backfill the excavation resulting from the removal and disposal of soil must not exceed a total of $20 per cubic yard.

1) Except as provided in subsection (b)(2) of this Section, the volume of backfill material must be determined by the following equation using the dimensions of the backfilled excavation: \((\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth}) \times 1.05\). A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of backfill material used to replace soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 732.202(f) of this Part must be determined in accordance with Appendix C of this Part.

c) Payment for costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is required in order to conduct corrective action must not exceed a total of $6.50 per cubic yard. The volume of soil removed and returned must be determined by the following equation using the dimensions of the excavation resulting from the removal of the soil: \((\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth})\). A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.
Section 732.830 Drum Disposal

Payment for costs associated with the purchase, transportation, and disposal of 55-gallon drums containing waste generated as a result of corrective action (e.g., boring cuttings, water bailed for well development or sampling, hand-bailed free product) must not exceed the following amounts or a total of $500, whichever is greater.

<table>
<thead>
<tr>
<th>Drum Contents</th>
<th>Maximum Total Amount per Drum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid waste</td>
<td>$250</td>
</tr>
<tr>
<td>Liquid waste</td>
<td>$150</td>
</tr>
</tbody>
</table>

Section 732.835 Sample Handling and Analysis

Payment for costs associated with sample handling and analysis must not exceed the amounts set forth in Appendix D of this Part. Such costs must include, but are not limited to, those associated with the transportation, delivery, preparation, and analysis of samples, and the reporting of sample results. For laboratory analyses not included in this Section, the Agency may determine reasonable maximum payment amounts on a site-specific basis.

Section 732.840 Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures

a) Payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the following amounts. Costs associated with the replacement of concrete, asphalt, and paving used as an engineered barrier are subject to the maximum amounts set forth in subsection (b) of this Section instead of this subsection (a).

<table>
<thead>
<tr>
<th>Depth of Material</th>
<th>Maximum Total Amount per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asphalt and paving – 2 inches</td>
<td>$1.65</td>
</tr>
<tr>
<td>3 inches</td>
<td>$1.86</td>
</tr>
</tbody>
</table>
**NOTICE OF ADOPTED AMENDMENTS**

### Concrete – any depth

<table>
<thead>
<tr>
<th>Depth of Material</th>
<th>Maximum Total Amount per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 inches</td>
<td>$2.38</td>
</tr>
<tr>
<td>5 inches</td>
<td>$3.89</td>
</tr>
<tr>
<td>6 inches</td>
<td>$4.36</td>
</tr>
<tr>
<td>8 inches</td>
<td>$5.31</td>
</tr>
</tbody>
</table>

**b) Payment for costs associated with the replacement of concrete, asphalt, and paving must not exceed the following amounts:**

<table>
<thead>
<tr>
<th>Depth of Material</th>
<th>Maximum Total Amount per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asphalt and paving – 2 inches</td>
<td>$1.65</td>
</tr>
<tr>
<td>3 inches</td>
<td>$1.86</td>
</tr>
<tr>
<td>4 inches</td>
<td>$2.38</td>
</tr>
<tr>
<td>6 inches</td>
<td>$3.08</td>
</tr>
<tr>
<td>Concrete – 2 inches</td>
<td>$2.45</td>
</tr>
<tr>
<td>3 inches</td>
<td>$2.93</td>
</tr>
<tr>
<td>4 inches</td>
<td>$3.41</td>
</tr>
<tr>
<td>5 inches</td>
<td>$3.89</td>
</tr>
<tr>
<td>6 inches</td>
<td>$4.36</td>
</tr>
<tr>
<td>8 inches</td>
<td>$5.31</td>
</tr>
</tbody>
</table>

For depths other than those listed in this subsection, the Agency must determine reasonable maximum payment amounts on a site-specific basis.

**c) Payment for costs associated with the destruction or the dismantling and reassembly of above grade structures must not exceed the time and material amounts set forth in Section 732.850 of this Part. The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed $10,000 per site.**

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

**Section 732.845 Professional Consulting Services**

Payment for costs associated with professional consulting will be reimbursed on a time and materials basis pursuant to Section 732.850. Such costs must include, but are not limited to, those associated with project planning and oversight; field work; field oversight; travel; per diem; mileage; transportation; vehicle charges; lodging; meals; and the preparation, review,
Section 732.850 Payment on Time and Materials Basis

This Section sets forth the maximum amounts that may be paid when payment is allowed on a time and materials basis.

a) Payment for costs associated with activities that have a maximum payment amount set forth in other Sections of this Subpart H (e.g., sample handling and analysis, drilling, well installation and abandonment, or drum disposal) must not exceed the amounts set forth in those Sections, unless payment is made pursuant to Section 732.860 of this Part.

b) Maximum payment amounts for costs associated with activities that do not have a maximum payment amount set forth in other Sections of this Subpart H must be determined by the Agency on a site-specific basis, provided, however, that personnel costs must not exceed the amounts set forth in Appendix E of this Part. Personnel costs must be based upon the work being performed, regardless of the title of the person performing the work. Owners and operators seeking payment must demonstrate to the Agency that the amounts sought are reasonable.

BOARD NOTE: Alternative technology costs in excess of the costs of conventional technology are ineligible for payment from the Fund. See Sections 732.407(b) and 732.606(bb) of this Part.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.855 Bidding

As an alternative to the maximum payment amounts set forth in this Subpart H, one or more maximum payment amounts may be determined via bidding in accordance with this Section. Each bid must cover all costs included in the maximum payment amount that the bid is replacing.

a) A minimum of three written bids must be obtained. The bids must be based upon the same scope of work and must remain valid for a period of time that will allow the owner or operator to accept them upon the Agency's approval of the associated budget. Bids must be obtained only from persons qualified and able to
perform the work being bid. Bids must not be obtained from persons in which the owner or operator, or the owner's or operator's primary contractor, has a financial interest.

b) The bids must be summarized on forms prescribed and provided by the Agency. The bid summary form, along with copies of the bid requests and the bids obtained, must be submitted to the Agency in the associated budget. If more than the minimum three bids are obtained, summaries and copies of all bids must be submitted to the Agency.

c) The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amount set forth in this Subpart H in which case the maximum payment amount set forth in this Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.860 Unusual or Extraordinary Circumstances

If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency may determine maximum payment amounts for the costs on a site-specific basis. Owners and operators seeking to have the Agency determine maximum payment amounts pursuant to this Section must demonstrate to the Agency that the costs for which they are seeking a determination are eligible for payment from the Fund, exceed the maximum payment amounts set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part. Examples of unusual or extraordinary circumstances may include, but are not limited to, an inability to obtain a minimum of three bids pursuant to Section 732.855 of this Part due to a limited number of persons providing the service needed.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.865 Handling Charges
Payment of handling charges must not exceed the amounts set forth in Section 732.607 of this Part.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.870 Increase in Maximum Payment Amounts

The maximum payment amounts set forth in this Subpart H must be adjusted annually by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business.

a) The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th. In no case must the inflation factor be more than five percent in a single year.

b) Adjusted maximum payment amounts must become effective on July 1 of each year and must remain in effect through June 30 of the following year. The first adjustment must be made on July 1, 2006 by multiplying the maximum payment amounts set forth in this Subpart H by the applicable inflation factor. Subsequent adjustments must be made by multiplying the latest adjusted maximum payment amounts by the latest inflation factor.

c) The Agency must post the inflation factors on its website no later than the date they become effective. The inflation factors must remain posted on the website in subsequent years to aid in the calculation of adjusted maximum payment amounts.

d) Adjusted maximum payment amounts must be applied as follows:

1) For costs approved by the Agency in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Agency received the budget in which the costs were proposed. Once the Agency approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g., by proposing the cost in a subsequent budget).

2) For costs not approved by the Agency in writing prior to the date the costs are incurred, including but not limited to early action costs, the applicable
maximum payment amounts must be the amounts in effect on the date the costs were incurred.

3) Owners and operators must have the burden of requesting the appropriate adjusted maximum payments amounts in budgets and applications for payment.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)

Section 732.875 Agency Review of Payment Amounts

At least every three years, the Agency must review the amounts set forth in this Subpart H and submit a report to the Board on whether the amounts are consistent with the prevailing market rates. The report must identify amounts that are not consistent with the prevailing market rates and suggest changes needed to make the amounts consistent with the prevailing market rates. The Board must publish notice of receipt of the report in the Environmental Register and on the Board's web page.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)
## Pollution Control Board

### Notice of Adopted Amendments

**Section 732. Appendix A Indicator Contaminants**

<table>
<thead>
<tr>
<th>Tank Contents</th>
<th>Indicator Contaminants</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GASOLINE</strong></td>
<td></td>
</tr>
<tr>
<td>Leaded(^1), unleaded, premium(^2) and gasohol</td>
<td><em>Benzene</em> benzene, <em>Ethylbenzene</em> ethylbenzene, <em>Toluene</em> toluene, <em>Xylene</em> xylene, Methyl tertiary butyl ether (MTBE)</td>
</tr>
<tr>
<td><strong>MIDDLE DISTILLATE AND HEAVY ENDS</strong></td>
<td></td>
</tr>
<tr>
<td>jet fuels</td>
<td></td>
</tr>
<tr>
<td>diesel fuels</td>
<td></td>
</tr>
<tr>
<td>gas turbine fuel oils</td>
<td></td>
</tr>
<tr>
<td>heating fuel oils</td>
<td></td>
</tr>
<tr>
<td>illuminating oils</td>
<td></td>
</tr>
<tr>
<td>kerosene</td>
<td></td>
</tr>
<tr>
<td>lubricants</td>
<td></td>
</tr>
<tr>
<td>liquid asphalt and dust laying oils</td>
<td></td>
</tr>
<tr>
<td>cable oils</td>
<td></td>
</tr>
<tr>
<td>crude oil, crude oil fractions</td>
<td></td>
</tr>
<tr>
<td>petroleum feedstocks</td>
<td></td>
</tr>
<tr>
<td>petroleum fractions</td>
<td></td>
</tr>
<tr>
<td>heavy oils</td>
<td></td>
</tr>
<tr>
<td>transformer oils(^2)</td>
<td></td>
</tr>
<tr>
<td>hydraulic fluids(^3)</td>
<td></td>
</tr>
<tr>
<td>petroleum spirits(^4)</td>
<td></td>
</tr>
<tr>
<td>mineral spirits(^4), Stoddard solvents(^4)</td>
<td></td>
</tr>
<tr>
<td>high-flash aromatic naphthas(^4)</td>
<td></td>
</tr>
<tr>
<td>VM&amp;P naphthas(^4)</td>
<td></td>
</tr>
<tr>
<td>moderately volatile hydrocarbon solvents(^4)</td>
<td></td>
</tr>
<tr>
<td>petroleum extender oils(^4)</td>
<td></td>
</tr>
<tr>
<td><strong>USED OIL</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td><em>Screening screening sample</em>(^5)</td>
</tr>
</tbody>
</table>
NOTICE OF ADOPTED AMENDMENTS

1 lead is also an indicator contaminant

2 the polychlorinated biphenyl parameters listed in Appendix B are also indicator contaminants

3 barium is also an indicator contaminant

4 the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B are also indicator contaminants

5 used oil indicator contaminants shall be based on the results of a used oil soil sample analysis – refer to Section 732.310(g)

6acenaphthylene, benzo(g,h,i)perylene and phenanthrene

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Section 732. APPENDIX B  Additional Parameters

Volatile
1. Benzene
2. Bromoform
3. Carbon tetrachloride
4. Chlorobenzene
5. Chloroform
6. Dichlorobromomethane
7. 1,2-Dichloroethane
8. 1,1-Dichloroethene
9. cis-1,2-Dichloroethylene
10. trans-1,2-Dichloroethylene
11. Dichloromethane (Methylene chloride)
12. 1,2-Dichloropropane
13. 1,3-Dichloropropylene (cis + trans)
14. Ethylbenzene
15. Styrene
16. Tetrachloroethylene
17. Toluene
18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

Base/Neutrals
1. Bis(2-chloroethyl)ether
2. Bis(2-ethylhexyl)phthalate
3. 1,2-Dichlorobenzene
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. n-Nitrosodi-n-propylamine
8. n-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

Polynuclear Aromatics
1. Acenaphthene
2. Anthracene
POLLUTION CONTROL BOARD

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3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Dibenzo(a,h)anthracene
9. Fluoranthe
10. Fluorene
11. Indeno(1,2,3-c,d)pyrene
12. Naphthalene
13. Pyrene
14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene
17. Other Non-Carcinogenic PNAs (total)

Metals (total inorganic and organic forms)
1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Lead
6. Mercury
7. Selenium

Acids
1. Pentachlorophenol
2. Phenol (total)
3. 2,4,6-Trichlorophenol

Pesticides
1. Aldrin
2. alpha-BHC
3. Chlordane
4. 4,4'-DDD
5. 4,4'-DDE
6. 4,4'-DDT
7. Dieldrin
8. Endrin
9. Heptachlor
POLLUTION CONTROL BOARD

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10. Heptachlor epoxide
11. Lindane (gamma-BHC)
12. Toxaphene

Polychlorinated Biphenyls
1. Polychlorinated Biphenyls (as Decachlorobiphenyl)

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)
### Section 732 APPENDIX C  Backfill Volumes and Weights

<table>
<thead>
<tr>
<th>Volume of Tank in Gallons</th>
<th>Maximum amount of backfill material to be removed in:</th>
<th>Maximum amount of backfill material to be replaced in:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cubic yards</td>
<td>tons</td>
</tr>
<tr>
<td>&lt; 285</td>
<td>54</td>
<td>91</td>
</tr>
<tr>
<td>285 to 299</td>
<td>55</td>
<td>92</td>
</tr>
<tr>
<td>300 to 559</td>
<td>56</td>
<td>94</td>
</tr>
<tr>
<td>560 to 999</td>
<td>67</td>
<td>113</td>
</tr>
<tr>
<td>1000 to 1049</td>
<td>81</td>
<td>136</td>
</tr>
<tr>
<td>1050 to 1149</td>
<td>89</td>
<td>150</td>
</tr>
<tr>
<td>1150 to 1999</td>
<td>94</td>
<td>158</td>
</tr>
<tr>
<td>2000 to 2499</td>
<td>112</td>
<td>188</td>
</tr>
<tr>
<td>2500 to 2999</td>
<td>128</td>
<td>215</td>
</tr>
<tr>
<td>3000 to 3999</td>
<td>143</td>
<td>240</td>
</tr>
<tr>
<td>4000 to 4999</td>
<td>175</td>
<td>294</td>
</tr>
<tr>
<td>5000 to 5999</td>
<td>189</td>
<td>318</td>
</tr>
<tr>
<td>6000 to 7499</td>
<td>198</td>
<td>333</td>
</tr>
<tr>
<td>7500 to 8299</td>
<td>206</td>
<td>346</td>
</tr>
<tr>
<td>8300 to 9999</td>
<td>219</td>
<td>368</td>
</tr>
<tr>
<td>10,000 to 11,999</td>
<td>252</td>
<td>423</td>
</tr>
<tr>
<td>12,000 to 14,999</td>
<td>286</td>
<td>480</td>
</tr>
<tr>
<td>&gt;15,000</td>
<td>345</td>
<td>580</td>
</tr>
</tbody>
</table>

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

Site specific information may be used to determine the weight of backfill material if site conditions such as backfill material, soil moisture content, and soil conditions differ significantly from the default values.

BOARD NOTE: The weight of backfill material is calculated by using the default bulk density values listed in the TACO regulations at 35 Ill. Adm. Code 742, Appendix C, Table B. The weight of backfill material to be removed is based on a dry bulk density value of 1.8 g/cm³ for sand and a moisture content of 10 percent which equals 1.98 g/cm³. The Board has rounded the removed backfill density to 2.0 g/cm³. The weight of backfill material to be replaced is based on a dry bulk density value of 2.0 g/cm³ for gravel.

(Source: Amended at 30 Ill. Reg. 4928, effective March 1, 2006)
## Section 732. APPENDIX D  Sample Handling and Analysis

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Max. Total Amount per Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>BETX Soil with MTBE</td>
<td>$85</td>
</tr>
<tr>
<td>BETX Water with MTBE</td>
<td>$81</td>
</tr>
<tr>
<td>COD (Chemical Oxygen Demand)</td>
<td>$30</td>
</tr>
<tr>
<td>Corrosivity</td>
<td>$15</td>
</tr>
<tr>
<td>Flash Point or Ignitability Analysis EPA 1010</td>
<td>$33</td>
</tr>
<tr>
<td>FOC (Fraction Organic Carbon)</td>
<td>$38</td>
</tr>
<tr>
<td>Fat, Oil, &amp; Grease (FOG)</td>
<td>$60</td>
</tr>
<tr>
<td>LUST Pollutants Soil – analysis must include all volatile, base/neutral, polynuclear aromatic, and metal parameters listed in Appendix B of this Part</td>
<td>$693</td>
</tr>
<tr>
<td>Organic Carbon (ASTM-D 2974-87)</td>
<td>$33</td>
</tr>
<tr>
<td>Dissolved Oxygen (DO)</td>
<td>$24</td>
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<tr>
<td>Paint Filter (Free Liquids)</td>
<td>$14</td>
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<tr>
<td>PCB/Pesticides (combination)</td>
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<td>PCBs</td>
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<tr>
<td>Pesticides</td>
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<td>PH</td>
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<tr>
<td>Phenol</td>
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<tr>
<td>Polynuclear Aromatics PNA, or PAH SOIL</td>
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<tr>
<td>Polynuclear Aromatics PNA, or PAH WATER</td>
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<tr>
<td>Reactivity</td>
<td>$68</td>
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<tr>
<td>SVOC – Soil (Semi-volatile Organic Compounds)</td>
<td>$313</td>
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<tr>
<td>SVOC – Water (Semi-volatile Organic Compounds)</td>
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<tr>
<td>TKN (Total Kjeldahl) &quot;nitrogen&quot;</td>
<td>$44</td>
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<td>TOC (Total Organic Carbon) EPA 9060A</td>
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<td>TPH (Total Petroleum Hydrocarbons)</td>
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<td>VOC (Volatile Organic Compound) – Soil (Non-Aqueous)</td>
<td>$175</td>
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<td>VOC (Volatile Organic Compound) – Water</td>
<td>$169</td>
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### Geo-Technical

<table>
<thead>
<tr>
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<tr>
<td>Bulk Density ASTM D4292/D2937</td>
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<tr>
<td>Ex-Situ Hydraulic Conductivity/Permeability</td>
<td>$255</td>
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<tr>
<td>Moisture Content ASTM D2216-90/D4643-87</td>
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<td>Porosity</td>
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## NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
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<th>Fee</th>
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<tbody>
<tr>
<td>Rock Hydraulic Conductivity Ex-Situ</td>
<td>$350</td>
</tr>
<tr>
<td>Sieve/Particle Size Analysis ASTM D422-63/D1140-54</td>
<td>$145</td>
</tr>
<tr>
<td>Soil Classification ASTM D2488-90/D2487-90</td>
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### Metals

<table>
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<tr>
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<tr>
<td>Arsenic TCLP Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Arsenic Total Soil</td>
<td>$16</td>
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<tr>
<td>Arsenic Water</td>
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<tr>
<td>Barium TCLP Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Barium Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Barium Water</td>
<td>$12</td>
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<tr>
<td>Cadmium TCLP Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Cadmium Total Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Cadmium Water</td>
<td>$18</td>
</tr>
<tr>
<td>Chromium TCLP Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Chromium Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Chromium Water</td>
<td>$12</td>
</tr>
<tr>
<td>Cyanide TCLP Soil</td>
<td>$28</td>
</tr>
<tr>
<td>Cyanide Total Soil</td>
<td>$34</td>
</tr>
<tr>
<td>Cyanide Water</td>
<td>$34</td>
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<tr>
<td>Iron TCLP Soil</td>
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<tr>
<td>Iron Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Iron Water</td>
<td>$12</td>
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<tr>
<td>Lead TCLP Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Lead Total Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Lead Water</td>
<td>$18</td>
</tr>
<tr>
<td>Mercury TCLP Soil</td>
<td>$19</td>
</tr>
<tr>
<td>Mercury Total Soil</td>
<td>$10</td>
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<tr>
<td>Mercury Water</td>
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<td>Selenium TCLP Soil</td>
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<td>Selenium Total Soil</td>
<td>$16</td>
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<td>Selenium Water</td>
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<tr>
<td>Silver TCLP Soil</td>
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<td>Silver Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Silver Water</td>
<td>$12</td>
</tr>
<tr>
<td>Metals TCLP Soil (a combination of all RCRA metals)</td>
<td>$103</td>
</tr>
<tr>
<td>Metals Total Soil (a combination of all RCRA metals)</td>
<td>$94</td>
</tr>
<tr>
<td>Metals Water (a combination of all RCRA metals)</td>
<td>$119</td>
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<table>
<thead>
<tr>
<th>Test Type</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Soil preparation for Metals TCLP Soil (one fee per sample)</td>
<td>$79</td>
</tr>
</tbody>
</table>
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Soil preparation for Metals Total Soil (one fee per sample)</td>
<td>$16</td>
</tr>
<tr>
<td>Water preparation for Metals Water (one fee per sample)</td>
<td>$11</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td></td>
</tr>
<tr>
<td>En Core® Sampler, purge-and-trap sampler, or equivalent sampling device</td>
<td>$10</td>
</tr>
<tr>
<td>Sample Shipping (*maximum total amount for shipping all samples collected in a calendar day)</td>
<td>$50*</td>
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</table>

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)
### Section 732. APPENDIX E  Personnel Titles and Rates

<table>
<thead>
<tr>
<th>Title</th>
<th>Degree Required</th>
<th>Ill. License Req’d</th>
<th>Min. Yrs. Experience</th>
<th>Max. Hourly Rate</th>
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<tbody>
<tr>
<td>Engineer I</td>
<td>Bachelor's in Engineering</td>
<td>None</td>
<td>0</td>
<td>$75</td>
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<tr>
<td>Engineer II</td>
<td>Bachelor's in Engineering</td>
<td>None</td>
<td>2</td>
<td>$85</td>
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<tr>
<td>Engineer III</td>
<td>Bachelor's in Engineering</td>
<td>None</td>
<td>4</td>
<td>$100</td>
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<tr>
<td>Professional Engineer</td>
<td>Bachelor's in Engineering</td>
<td>P.E.</td>
<td>4</td>
<td>$110</td>
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<tr>
<td>Senior Prof. Engineer</td>
<td>Bachelor's in Engineering</td>
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<tr>
<td>Geologist I</td>
<td>Bachelor's in Geology or Hydrogeology</td>
<td>None</td>
<td>0</td>
<td>$70</td>
</tr>
<tr>
<td>Geologist II</td>
<td>Bachelor's in Geology or Hydrogeology</td>
<td>None</td>
<td>2</td>
<td>$75</td>
</tr>
<tr>
<td>Geologist III</td>
<td>Bachelor's in Geology or Hydrogeology</td>
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<td>$88</td>
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<tr>
<td>Professional Geologist</td>
<td>Bachelor's in Geology or Hydrogeology</td>
<td>P.G.</td>
<td>4</td>
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<tr>
<td>Senior Prof. Geologist</td>
<td>Bachelor's in Geology or Hydrogeology</td>
<td>P.G.</td>
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<td>$110</td>
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<tr>
<td>Scientist I</td>
<td>Bachelor's in a Natural or Physical Science</td>
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<tr>
<td>Scientist II</td>
<td>Bachelor's in a Natural or Physical Science</td>
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<td>2</td>
<td>$65</td>
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<tr>
<td>Scientist III</td>
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<td>4</td>
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<tr>
<td>Scientist IV</td>
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<tr>
<td>Senior Scientist</td>
<td>Bachelor's in a Natural or Physical Science</td>
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<tr>
<td>Project Manager</td>
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<td>None</td>
<td>8&lt;sup&gt;1&lt;/sup&gt;</td>
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<tr>
<td>Senior Project Manager</td>
<td>None</td>
<td>None</td>
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<tr>
<td>Technician I</td>
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<td>0</td>
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</tr>
<tr>
<td>Technician II</td>
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<td>2&lt;sup&gt;1&lt;/sup&gt;</td>
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<tr>
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<tr>
<td>Technician IV</td>
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<tr>
<td>Senior Technician</td>
<td>None</td>
<td>None</td>
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<tr>
<td>Account Technician I</td>
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<td>None</td>
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</tr>
<tr>
<td>Account Technician II</td>
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<td>2&lt;sup&gt;2&lt;/sup&gt;</td>
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</tr>
<tr>
<td>Account Technician III</td>
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<tr>
<td>Account Technician IV</td>
<td>None</td>
<td>None</td>
<td>6&lt;sup&gt;2&lt;/sup&gt;</td>
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<tr>
<td>Senior Acct. Technician</td>
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<td>None</td>
<td>8&lt;sup&gt;2&lt;/sup&gt;</td>
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<tr>
<td>Administrative Assistant I</td>
<td>None</td>
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<td>0</td>
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<tr>
<td>Administrative Assistant II</td>
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<tr>
<td>Administrative Assistant III</td>
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<td>None</td>
<td>4&lt;sup&gt;3&lt;/sup&gt;</td>
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<tr>
<td>Administrative Assistant IV</td>
<td>None</td>
<td>None</td>
<td>6&lt;sup&gt;3&lt;/sup&gt;</td>
<td>$40</td>
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<tr>
<td>Senior Admin. Assistant</td>
<td>None</td>
<td>None</td>
<td>8&lt;sup&gt;3&lt;/sup&gt;</td>
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</tbody>
</table>
Equivalent work-related or college level education with significant coursework in the physical, life, or environmental sciences can be substituted for all or part of the specified experience requirements.

Equivalent work-related or college level education with significant coursework in accounting or business can be substituted for all or part of the specified experience requirements.

Equivalent work-related or college level education with significant coursework in administrative or secretarial services can be substituted for all or part of the specified experience requirements.

Equivalent work-related or college level education with significant coursework in drafting or computer aided design ("CAD") can be substituted for all or part of the specified experience requirements.

(Source: Added at 30 Ill. Reg. 4928, effective March 1, 2006)
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

1) **Heading of the Part:** Petroleum Underground Storage Tanks (Releases Reported On Or After June 24, 2002)

2) **Code Citation:** 35 Ill. Adm. Code 734

3) **Section Numbers:**

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POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

734.430    New Section
734.435    New Section
734.440    New Section
734.445    New Section
734.450    New Section
734.500    New Section
734.505    New Section
734.510    New Section
734.600    New Section
734.605    New Section
734.610    New Section
734.615    New Section
734.620    New Section
734.625    New Section
734.630    New Section
734.635    New Section
734.640    New Section
734.645    New Section
734.650    New Section
734.655    New Section
734.660    New Section
734.665    New Section
734.700    New Section
734.705    New Section
734.710    New Section
734.715    New Section
734.720    New Section
734.800    New Section
734.810    New Section
734.815    New Section
734.820    New Section
734.825    New Section
734.830    New Section
734.835    New Section
734.840    New Section
734.845    New Section
734.850    New Section
734.855    New Section
734.860    New Section
734.865    New Section
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

734.870 New Section
734.875 New Section
734.APPENDIX A New Section
734.APPENDIX B New Section
734.APPENDIX C New Section
734.APPENDIX D New Section
734.APPENDIX E New Section


5) Effective Date of Rulemaking: March 1, 2006

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

7) Does this rulemaking contain incorporations by reference? Yes; all materials are incorporated pursuant to Section 6.02(b) of the Illinois Administrative Procedures Act.

8) A copy of the adopted rules, 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) Notice of Proposal Published in Illinois Register: March 11, 2005; 29 Ill. Reg. 3705

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The Board made one major change to its First Notice proposal. That difference is in the reimbursement of professional consulting services, which the Board has amended at Second Notice to be reimbursed on a time and materials basis.

The Board also opened a subdocket B for the purpose of developing scopes of work to be used in reimbursing professional consulting services in the remediation of underground storage tank (UST) sites in Illinois. A hearing is scheduled in subdocket B for March 23, 2006.

In addition to opening a subdocket, the Board made several changes to the proposed rule in response to the First Notice comments. Some of the more significant changes include
allowing for reimbursement of handling charges for a subcontractor if the primary contractor has a financial interest in the subcontractor, removing professional services from eligibility for bidding, adding an additional member - appointed by members of PIPE - to the LUST advisory committee, deleting the requirement that engineers or geologists maintain records to be available for an Agency audit (that requirement is now limited to the maintenance of records by the owner or operator), and adding a requirement for the Board to publish the results of the IEPA's triennial review of reimbursement rates in the Board's publication, the Environmental Register.

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 Rulemaking: A more complete description of these adopted amendments may be found in the Board's opinion and order of February 16, 2006, in Board docket R04-22/23. The adoption of new Part 734 is part of a larger rulemaking that includes amendments to Part 732 (also published in this issue of the Illinois Register), which is applicable to releases reported from September 23, 1994, through June 23, 2002

Part 734 sets forth corrective action measures that must be taken in response to a leak and procedures for seeking payment from the Underground Storage Tank Fund (UST Fund). Part 734 is driven by P.A. 92-554, effective June 24, 2002 and P.A. 92-735, effective July 25, 2003, which allow a Licensed Professional Geologist to certify certain information. Part 734 is identical in many ways to Part 732, except for changes enacted in P.A. 92-554. Those exceptions include different site investigation requirements, corrective action requirements, and increased caps on the total amount owners and operators can be paid from the UST Fund. The rules are designed for the most part to streamline the process for obtaining payment from the UST Fund. The streamlining will be accomplished by specifying maximum amounts that will be reimbursed for remediation activities. The rule also includes bidding as an alternative to the maximum reimbursement amounts for UST remediation specified in the proposal.

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

Marie Tipsord
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601

312-814-4925

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 R04-22/23 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 Rules begins on the next page:
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

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

PART 734
PETROLEUM UNDERGROUND STORAGE TANKS
(RELEASES REPORTED ON OR AFTER JUNE 24, 2002)

SUBPART A: GENERAL

Section
734.100 Applicability
734.105 Election to Proceed under Part 734
734.110 Severability
734.115 Definitions
734.120 Incorporations by Reference
734.125 Agency Authority to Initiate Investigative, Preventive, or Corrective Action
734.130 Licensed Professional Engineer or Licensed Professional Geologist Supervision
734.135 Form and Delivery of Plans, Budgets, and Reports; Signatures and Certifications
734.140 Development of Remediation Objectives
734.145 Notification of Field Activities
734.150 LUST Advisory Committee

SUBPART B: EARLY ACTION

Section
734.200 General
734.205 Agency Authority to Initiate
734.210 Early Action
734.215 Free Product Removal
734.220 Application for Payment of Early Action Costs

SUBPART C: SITE INVESTIGATION AND CORRECTIVE ACTION

Section
734.300 General
734.305 Agency Authority to Initiate
734.310 Site Investigation – General
734.315 Stage 1 Site Investigation
734.320 Stage 2 Site Investigation
NOTICE OF ADOPTED RULES

SUBPART D: MISCELLANEOUS PROVISIONS

Section
734.400 General
734.405 Indicator Contaminants

734.410 Remediation Objectives
734.415 Data Quality
734.420 Laboratory Certification
734.425 Soil Borings
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734.APPENDIX A Indicator Contaminants
NOTICE OF ADOPTED RULES

AUTHORITY: Implementing Sections 22.12 and 57-57.17 and authorized by Sections 5, 22, 27, and 57.14A of the Environmental Protection Act [415 ILCS 5/5, 22, 22.12, 27, and 57-57.17]


SUBPART A: GENERAL

Section 734.100 Applicability

a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release is reported to Illinois Emergency Management Agency (IEMA) on or after March 1, 2006 in accordance with the Office of State Fire Marshal (OSFM) regulations. This Part does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Act [415 ILCS 5/57.5].

1) For releases reported on or after June 24, 2002, but prior to March 1, 2006, and for owners and operators electing prior to March 1, 2006 to proceed in accordance with Title XVI of the Act as amended by P.A. 92-0554, the Agency may deem that one or more requirements of this Part have been satisfied, based upon activities conducted prior to March 1, 2006, even though the activities were not conducted in strict accordance with the requirements of this Part. For example, an owner or operator that adequately defined the extent of on-site contamination prior to March 1, 2006 may be deemed to have satisfied Sections 734.210(h) and 734.315 even though sampling was not conducted in strict accordance with those Sections.

2) Costs incurred pursuant to a budget approved prior to March 1, 2006 must be reimbursed in accordance with the amounts approved in the budget and must not be subject to the maximum payment amounts set forth in Subpart H of this Part.
b) Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority prior to June 24, 2002, may elect to proceed in accordance with this Part pursuant to Section 734.105 of this Part.

c) Upon the receipt of a corrective action order issued by the OSFM on or after June 24, 2002, and pursuant to Section 57.5(g) of the Act [415 ILCS 5/57.5(g)], where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and taken out of operation before January 2, 1974, or any underground storage tank system used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit, must conduct corrective action in accordance with this Part.

d) Owners or operators subject to this Part by law or by election must proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 734.125 of this Part to expedite investigative, preventive, or corrective action by an owner or operator or to initiate such action.

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

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

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

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

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

5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 USC 1251 et seq. (1972)).
6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (42 USC 3251 et seq.) or a mixture of such hazardous waste or other regulated substances.

Section 734.105 Election to Proceed under Part 734

a) Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority prior to June 24, 2002, may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election must be submitted on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. Corrective action must then follow the requirements of this Part. The election must be effective upon receipt by the Agency and must not be withdrawn once made.

b) Except as provided in Section 734.100(c) of this Part, owners or operators of underground storage tanks used exclusively to store heating oil for consumptive use on the premises where stored and that serve other than a farm or residential unit may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election must be submitted on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. Corrective action must then follow the requirements of this Part. The election must be effective upon receipt by the Agency and must not be withdrawn once made.

c) Owners and operators electing pursuant to this Section to proceed in accordance with this Part must submit with their election a summary of the activities conducted to date and a proposed starting point for compliance with this Part. The Agency must review and approve, reject, or modify the submission in accordance with the procedures contained in Subpart E of this Part. The Agency may deem a requirement of this Part to have been met, based upon activities conducted prior to an owner's or operator's election, even though the activities were not conducted in strict accordance with the requirement. For example, an owner or operator that adequately defined the extent of on-site contamination prior to the election may be deemed to have satisfied Sections 734.210(h) and 734.315 even though sampling was not conducted in strict accordance with those Sections.
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d) If the owner or operator elects to proceed pursuant to this Part, corrective action costs incurred in connection with the release and prior to the notification of election must be payable from the Underground Storage Tank Fund in the same manner as was allowable under the law applicable to the owner or operator prior to the notification of election. Corrective action costs incurred after the notification of election must be payable from the Fund in accordance with this Part.

e) This Section does not apply to any release for which the Agency has issued a No Further Remediation Letter.

Section 734.110 Severability

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

Section 734.115 Definitions

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

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

"Agency" means the Illinois Environmental Protection Agency.

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

"Board" means the Illinois Pollution Control Board.

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

"Community Water Supply" means a public water supply which serves or is intended to serve at least 15 service connections used by residents or regularly serves at least 25 residents [415 ILCS 5/3.145].
"Confirmation of a release" means the confirmation of a release of petroleum in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

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

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

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

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

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


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

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

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

"Financial interest" means any ownership interest, legal or beneficial, or being in the relationship of director, officer, employee, or other active participant in the
AFFAIRS OF A PARTY. Financial interest does not include ownership of publicly traded stock.

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

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

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

"GIS" means Geographic Information System.

"GPS" means Global Positioning System.

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

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

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

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

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

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

"IEMA" means the Illinois Emergency Management Agency.

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

"Indicator contaminants" means the indicator contaminants set forth in Section 734.405 of this Part.

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

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

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

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

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

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

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

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

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

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

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (Derived from 42 USC 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground must not be deemed an "operator" merely by the undertaking of such action.

"Owner" means:

In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances;

In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the discontinuation of its use. (Derived from 42 USC 6991)
"Perfect" or "Perfected" means recorded or filed for record so as to place the public on notice, or as otherwise provided in Sections 734.715(c) and (d) of this Part.

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

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

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


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

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

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

"Regulated Recharge Area" means a compact geographic area, as determined by the Board (35 Ill. Adm. Code Subtitle F), the geology of which renders a potable resource groundwater particularly susceptible to contamination [415 ILCS 5/3.390].

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

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

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

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives, or dormitories.
"Right-of-way" means the land, or interest therein, acquired for or devoted to a highway [605 ILCS 5/2-217].

"Setback Zone" means a geographic area, designated pursuant to the Act [415 ILCS 5/14.1, 14.2, 14.3] or regulations (35 Ill. Adm. Code.Subtitle F), containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwater [415 ILCS 5/3.450].

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

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

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

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

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

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

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

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

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

Surface impoundment, pit, pond, or lagoon;

Storm water or waste water collection system;

Flow-through process tank;

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

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

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

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

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

Section 734.120  Incorporations by Reference
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a) The Board incorporates the following material by reference:

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


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

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

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


b) This Section incorporates no later editions or amendments.

Section 734.125 Agency Authority to Initiate Investigative, Preventive, or Corrective Action
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a) The Agency has the authority to do either of the following:

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

2) Undertake investigative, preventive or corrective action whenever there is a release or a substantial threat of a release of petroleum from an underground storage tank [415 ILCS 5/57.12(c)].

b) If notice has been provided under this Section, the Agency has the authority to require the owner or operator, or both, of an underground storage tank to undertake preventive or corrective action whenever there is a release or substantial threat of a release of petroleum from such tank [415 ILCS 5/57.12(d)].

Section 734.130 Licensed Professional Engineer or Licensed Professional Geologist Supervision

All investigations, plans, budgets, and reports conducted or prepared under this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part, must be conducted or prepared under the supervision of a Licensed Professional Engineer or Licensed Professional Geologist. Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part must be prepared under the supervision of a Licensed Professional Engineer.

Section 734.135 Form and Delivery of Plans, Budgets, and Reports; Signatures and Certifications

a) All plans, budgets, and reports must be submitted to the Agency on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format.

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

d) All plans, budgets, and reports submitted pursuant to this Part, excluding Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part, must contain the following certification from a Licensed Professional Engineer or Licensed Professional Geologist. Corrective Action Completion Reports submitted pursuant to Section 734.345 of this Part must contain the following certification from a Licensed Professional Engineer.

I certify under penalty of law that all activities that are the subject of this plan, budget, or report were conducted under my supervision or were conducted under the supervision of another Licensed Professional Engineer or Licensed Professional Geologist and reviewed by me; that this plan, budget, or report and all attachments were prepared under my supervision; that, to the best of my knowledge and belief, the work described in the plan, budget, or report has been completed in accordance with the Environmental Protection Act [415 ILCS 5], 35 Ill. Adm. Code 734, and generally accepted standards and practices of my profession; and that the information presented is accurate and complete. I am aware there are significant penalties for submitting false statements or representations to the Agency, including but not limited to fines, imprisonment, or both as provided in Sections 44 and 57.17 of the Environmental Protection Act [415 ILCS 5/44 and 57.17].

e) Except in the case of sites subject to Section 734.715(c) or (d) of this Part, reports documenting the completion of corrective action at a site must contain a form addressing site ownership. At a minimum, the form must identify the land use limitations proposed for the site, if land use limitations are proposed; the site's common address, legal description, and real estate tax/parcel index number; and the names and addresses of all title holders of record of the site or any portion of the site. The form must also contain the following certification, by original signature, of all title holders of record of the site or any portion of the site, or the agent(s) of such person(s):

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

Section 734.140 Development of Remediation Objectives

The owner or operator must propose remediation objectives for the applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742.

BOARD NOTE: Several provisions of this Part require the owner or operator to determine whether contamination exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742. Please note that these requirements do not limit the owner's or operator's ability to use Tier 2 or Tier 3 remediation objectives in accordance with 35 Ill. Adm. Code 742.

a) The owner or operator may develop remediation objectives at any time during site investigation or corrective action. Prior to developing Tier 2 or Tier 3 remediation objectives, the owner or operator must propose the development of remediation objectives in the appropriate site investigation plan or corrective action plan. Documentation of the development of remediation objectives must be included as a part of the appropriate plan or report.

b) Any owner or operator intending to seek payment from the Fund shall, prior to the development of Tier 2 or Tier 3 remediation objectives, propose the costs for such activities in the appropriate budget. The costs should be consistent with the eligible and ineligible costs listed at Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part.

c) Upon the Agency's approval of a plan that includes the development of remediation objectives, the owner or operator must proceed to develop remediation objectives in accordance with the plan.

d) If, following the approval of any plan or associated budget that includes the development of remediation objectives, an owner or operator determines that a revised plan or budget is necessary, the owner or operator must submit, as applicable, an amended plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended plan or budget in accordance with Subpart E of this Part.

e) Notwithstanding any requirement under this Part for the submission of a plan or budget that includes the development of remediation objectives, an owner or operator may proceed to develop remediation objectives prior to the submittal or approval of an otherwise required plan or budget. However, any such plan or
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budget must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to receiving payment for any related costs or the issuance of a No Further Remediation Letter.

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

Section 734.145 Notification of Field Activities

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

Section 734.150 LUST Advisory Committee

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

SUBPART B: EARLY ACTION

Section 734.200 General
Owners and operators of underground storage tanks shall, in response to all confirmed releases of petroleum, comply with all applicable statutory and regulatory reporting and response requirements [415 ILCS 5/57.6(a)]. No work plan or corresponding budget must be required for conducting early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product.

Section 734.205 Agency Authority to Initiate

Pursuant to Sections 734.100 or 734.125 of this Part, the Agency must have the authority to require or initiate early action activities in accordance with the remainder of this Subpart B.

Section 734.210 Early Action

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

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

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

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

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

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

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

3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);
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4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator must comply with 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;

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

6) Investigate to determine the possible presence of free product, and begin removal of free product as soon as practicable and in accordance with Section 734.215 of this Part.

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

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

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

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

3) Results of the site check required at subsection (b)(5) of this Section; and
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4) Results of the free product investigations required at subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 734.215 of this Part.

e) Within 45 days after initial notification to IEMA of a release plus 14 days, the owner or operator must submit to the Agency the information collected in compliance with subsection (d) of this Section in a manner that demonstrates its applicability and technical adequacy.

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

g) For purposes of payment from the Fund, the activities set forth in subsection (f) of this Section must be performed within 45 days after initial notification to IEMA of a release plus 14 days, unless special circumstances, approved by the Agency in writing, warrant continuing such activities beyond 45 days plus 14 days. The owner or operator must notify the Agency in writing of such circumstances within 45 days after initial notification to IEMA of a release plus 14 days. Costs incurred beyond 45 days plus 14 days must be eligible if the Agency determines that they are consistent with early action.

BOARD NOTE: Owners or operators seeking payment from the Fund are to first notify IEMA of a suspected release and then confirm the release within 14 days to IEMA pursuant to regulations promulgated by the OSFM. See 41 Ill. Adm. Code 170.560 and 170.580. The Board is setting the beginning of the payment period at subsection (g) to correspond to the notification and confirmation to IEMA.

h) The owner or operator must determine whether the areas or locations of soil contamination exposed as a result of early action excavation (e.g., excavation boundaries, piping runs) or surrounding USTs that remain in place meet the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.
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1) At a minimum, for each UST that is removed, the owner or operator must collect and analyze soil samples as indicated in subsections (h)(1)(A) through (E). The Agency must allow an alternate location for, or excuse the collection of, one or more samples if sample collection in the following locations is made impracticable by site-specific circumstances.

   A) One sample must be collected from each UST excavation wall. The samples must be collected from locations representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified on a wall, the sample must be collected from the center of the wall length at a point located one-third of the distance from the excavation floor to the ground surface. For walls that exceed 20 feet in length, one sample must be collected for each 20 feet of wall length, or fraction thereof, and the samples must be evenly spaced along the length of the wall.

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

   C) One sample must be collected from the floor of each 20 feet of UST piping run excavation, or fraction thereof. The samples must be collected from a location representative of soil that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a length of piping run excavation being sampled, the sample must be collected from the center of the length being sampled. For UST piping abandoned in place, the samples must be collected in accordance with subsection (h)(2)(B) of this Section.
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D) If backfill is returned to the excavation, one representative sample of the backfill must be collected for each 100 cubic yards of backfill returned to the excavation.

E) The samples must be analyzed for the applicable indicator contaminants. In the case of a used oil UST, the sample that appears to be the most contaminated as a result of a release from the used oil UST must be analyzed in accordance with Section 734.405(g) of this Part to determine the indicator contaminants for used oil. The remaining samples collected pursuant to subsections (h)(1)(A) and (B) of this Section must then be analyzed for the applicable used oil indicator contaminants.

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

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

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

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

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

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

A) A characterization of the site that demonstrates compliance with the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;
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B) Supporting documentation, including, but not limited to, the following:

i) A site map meeting the requirements of Section 734.440 of this Part that shows the locations of all samples collected pursuant to this subsection (h);

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

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

C) A site map containing only the information required under Section 734.440 of this Part.

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

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

B) Free product that may impact groundwater is found to need recovery in compliance with Section 734.215 of this Part; or

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

i) The owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping; and
ii) The Agency determines that further groundwater investigation is not necessary.

Section 734.215 Free Product Removal

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

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

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

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

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

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

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

C) The type of free product recovery system used;

D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
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E) The type of treatment applied to, and the effluent quality expected from, any discharge;

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

G) The disposition of the recovered free product;

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

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

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

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

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

d) Any owner or operator intending to seek payment from the Fund must, prior to conducting free product removal activities more than 45 days after the confirmation of the presence of free product, submit to the Agency a free product
removal budget with the corresponding free product removal plan. The budget must include, but not be limited to, an estimate of all costs associated with the development, implementation, and completion of the free product removal plan, excluding handling charges. The budget should be consistent with the eligible and ineligible costs listed in Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget the Agency may require a comparison between the costs of the proposed method of free product removal and other methods of free product removal.

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

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

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

Section 734.220 Application for Payment of Early Action Costs
Owners or operators intending to seek payment for early action activities, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product, are not required to submit a corresponding budget plan. The application for payment may be submitted to the Agency upon completion of the early action activities in accordance with the requirements at Subpart F of this Part, excluding free product removal activities conducted more than 45 days after confirmation of the presence of free product. Applications for payment of free product removal activities conducted more than 45 days after confirmation of the presence of free product may be submitted upon completion of the free product removal activities.

SUBPART C: SITE INVESTIGATION AND CORRECTIVE ACTION

Section 734.300 General

Unless the owner or operator submits a report pursuant to Section 734.210(h)(3) of this Part demonstrating that the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants have been met, the owner or operator must investigate the site, conduct corrective action, and prepare plans, budgets, and reports in accordance with the requirements of this Subpart C.

Section 734.305 Agency Authority to Initiate

Pursuant to Section 734.100 or 734.125 of this Part, the Agency has the authority to require or initiate site investigation and corrective action activities in accordance with the remainder of this Subpart C.

Section 734.310 Site Investigation – General

The investigation of the release must proceed in three stages as set forth in this Part. If, after the completion of any stage, the extent of the soil and groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants as a result of the release has been defined, the owner or operator must cease investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part.

a) Prior to conducting site investigation activities pursuant to Section 734.315, 734.320, or 734.325 of this Part, the owner or operator must submit to the Agency for review a site investigation plan. The plan must be designed to satisfy the minimum requirements set forth in the applicable Section and to collect the
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information required to be reported in the site investigation plan for the next stage of the site investigation, or in the site investigation completion report, whichever is applicable.

b) Any owner or operator intending to seek payment from the Fund must, prior to conducting any site investigation activities, submit to the Agency a site investigation budget with the corresponding site investigation plan. The budget must include, but not be limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation, and completion of the site investigation plan, excluding handling charges and costs associated with monitoring well abandonment. Costs associated with monitoring well abandonment must be included in the corrective action budget. Site investigation budgets should be consistent with the eligible and ineligible costs listed at Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part. A budget for a Stage 1 site investigation must consist of a certification signed by the owner or operator, and by a Licensed Professional Engineer or Licensed Professional Geologist, that the costs of the Stage 1 site investigation will not exceed the amounts set forth in Subpart H of this Part.

c) Upon the Agency's approval of a site investigation plan, or as otherwise directed by the Agency, the owner or operator shall conduct a site investigation in accordance with the plan [415 ILCS 5/57.7(a)(4)].

d) If, following the approval of any site investigation plan or associated budget, an owner or operator determines that a revised plan or budget is necessary in order to determine, within the area addressed in the applicable stage of the investigation, the nature, concentration, direction of movement, rate of movement, and extent of the contamination, or the significant physical features of the site and surrounding area that may affect contaminant transport and risk to human health and safety and the environment, the owner or operator must submit, as applicable, an amended site investigation plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended plan or budget in accordance with Subpart E of this Part.

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

e) Notwithstanding any requirement under this Part for the submission of a site investigation plan or budget, an owner or operator may proceed to conduct site
investigation activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required site investigation plan or budget. However, any such plan or budget must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to receiving payment for any related costs or the issuance of a No Further Remediation Letter.

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

Section 734.315 Stage 1 Site Investigation

The Stage 1 site investigation must be designed to gather initial information regarding the extent of on-site soil and groundwater contamination that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

   a) The Stage 1 site investigation must consist of the following:

   1) Soil investigation.

      A) Up to four borings must be drilled around each independent UST field where one or more UST excavation samples collected pursuant to 734.210(h), excluding backfill samples, exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. One additional boring must be drilled as close as practicable to each UST field if a groundwater investigation is not required under subsection (a)(2) of this Section. The borings must be advanced through the entire vertical extent of contamination, based upon field observations and field screening for organic vapors, provided that borings must be drilled below the groundwater table only if site-specific conditions warrant.

      B) Up to two borings must be drilled around each UST piping run where one or more piping run samples collected pursuant to Section 734.210(h) exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. One additional boring must be drilled as close as
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practicable to each UST piping run if a groundwater investigation is not required under subsection (a)(2) of this Section. The borings must be advanced through the entire vertical extent of contamination, based upon field observations and field screening for organic vapors, provided that borings must be drilled below the groundwater table only if site-specific conditions warrant.

C) One soil sample must be collected from each five-foot interval of each boring drilled pursuant to subsections (a)(1)(A) and (B) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval. All samples must be analyzed for the applicable indicator contaminants.

2) Groundwater investigation.

A) A groundwater investigation is required under the following circumstances:

i) There is evidence that groundwater wells have been impacted by the release above the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

ii) Free product that may impact groundwater is found to need recovery in compliance with Section 734.215 of this Part; or

iii) There is evidence that contaminated soils may be or may have been in contact with groundwater, except that, if the owner or operator pumps the excavation or tank cavity dry, properly disposes of all contaminated water, and demonstrates to the Agency that no recharge is evident during the 24 hours following pumping, the owner or operator does not have to complete a groundwater investigation, unless the Agency's review reveals that further groundwater investigation is necessary.
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B) If a groundwater investigation is required, the owner or operator must install five groundwater monitoring wells. One monitoring well must be installed in the location where groundwater contamination is most likely to be present. The four remaining wells must be installed at the property boundary line or 200 feet from the UST system, whichever is less, in opposite directions from each other. The wells must be installed in locations where they are most likely to detect groundwater contamination resulting from the release and provide information regarding the groundwater gradient and direction of flow.

C) One soil sample must be collected from each five-foot interval of each monitoring well installation boring drilled pursuant to subsection (a)(2)(B) of this Section. Each sample must be collected from the location within the five-foot interval that is the most contaminated as a result of the release. If an area of contamination cannot be identified within a five-foot interval, the sample must be collected from the center of the five-foot interval. All soil samples exhibiting signs of contamination must be analyzed for the applicable indicator contaminants. For borings that do not exhibit any signs of soil contamination, samples from the following intervals must be analyzed for the applicable indicator contaminants, provided that the samples must not be analyzed if other soil sampling conducted to date indicates that soil contamination does not extend to the location of the monitoring well installation boring:

i) The five-foot intervals intersecting the elevations of soil samples collected pursuant to Section 734.210(h), excluding backfill samples, that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

ii) The five-foot interval immediately above each five-foot interval identified in subsection (a)(2)(C)(i) of this Section; and

iii) The five-foot interval immediately below each five-foot interval identified in subsection (a)(2)(C)(i) of this Section.
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D) Following the installation of the groundwater monitoring wells, groundwater samples must be collected from each well and analyzed for the applicable indicator contaminants.

E) As a part of the groundwater investigation an in-situ hydraulic conductivity test must be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an in-situ hydraulic conductivity test must be performed on each such unit.

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

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

3) An initial water supply well survey in accordance with Section 734.445(a) of this Part.

b) The Stage 1 site investigation plan must consist of a certification signed by the owner or operator, and by a Licensed Professional Engineer or Licensed Professional Geologist, that the Stage 1 site investigation will be conducted in accordance with this Section.

c) If none of the samples collected as part of the Stage 1 site investigation exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, the owner or operator must cease site investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part. If one or more of the samples collected as part of the Stage 1 site investigation exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, within 30 days after completing the Stage 1 site investigation the owner or operator must submit to the Agency for review a Stage 2 site investigation plan in accordance with Section 734.320 of this Part.

Section 734.320 Stage 2 Site Investigation

The Stage 2 site investigation must be designed to complete the identification of the extent of soil and groundwater contamination at the site that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.
contaminants. The investigation of any off-site contamination must be conducted as part of the Stage 3 site investigation.

a) The Stage 2 site investigation must consist of the following:

1) The additional drilling of soil borings and collection of soil samples necessary to identify the extent of soil contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. Soil samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants; and

2) The additional installation of groundwater monitoring wells and collection of groundwater samples necessary to identify the extent of groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. If soil samples are collected from a monitoring well boring, the samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.

b) The Stage 2 site investigation plan must include, but not be limited to, the following:

1) An executive summary of Stage 1 site investigation activities and actions proposed in the Stage 2 site investigation plan to complete the identification of the extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

2) A characterization of the site and surrounding area, including, but not limited to, the following:

A) The current and projected post-remediation uses of the site and surrounding properties; and
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B) The physical setting of the site and surrounding area including, but
not limited to, features relevant to environmental, geographic,
geologic, hydrologic, hydrogeologic, and topographic conditions;

3) The results of the Stage 1 site investigation, including but not limited to
the following:

A) One or more site maps meeting the requirements of Section
734.440 that show the locations of all borings and groundwater
monitoring wells completed to date, and the groundwater flow
direction;

B) One or more site maps meeting the requirements of Section
734.440 that show the locations of all samples collected to date and
analyzed for the applicable indicator contaminants;

C) One or more site maps meeting the requirements of Section
734.440 that show the extent of soil and groundwater
contamination at the site that exceeds the most stringent Tier 1
remediation objectives of 35 Ill. Adm. Code 742 for the applicable
indicator contaminants;

D) One or more cross-sections of the site that show the geology of the
site and the horizontal and vertical extent of soil and groundwater
contamination at the site that exceeds the most stringent Tier 1
remediation objectives of 35 Ill. Adm. Code 742 for the applicable
indicator contaminants;

E) Analytical results, chain of custody forms, and laboratory
certifications for all samples analyzed for the applicable indicator
contaminants as part of the Stage 1 site investigation;

F) One or more tables comparing the analytical results of the samples
collected to date to the most stringent Tier 1 remediation objectives
of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

G) Water supply well survey documentation required pursuant to
Section 734.445(d) of this Part for water supply well survey
activities conducted as part of the Stage 1 site investigation; and
H) For soil borings and groundwater monitoring wells installed as part of the Stage 1 site investigation, soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part; and

4) A Stage 2 sampling plan that includes, but is not limited to, the following:

A) A narrative justifying the activities proposed as part of the Stage 2 site investigation;

B) A map depicting the location of additional soil borings and groundwater monitoring wells proposed to complete the identification of the extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

C) The depth and construction details of the proposed soil borings and groundwater monitoring wells.

c) If the owner or operator proposes no site investigation activities in the Stage 2 site investigation plan and none of the applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, upon submission of the Stage 2 site investigation plan the owner or operator must cease site investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part. If the owner or operator proposes no site investigation activities in the Stage 2 site investigation plan and applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the submission of the Stage 2 site investigation plan the owner or operator must submit to the Agency for review a Stage 3 site investigation plan in accordance with Section 734.325 of this Part.

d) If the results of a Stage 2 site investigation indicate that none of the applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, upon completion of the Stage 2 site investigation the
owner or operator must cease site investigation and proceed with the submission of a site investigation completion report in accordance with Section 734.330 of this Part. If the results of the Stage 2 site investigation indicate that applicable indicator contaminants that exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 as a result of the release extend beyond the site's property boundaries, within 30 days after the completion of the Stage 2 site investigation the owner or operator must submit to the Agency for review a Stage 3 site investigation plan in accordance with Section 734.325 of this Part.

Section 734.325 Stage 3 Site Investigation

The Stage 3 site investigation must be designed to identify the extent of off-site soil and groundwater contamination that, as a result of the release, exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants.

a) The Stage 3 site investigation must consist of the following:

1) The drilling of soil borings and collection of soil samples necessary to identify the extent of soil contamination beyond the site's property boundaries that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. Soil samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants; and

2) The installation of groundwater monitoring wells and collection of groundwater samples necessary to identify the extent of groundwater contamination beyond the site's property boundaries that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants. If soil samples are collected from a monitoring well boring, the samples must be collected in appropriate locations and at appropriate depths, based upon the results of the soil sampling and other investigation activities conducted to date, provided, however, that soil samples must not be collected below the groundwater table. All samples must be analyzed for the applicable indicator contaminants.
b) The Stage 3 site investigation plan must include, but is not limited to, the following:

1) An executive summary of Stage 2 site investigation activities and actions proposed in the Stage 3 site investigation plan to identify the extent of soil and groundwater contamination beyond the site's property boundaries that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

2) The results of the Stage 2 site investigation, including but not limited to the following:

A) One or more site maps meeting the requirements of Section 734.440 that show the locations of all borings and groundwater monitoring wells completed as part of the Stage 2 site investigation;

B) One or more site maps meeting the requirements of Section 734.440 that show the locations of all groundwater monitoring wells completed to date, and the groundwater flow direction;

C) One or more site maps meeting the requirements of Section 734.440 that show the extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

D) One or more cross-sections of the site that show the geology of the site and the horizontal and vertical extent of soil and groundwater contamination at the site that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

E) Analytical results, chain of custody forms, and laboratory certifications for all samples analyzed for the applicable indicator contaminants as part of the Stage 2 site investigation;

F) One or more tables comparing the analytical results of the samples collected to date to the most stringent Tier 1 remediation objectives
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of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

G) For soil borings and groundwater monitoring wells installed as part of the Stage 2 site investigation, soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part; and

3) A Stage 3 sampling plan that includes, but is not limited to, the following:

A) A narrative justifying the activities proposed as part of the Stage 3 site investigation;

B) A map depicting the location of soil borings and groundwater monitoring wells proposed to identify the extent of soil and groundwater contamination beyond the site's property boundaries that exceeds the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

C) The depth and construction details of the proposed soil borings and groundwater monitoring wells.

c) Upon completion of the Stage 3 site investigation the owner or operator must proceed with the submission of a site investigation completion report that meets the requirements of Section 734.330 of this Part.

Section 734.330 Site Investigation Completion Report

Within 30 days after completing the site investigation, the owner or operator shall submit to the Agency for approval a site investigation completion report [415 ILCS 5/57.7(a)(5)]. At a minimum, a site investigation completion report must contain the following:

a) A history of the site with respect to the release;

b) A description of the site, including but not limited to the following:

1) General site information, including but not limited to the site's and surrounding area's regional location; geography, hydrology, geology, hydrogeology, and topography; existing and potential migration pathways and exposure routes; and current and projected post-remediation uses;
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2) One or more maps meeting the requirements of Section 734.440 that show the locations of all borings and groundwater monitoring wells completed as part of site investigation, and the groundwater flow direction;

3) One or more maps showing the horizontal extent of soil and groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

4) One or more map cross-sections showing the horizontal and vertical extent of soil and groundwater contamination exceeding the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

5) Soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part for all borings drilled and all groundwater monitoring wells installed as part of site investigation;

6) Analytical results, chain of custody forms, and laboratory certifications for all samples analyzed for the applicable indicator contaminants as part of site investigation;

7) A table comparing the analytical results of samples collected as part of site investigation to the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants; and

8) The water supply well survey documentation required pursuant to Section 734.445(d) of this Part for water supply well survey activities conducted as part of site investigation; and

c) A conclusion that includes, but is not limited to, an assessment of the sufficiency of the data in the report.

Section 734.335 Corrective Action Plan

a) If any of the applicable indicator contaminants exceed the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants, within 30 days after the Agency approves the site investigation completion report, the owner or operator shall submit to the Agency for approval
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*a corrective action plan designed to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release.* [415 ILCS 5/57.7(b)(2)]. The corrective action plan must address all media impacted by the UST release and must contain, at a minimum, the following information:

1) An executive summary that identifies the objectives of the corrective action plan and the technical approach to be utilized to meet such objectives. At a minimum, the summary must include the following information:

   A) The major components (e.g., treatment, containment, removal) of the corrective action plan;

   B) The scope of the problems to be addressed by the proposed corrective action, including but not limited to the specific indicator contaminants and the physical area; and

   C) A schedule for implementation and completion of the plan;

2) A statement of the remediation objectives proposed for the site;

3) A description of the remedial technologies selected and how each fits into the overall corrective action strategy, including but not limited to the following:

   A) The feasibility of implementing the remedial technologies;

   B) Whether the remedial technologies will perform satisfactorily and reliably until the remediation objectives are achieved;

   C) A schedule of when the remedial technologies are expected to achieve the applicable remediation objectives and a rationale for the schedule; and

   D) For alternative technologies, the information required under Section 734.340 of this Part;
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4) A confirmation sampling plan that describes how the effectiveness of the corrective action activities will be monitored or measured during their implementation and after their completion;

5) A description of the current and projected future uses of the site;

6) A description of any engineered barriers or institutional controls proposed for the site that will be relied upon to achieve remediation objectives. The description must include, but not be limited to, an assessment of their long-term reliability and operating and maintenance plans;

7) A description of water supply well survey activities required pursuant to Sections 734.445(b) and (c) of this Part that were conducted as part of site investigation; and

8) Appendices containing references and data sources relied upon in the report that are organized and presented logically, including but not limited to field logs, well logs, and reports of laboratory analyses.

b) Any owner or operator intending to seek payment from the Fund must, prior to conducting any corrective action activities beyond site investigation, submit to the Agency a corrective action budget with the corresponding corrective action plan. The budget must include, but is not limited to, a copy of the eligibility and deductibility determination of the OSFM and an estimate of all costs associated with the development, implementation, and completion of the corrective action plan, excluding handling charges. The budget should be consistent with the eligible and ineligible costs listed at Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget the Agency may require a comparison between the costs of the proposed method of remediation and other methods of remediation.

c) Upon the Agency’s approval of a corrective action plan, or as otherwise directed by the Agency, the owner or operator shall proceed with corrective action in accordance with the plan [415 ILCS 5/57.7(b)(4)].

d) Notwithstanding any requirement under this Part for the submission of a corrective action plan or corrective action budget, except as provided at Section 734.340 of this Part, an owner or operator may proceed to conduct corrective action activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required corrective action plan or budget. However, any
such plan and budget must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.

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

e) If, following approval of any corrective action plan or associated budget, an owner or operator determines that a revised plan or budget is necessary in order to mitigate any threat to human health, human safety, or the environment resulting from the underground storage tank release, the owner or operator must submit, as applicable, an amended corrective action plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended plan or budget in accordance with Subpart E of this Part.

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

Section 734.340 Alternative Technologies
a) An owner or operator may choose to use an alternative technology for corrective action in response to a release. Corrective action plans proposing the use of alternative technologies must be submitted to the Agency in accordance with Section 734.335 of this Part. In addition to the requirements for corrective action plans contained in Section 734.335, the owner or operator who seeks approval of an alternative technology must submit documentation along with the corrective action plan demonstrating that:

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

2) The proposed alternative technology will not adversely affect human health and safety or the environment;
3) The owner or operator will obtain all Agency permits necessary to legally authorize use of the alternative technology;

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

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

b) An owner or operator intending to seek payment for costs associated with the use of an alternative technology must submit a corresponding budget in accordance with Section 734.335 of this Part. In addition to the requirements for a corrective action budget at Section 734.335 of this Part, the budget must demonstrate that the cost of the alternative technology will not exceed the cost of conventional technology and is not substantially higher than other available alternative technologies. The budget plan must compare the costs of at least two other available alternative technologies to the costs of the proposed alternative technology, if other alternative technologies are available and are technically feasible.

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

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

Section 734.345 Corrective Action Completion Report

a) Within 30 days after the completion of a corrective action plan that achieves applicable remediation objectives the owner or operator shall submit to the Agency for approval a corrective action completion report. The report shall demonstrate whether corrective action was completed in accordance with the approved corrective action plan and whether the remediation objectives approved for the site, as well as any other requirements of the plan, have been achieved [415 ILCS 5/57.7(b)(5)]. At a minimum, the report must contain the following information:

1) An executive summary that identifies the overall objectives of the corrective action and the technical approach utilized to meet those objectives. At a minimum, the summary must contain the following information:

   A) A brief description of the site, including but not limited to a description of the release, the applicable indicator contaminants, the contaminated media, and the extent of soil and groundwater contamination that exceeded the most stringent Tier 1 remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants;

   B) The major components (e.g., treatment, containment, removal) of the corrective action;

   C) The scope of the problems corrected or mitigated by the corrective action; and

   D) The anticipated post-corrective action uses of the site and areas immediately adjacent to the site;

2) A description of the corrective action activities conducted, including but not limited to the following:

   A) A narrative description of the field activities conducted as part of corrective action;
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B) A narrative description of the remedial actions implemented at the site and the performance of each remedial technology utilized;

C) Documentation of sampling activities conducted as part of corrective action, including but not limited to the following:

i) Sample collection information, including but not limited to the sample collector's name, the date and time of sample collection, the collection method, and the sample location;

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

iii) Analytical procedure information, including but not limited to the method detection limits and the practical quantitation limits;

iv) Chain of custody and control; and

v) Field and lab blanks; and

D) Soil boring logs and monitoring well construction diagrams meeting the requirements of Sections 734.425 and 734.430 of this Part for all borings drilled and all groundwater monitoring wells installed as part of corrective action;

3) A narrative description of any special conditions relied upon as part of corrective action, including but not limited to information regarding the following:

A) Engineered barriers utilized in accordance with 35 Ill. Adm. Code 742 to achieve the approved remediation objectives;

B) Institutional controls utilized in accordance with 35 Ill. Adm. Code 742 to achieve the approved remediation objectives, including but not limited to a legible copy of any such controls;
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C) Other conditions, if any, necessary for protection of human health and safety and the environment that are related to the issuance of a No Further Remediation Letter; and

D) Any information required pursuant to Section 734.350 of this Part regarding off-site access;

4) An analysis of the effectiveness of the corrective action that compares the confirmation sampling results to the remediation objectives approved for the site. The analysis must present the remediation objectives in an appropriate format (e.g., tabular and graphical displays) such that the information is organized and presented logically and the relationships between the different investigations for each medium are apparent;

5) A conclusion that identifies the success in meeting the remediation objectives approved for the site, including but not limited to an assessment of the accuracy and completeness of the data in the report;

6) Appendices containing references and data sources relied upon in the report that are organized and presented logically, including but not limited to field logs, well logs, and reports of laboratory analyses;

7) The water supply well survey documentation required pursuant to Section 734.445(d) of this Part for water supply well survey activities conducted as part of corrective action; and

8) A site map containing only the information required under Section 734.440 of this Part. The site map must also show any engineered barriers utilized to achieve remediation objectives.

b) The owner or operator is not required to perform remedial action on an off-site property, even where complete performance of a corrective action plan would otherwise require such off-site action, if the Agency determines that the owner or operator is unable to obtain access to the property despite the use of best efforts in accordance with the requirements of Section 734.350 of this Part.

Section 734.350 Off-site Access
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a) An owner or operator seeking to comply with the best efforts requirements of Section 734.345(b) of this Part must demonstrate compliance with the requirements of this Section.

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

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

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

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

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

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

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

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

1) A sworn affidavit, signed by the owner or operator, identifying the specific off-site property involved by address, the measures proposed in the corrective action plan that require off-site access, and the efforts taken to obtain access, and stating that the owner or operator has been unable to obtain access despite the use of best efforts; and
2) A copy of the certified letter sent to the owner of the off-site property pursuant to subsection (b) of this Section.

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

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

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

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

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

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

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

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

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

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

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

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

Section 734.355 Status Report

a) If within 4 years after the approval of any corrective action plan the applicable remediation objectives have not been achieved and the owner or operator has not submitted a corrective action completion report, the owner or operator shall submit a status report for Agency review. The status report shall include, but is not limited to, a description of the remediation activities taken to date, the effectiveness of the method of remediation being used, the likelihood of meeting the applicable remediation objectives using the current method of remediation, and the date the applicable remediation objectives are expected to be achieved [415 ILCS 5/57.7(b)(6)].

b) If the Agency determines any approved corrective action plan will not achieve applicable remediation objectives within a reasonable time, based upon the method of remediation and site specific circumstances, the Agency may require the owner or operator to submit to the Agency for approval a revised corrective action plan. If the owner or operator intends to seek payment from the Fund, the owner or operator shall also submit a revised budget [415 ILCS 5/57.7(b)(7)]. The revised corrective action plan and any associated budget must be submitted in accordance with Section 734.335 of this Part.

c) Any action by the Agency to require a revised corrective action plan pursuant to subsection (b) of this Section must be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

SUBPART D: MISCELLANEOUS PROVISIONS

Section 734.400 General

This Subpart D applies to all activities conducted under this Part and all plans, budgets, reports, and other documents submitted under this Part.

Section 734.405 Indicator Contaminants
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a) For purposes of this Part, the term "indicator contaminants" must mean the parameters identified in subsections (b) through (i) of this Section.

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

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

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

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

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

g) For used oil, the indicator contaminants must be determined by the results of a used oil soil sample analysis. In accordance with Section 734.210(h) of this Part, soil samples must be collected from the walls and floor of the used oil UST excavation if the UST is removed, or from borings drilled along each side of the used oil UST if the UST remains in place. The sample that appears to be the most contaminated as a result of a release from the used oil UST must then be analyzed for the following parameters. If none of the samples appear to be contaminated, a soil sample must be collected from the floor of the used oil UST excavation below
the former location of the UST if the UST is removed, or from soil located at the same elevation as the bottom of the used oil UST if the UST remains in place, and analyzed for the following parameters:

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

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

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

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

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

1) If the Agency has not issued a No Further Remediation Letter for the release; or
2) If the Agency has issued a No Further Remediation Letter for the release and the release has caused off-site groundwater contamination exceeding the remediation objective for MTBE set forth in 35 Ill. Adm. Code 742.

Section 734.410 Remediation Objectives

The owner or operator must propose remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code 742. Owners and operators seeking payment from the Fund that perform on-site corrective action in accordance with Tier 2 remediation objectives of 35 Ill. Adm. Code 742 must determine the following parameters on a site-specific basis:

- Hydraulic conductivity (K)
- Soil bulk density (\(\rho_b\))
- Soil particle density (\(\rho_s\))
- Moisture content (w)
- Organic carbon content (\(f_{oc}\))

BOARD NOTE: Failure to use site-specific remediation objectives on-site and to utilize available groundwater ordinances as institutional controls may result in certain corrective action costs being ineligible for payment from the Fund. See Section 734.630(aaa) and (bbb) of this Part.

Section 734.415 Data Quality

a) The following activities must be conducted in accordance with "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, incorporated by reference at Section 734.120 of this Part, or other procedures as approved by the Agency:

1) All field sampling activities, including but not limited to activities relative to sample collection, documentation, preparation, labeling, storage and shipment, security, quality assurance and quality control, acceptance criteria, corrective action, and decontamination procedures;
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2) All field measurement activities, including but not limited to activities relative to equipment and instrument operation, calibration and maintenance, corrective action, and data handling; and

3) All quantitative analysis of samples to determine concentrations of indicator contaminants, including but not limited to activities relative to facilities, equipment and instrumentation, operating procedures, sample management, test methods, equipment calibration and maintenance, quality assurance and quality control, corrective action, data reduction and validation, reporting, and records management. Analyses of samples that require more exacting detection limits than, or that cannot be analyzed by standard methods identified in, "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, must be conducted in accordance with analytical protocols developed in consultation with and approved by the Agency.

b) The analytical methodology used for the analysis of indicator contaminants must have a practical quantitation limit at or below the most stringent objectives or detection levels set forth in 35 Ill. Adm. Code 742 or determined by the Agency pursuant to Section 734.140 of this Part.

c) All field or laboratory measurements of samples to determine physical or geophysical characteristics must be conducted in accordance with applicable ASTM standards incorporated by reference at 35 Ill. Adm. Code 742.210, or other procedures as approved by the Agency.

Section 734.420 Laboratory Certification

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

Section 734.425 Soil Borings

a) Soil borings must be continuously sampled to ensure that no gaps appear in the sample column.
b) Any water bearing unit encountered must be protected as necessary to prevent cross-contamination during drilling.

c) Soil boring logs must be kept for all soil borings. The logs must be submitted in the corresponding site investigation plan, site investigation completion report, or corrective action completion report on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format. At a minimum, soil boring logs must contain the following information:

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

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

3) Detailed field observations describing materials encountered in boring, including but not limited to soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;

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

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

6) Groundwater levels while boring and at completion; and

7) Unified Soil Classification System (USCS) soil classification group symbols in accordance with ASTM Standard D 2487-93, “Standard Test Method for Classification of Soils for Engineering Purposes,” incorporated by reference in Section 734.120 of this Part, or other Agency approved method.

Section 734.430 Monitoring Well Construction and Sampling

a) At a minimum, all monitoring well construction must satisfy the following requirements:

1) Wells must be constructed in a manner that will enable the collection of representative groundwater samples;
2) Wells must be cased in a manner that maintains the integrity of the borehole. Casing material must be inert so as not to affect the water sample. Casing requiring solvent-cement type couplings must not be used;

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

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

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

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

7) Wells must be developed to allow free entry of groundwater, minimize turbidity of the sample, and minimize clogging.

b) Monitoring well construction diagrams must be completed for each monitoring well. The well construction diagrams must be submitted in the corresponding site investigation plan, site investigation completion report, or corrective action completion report on forms prescribed and provided by the Agency and, if specified by the Agency in writing, in an electronic format.
c) Static groundwater elevations in each well must be determined and recorded following well construction and prior to each sample collection to determine the gradient of the groundwater table, and must be reported in the corresponding site investigation plan, site investigation completion report or corrective action completion report.

Section 734.435 Sealing of Soil Borings and Groundwater Monitoring Wells

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

Section 734.440 Site Map Requirements

At a minimum, all site maps submitted to the Agency must meet the following requirements:

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

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

c) The maps must show the following:

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

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

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

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

Section 734.445 Water Supply Well Survey
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a) At a minimum, the owner or operator must conduct a water supply well survey to identify all potable water supply wells located at the site or within 200 feet of the site, all community water supply wells located at the site or within 2,500 feet of the site, and all regulated recharge areas and wellhead protection areas in which the site is located. Actions taken to identify the wells must include, but not be limited to, the following:

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

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

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

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

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

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

d) Documentation of the water supply well survey conducted pursuant to this Section must include, but not be limited to, the following:

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

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

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

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

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

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

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

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

Section 734.450 Deferred Site Investigation or Corrective Action; Priority List for Payment

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

1) Approvals of budgets must be pursuant to Agency review in accordance with Subpart E of this Part.

2) The Agency must monitor the availability of funds and must provide notice of insufficient funds to owners or operators in accordance with Section 734.505(g) of this Part.

3) Owners and operators must submit elections to defer site investigation or corrective action activities on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
4) The Agency must review elections to defer site investigation or corrective action activities to determine whether the requirements of subsection (b) of this Section are met. The Agency must notify the owner or operator in writing of its final action on any such election. If the Agency fails to notify the owner or operator of its final action within 120 days after its receipt of the election, the owner or operator may deem the election rejected by operation of law.

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

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

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

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

7) Authorization of payment of encumbered funds for deferred site investigation or corrective action activities must be approved in accordance with the requirements of Subpart F of this Part.
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b) An owner or operator who elects to defer site investigation or corrective action activities under subsection (a) of this Section must submit a report certified by a Licensed Professional Engineer or Licensed Professional Geologist demonstrating the following:

1) The Agency has approved the owner's or operator's site investigation budget or corrective action budget;

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

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

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

5) Soil contamination exceeding the Tier 1 groundwater ingestion exposure route remediation objectives of 35 Ill. Adm. Code 742 for the applicable indicator contaminants does not extend beyond the site's property boundary and is not located within a regulated recharge area, a wellhead protection area, or the setback zone of a potable water supply well. Documentation to demonstrate that this subsection (b)(5) is satisfied must include, but not be limited to, the results of a water supply well survey conducted in accordance with Section 734.445 of this Part.

c) An owner or operator may, at any time, withdraw the election to defer site investigation or corrective action activities. The Agency must be notified in writing of the withdrawal. Upon such withdrawal, the owner or operator must proceed with site investigation or corrective action, as applicable, in accordance with the requirements of this Part.

SUBPART E: REVIEW OF PLANS, BUDGETS, AND REPORTS

Section 734.500 General
The Agency has the authority to review any plan, budget, or report, including any amended plan, budget, or report, submitted pursuant to this Part. All such reviews are subject to the procedures set forth in the Act and this Subpart E.

**Section 734.505 Review of Plans, Budgets, or Reports**

a) The Agency may review any or all technical or financial information, or both, relied upon by the owner or operator or the Licensed Professional Engineer or Licensed Professional Geologist in developing any plan, budget, or report selected for review. The Agency may also review any other plans, budgets, or reports submitted in conjunction with the site.

b) The Agency has the authority to approve, reject, or require modification of any plan, budget, or report it reviews. The Agency must notify the owner or operator in writing of its final action on any such plan, budget, or report, except in the case of 20 day, 45 day, or free product removal reports, in which case no notification is necessary. Except as provided in subsections (c) and (d) of this Section, if the Agency fails to notify the owner or operator of its final action on a plan, budget, or report within 120 days after the receipt of a plan, budget, or report, the owner or operator may deem the plan, budget, or report rejected by operation of law. If the Agency rejects a plan, budget, or report or requires modifications, the written notification must contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete its review;

2) An explanation of the Sections of the Act or regulations that may be violated if the plan, budget, or report is approved; and

3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan, budget, or report is approved.

c) For corrective action plans submitted by owners or operators not seeking payment from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrective action completion report required pursuant to Section 734.345 of this Part.

d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan, budget, or report by submitting written notice to
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the Agency prior to the applicable deadline. Any waiver must be for a minimum of 60 days.

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

f) Any action by the Agency to reject or require modifications, or rejection by failure to act, of a plan, budget, or report must be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

g) In accordance with Section 734.450 of this Part, upon the approval of any budget by the Agency, the Agency must include as part of the final notice to the owner or operator a notice of insufficient funds if the Fund does not contain sufficient funds to provide payment of the total costs approved in the budget.

Section 734.510 Standards for Review of Plans, Budgets, or Reports

a) A technical review must consist of a detailed review of the steps proposed or completed to accomplish the goals of the plan and to achieve compliance with the Act and regulations. Items to be reviewed, if applicable, must include, but not be limited to, number and placement of wells and borings, number and types of samples and analysis, results of sample analysis, and protocols to be followed in making determinations. The overall goal of the technical review for plans must be to determine if the plan is sufficient to satisfy the requirements of the Act and regulations and has been prepared in accordance with generally accepted engineering practices or principles of professional geology. The overall goal of the technical review for reports must be to determine if the plan has been fully implemented in accordance with generally accepted engineering practices or principles of professional geology, if the conclusions are consistent with the information obtained while implementing the plan, and if the requirements of the Act and regulations have been satisfied.

b) A financial review must consist of a detailed review of the costs associated with each element necessary to accomplish the goals of the plan as required pursuant to the Act and regulations. Items to be reviewed must include, but are not limited to, costs associated with any materials, activities, or services that are included in the budget. The overall goal of the financial review must be to assure that costs
associated with materials, activities, and services must be reasonable, must be consistent with the associated technical plan, must be incurred in the performance of corrective action activities, must not be used for corrective action activities in excess of those necessary to meet the minimum requirements of the Act and regulations, and must not exceed the maximum payment amounts set forth in Subpart H of this Part.

SUBPART F: PAYMENT FROM THE FUND

Section 734.600 General

The Agency has the authority to review any application for payment or reimbursement and to authorize payment or reimbursement from the Fund or such other funds as the legislature directs for corrective action activities conducted pursuant to the Act and this Part. For purposes of this Part and unless otherwise provided, the use of the word "payment" must include reimbursement. The submittal and review of applications for payment and the authorization for payment must be in accordance with the procedures set forth in the Act and this Subpart F.

Section 734.605 Applications for Payment

a) An owner or operator seeking payment from the Fund must submit to the Agency an application for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format. The owner or operator may submit an application for partial payment or final payment. Costs for which payment is sought must be approved in a budget, provided, however, that no budget must be required for early action activities conducted pursuant to Subpart B of this Part other than free product removal activities conducted more than 45 days after confirmation of the presence of free product.

b) A complete application for payment must consist of the following elements:

1) A certification from a Licensed Professional Engineer or a Licensed Professional Geologist acknowledged by the owner or operator that the work performed has been in accordance with a technical plan approved by the Agency or, for early action activities, in accordance with Subpart B of this Part;

2) A statement of the amounts approved in the corresponding budget and the amounts actually sought for payment along with a certified statement by
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the owner or operator that the amounts so sought have been expended in conformance with the elements of a budget approved by the Agency;

3) A copy of the OSFM or Agency eligibility and deductibility determination;

4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 734.620 of this Part;

5) A federal taxpayer identification number and legal status disclosure certification;

6) Private insurance coverage form(s);

7) A minority/women's business form;

8) Designation of the address to which payment and notice of final action on the application for payment are to be sent;

9) An accounting of all costs, including but not limited to, invoices, receipts, and supporting documentation showing the dates and descriptions of the work performed; and

10) Proof of payment of subcontractor costs for which handling charges are requested. Proof of payment may include cancelled checks, lien waivers, or affidavits from the subcontractor.

c) The address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change in address.

d) Applications for payment and change of address forms must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

e) Applications for partial or final payment may be submitted no more frequently than once every 90 days.
f) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, other than costs associated with free product removal activities conducted more than 45 days after confirmation of the presence of free product, in no case must the Agency review an application for payment unless there is an approved budget on file corresponding to the application for payment.

g) In no case must the Agency authorize payment to an owner or operator in amounts greater than the amounts approved by the Agency in a corresponding budget. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart E of this Part using amended budgets plans as required under this Part.

h) Applications for payment of costs associated with a Stage 1, Stage 2, or Stage 3 site investigation plan may not be submitted prior to the approval or modification of a site investigation plan for the next stage of the site investigation or the site investigation completion report, whichever is applicable.

i) Applications for payment of costs associated with site investigation or corrective action that was deferred pursuant to Section 734.450 of this Part may not be submitted prior to approval or modification of the corresponding site investigation plan, site investigation completion report, or corrective action completion report.

j) All applications for payment of corrective action costs must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part. For releases for which the Agency issued a No Further Remediation Letter prior to March 1, 2006, all applications for payment must be submitted no later than March 1, 2007.

Section 734.610 Review of Applications for Payment

a) At a minimum, the Agency must review each application for payment submitted pursuant to this Part to determine the following:

1) Whether the application contains all of the elements and supporting documentation required by Section 734.605(b) of this Part;

2) For costs incurred pursuant to Subpart B of this Part, other than free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought are reasonable, and whether there is sufficient documentation to demonstrate
that the work was completed in accordance with the requirements of this Part;

3) For costs incurred pursuant to Subpart C of this Part and free product removal activities conducted more than 45 days after confirmation of the presence of free product, whether the amounts sought exceed the amounts approved in the corresponding budget, and whether there is sufficient documentation to demonstrate that the work was completed in accordance with the requirements of this Part and a plan approved by the Agency; and

4) Whether the amounts sought are eligible for payment.

b) When conducting a review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in subsection (c) of this Section.

c) The Agency's review may include a review of any or all elements and supporting documentation relied upon by the owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The review also may include the review of any plans, budgets, or reports previously submitted for the site to ensure that the application for payment is consistent with work proposed and actually performed in conjunction with the site.

d) Following a review, the Agency has the authority to approve, deny or require modification of applications for payment or portions thereof. The Agency must notify the owner or operator in writing of its final action on any such application for payment. Except as provided in subsection (e) of this Section, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification must contain the following information, as applicable:

1) An explanation of the specific type of information, if any, that the Agency needs to complete the review;

2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and
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3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.

e) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver must be for a minimum of 30 days.

f) The Agency must mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that such notice is mailed. The Agency must mail notices of final action on applications for payment, and direct the Comptroller to mail payments to the owner or operator, at the address designated for receipt of payment in the application for payment or on a change of address form, provided by the Agency, submitted subsequent to submittal of the application for payment.

g) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification must be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

Section 734.615 Authorization for Payment; Priority List

a) Within 60 days after notification to an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency must forward to the Office of the State Comptroller in accordance with subsection (d) or (e) of this Section a voucher in the amount approved. If the owner or operator has filed an appeal with the Board of the Agency's final decision on an application for payment, the Agency must have 60 days after the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal. Notwithstanding the time limits imposed by this Section, the Agency must not forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.

b) The following rules must apply regarding deductibles:
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1) Any deductible, as determined by the OSFM or the Agency, must be subtracted from any amount approved for payment by the Agency or by operation of law, or ordered by the Board or courts;

2) Only one deductible must apply per occurrence;

3) If multiple incident numbers are issued for a single site in the same calendar year, only one deductible must apply for those incidents, even if the incidents relate to more than one occurrence; and

4) Where more than one deductible determination is made, the higher deductible must apply.

c) The Agency must instruct the Office of the State Comptroller to issue payment to the owner or operator at the address designated in accordance with Section 734.605(b)(8) or (c) of this Part. In no case must the Agency authorize the Office of the State Comptroller to issue payment to an agent, designee, or entity that has conducted corrective action activities for the owner or operator.

d) For owners or operators who have deferred site classification or corrective action in accordance with Section 734.450 of this Part, payment must be authorized from funds encumbered pursuant to Section 734.450(a)(6) of this Part upon approval of the application for payment by the Agency or by operation of law.

e) For owners or operators not electing to defer site investigation or corrective action in accordance with Section 734.450 of this Part, the Agency must form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section.

1) All such applications for payment must be assigned a date that is the date upon which the complete application for partial or final payment was received by the Agency. This date must determine the owner's or operator's priority for payment in accordance with subsection (e)(2) of this Section, with the earliest dates receiving the highest priority.

2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment must be assigned priority in accordance with subsection (e)(1) of this Section. The assigned date must be the only factor determining the priority for payment for those applications approved for payment.
Section 734.620  Limitations on Total Payments

a) Limitations per occurrence:

1) *The Agency shall not approve any payment from the Fund to pay an owner or operator for costs of corrective action incurred by such owner or operator in an amount in excess of $1,500,000 per occurrence [415 ILCS 5/57.8(g)(1)]; and*

2) *The Agency shall not approve any payment from the Fund to pay an owner or operator for costs of indemnification of such owner or operator in an amount in excess of $1,500,000 per occurrence [415 ILCS 5/57.8(g)(2)].*

b) Aggregate limitations:

1) *Notwithstanding any other provision of this Part, the Agency shall not approve payment to an owner or operator from the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by such owner or operator in Illinois:*

<table>
<thead>
<tr>
<th>Amount</th>
<th>Number of Tanks</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000,000</td>
<td>fewer than 101</td>
</tr>
<tr>
<td>$2,000,000</td>
<td>101 or more</td>
</tr>
</tbody>
</table>

B) For calendar years 2002 and later:

<table>
<thead>
<tr>
<th>Amount</th>
<th>Number of Tanks</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,000,000</td>
<td>fewer than 101</td>
</tr>
<tr>
<td>$3,000,000</td>
<td>101 or more</td>
</tr>
</tbody>
</table>

[415 ILCS 5/57.8(d)]
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2) *Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section shall not be eligible for payment in subsequent years.* [415 ILCS 5/57.8(d)(1)]

c) *For purposes of subsection (b) of this Section, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator.* [415 ILCS 5/57.8(d)(2)]

d) *For purposes of subsection (b) of this Section, owner or operator includes;*

1) *any subsidiary, parent, or joint stock company of the owner or operator;* and

2) *any company owned by any parent, subsidiary, or joint stock company of the owner or operator.* [415 ILCS 5/57.8(d)(3)]

Section 734.625 Eligible Corrective Action Costs

a) *Types of costs that may be eligible for payment from the Fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include, but are not limited to, reasonable costs for:*

1) *Early action activities conducted pursuant to Subpart B of this Part;*

2) *Engineer or geologist oversight services;*

3) *Remedial investigation and design;*

4) *Laboratory services necessary to determine site investigation and whether the established remediation objectives have been met;*

5) *The installation and operation of groundwater investigation and groundwater monitoring wells;*

6) *The removal, treatment, transportation, and disposal of soil contaminated by petroleum at levels in excess of the established remediation objectives;*
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7) The removal, treatment, transportation, and disposal of water contaminated by petroleum at levels in excess of the established remediation objectives;

8) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established remediation objectives;

9) Groundwater corrective action systems;

10) Alternative technology, including but not limited to feasibility studies approved by the Agency;

11) Recovery of free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water;

12) The removal and disposal of any UST if a release of petroleum from the UST was identified and IEMA was notified prior to its removal, with the exception of any UST deemed ineligible by the OSFM;

13) Costs incurred as a result of a release of petroleum because of vandalism, theft, or fraudulent activity by a party other than an owner or operator or agent of an owner or operator;

14) Engineer or geologist costs associated with seeking payment from the Fund, including but not limited to completion of an application for partial or final payment;

15) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSFM or the Agency;

16) Costs for destruction and replacement of concrete, asphalt, or paving to the extent necessary to conduct corrective action if the concrete, asphalt, or paving was installed prior to the initiation of corrective action activities, the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer, and the destruction and replacement and its costs are approved by the Agency in writing prior to the destruction and replacement. The destruction and replacement of concrete, asphalt, and paving must not be paid more than
once. Costs associated with the replacement of concrete, asphalt, or paving must not be paid in excess of the cost to install, in the same area and to the same depth, the same material that was destroyed (e.g., replacing four inches of concrete with four inches of concrete);

17) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer and such activity and its costs are approved by the Agency in writing prior to the destruction or dismantling and re-assembly. Such costs must not be paid in excess of a total of $10,000 per occurrence. For purposes of this subsection (a)(17), destruction, dismantling, or reassembly of above grade structures does not include costs associated with replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies;

18) Preparation of reports submitted pursuant to Section 734.210(h)(3) of this Part, free product removal plans and associated budgets, free product removal reports, site investigation plans and associated budgets, site investigation completion reports, corrective action plans and associated budgets, and corrective action completion reports;

19) Costs associated with the removal or abandonment of a potable water supply well, and replacement of the well or connection to a public water supply, whichever is less, if a Licensed Professional Engineer or Licensed Professional Geologist certifies that such activity is necessary to the performance of corrective action and that the property served by the well cannot receive an adequate supply of potable water from an existing source other than the removed or abandoned well, and the Agency approves such activity in writing. If the well being removed or abandoned is a public water supply well, the Licensed Professional Engineer or Licensed Professional Geologist is required to certify only that the removal or abandonment of the well is necessary to the performance of corrective action; and

20) Costs associated with the repair or replacement of potable water supply lines damaged to the point of requiring repair or replacement as a direct result of the release, if such activity is certified by a Licensed Professional Engineer or Licensed Professional Geologist as necessary for the
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protection of the potable water supply and approved by the Agency in writing.

b) An owner or operator may submit a budget or application for partial or final payment that includes an itemized accounting of costs associated with activities, materials, or services not identified in subsection (a) of this Section if the owner or operator submits detailed information demonstrating that the activities, materials, or services not identified in subsection (a) of this Section are essential to the completion of the minimum corrective action requirements of the Act and this Part.

Section 734.630 Ineligible Corrective Action Costs

Costs ineligible for payment from the Fund include, but are not limited to:

a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the UST, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 734.210(f) of this Part, and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 734.210(f) of this Part;

b) Costs or losses resulting from business interruption;

c) Costs incurred as a result of vandalism, theft, or fraudulent activity by the owner or operator or agent of an owner or operator, including the creation of spills, leaks, or releases;

d) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts, or canopies, including but not limited to, those structures destroyed or damaged during corrective action activities;

e) Costs of corrective action incurred by an owner or operator prior to July 28, 1989 [415 ILCS 5/57.8(j)];

f) Costs associated with the procurement of a generator identification number;
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g) Legal fees or costs, including but not limited to legal fees or costs for seeking payment under this Part unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;

h) Purchase costs of non-expendable materials, supplies, equipment, or tools, except that a reasonable rate may be charged for the usage of such materials, supplies, equipment, or tools;

i) Costs associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;

j) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 734.125 of this Part and Section 57.12 of the Act;

k) Costs for removal, disposal, or abandonment of a UST if the tank was removed or abandoned, or permitted for removal or abandonment, by the OSFM before the owner or operator provided notice to IEMA of a release of petroleum;

l) Costs associated with the installation of new USTs, the repair of existing USTs, and removal and disposal of USTs determined to be ineligible by the OSFM;

m) Costs exceeding those contained in a budget or amended budget approved by the Agency;

n) Costs of corrective action incurred before providing notification of the release of petroleum to IEMA in accordance with Section 734.210 of this Part;

o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;

p) Costs associated with improperly installed sampling or monitoring wells;

q) Costs associated with improperly collected, transported, or analyzed laboratory samples;

r) Costs associated with the analysis of laboratory samples not approved by the Agency;
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s) Costs for any corrective activities, services, or materials unless accompanied by a letter from OSFM or the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;

t) Interest or finance costs charged as direct costs;

u) Insurance costs charged as direct costs;

v) Indirect corrective action costs for personnel, materials, service, or equipment charged as direct costs; 

w) Costs associated with the compaction and density testing of backfill material;

x) Costs associated with sites that have not reported a release to IEMA or are not required to report a release to IEMA;

y) Costs related to activities, materials, or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations;

z) Costs of alternative technology that exceed the costs of conventional technology;

aa) Costs for activities and related services or materials that are unnecessary, inconsistent with generally accepted engineering practices or principles of professional geology, or unreasonable costs for justifiable activities, materials, or services;

bb) Costs requested that are based on mathematical errors;

cc) Costs that lack supporting documentation;

dd) Costs proposed as part of a budget that are unreasonable;

ee) Costs incurred during early action that are unreasonable;

ff) Costs incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release;
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gg) Costs incurred after receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received. This subsection (gg) does not apply to the following:

1) Costs incurred for MTBE remediation pursuant to Section 734.405(i)(2) of this Part;

2) Monitoring well abandonment costs;

3) County recorder or registrar of titles fees for recording the No Further Remediation Letter;

4) Costs associated with seeking payment from the Fund; and

5) Costs associated with remediation to Tier 1 remediation objectives on-site if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives in response to the release;

hh) Handling charges for subcontractor costs that have been billed directly to the owner or operator;

ii) Handling charges for subcontractor costs when the contractor has not submitted proof of payment of the subcontractor costs;

jj) Costs associated with standby and demurrage;

kk) Costs associated with a corrective action plan incurred after the Agency notifies the owner or operator, pursuant to Section 734.355(b) of this Part, that a revised corrective action plan is required, provided, however, that costs associated with any subsequently approved corrective action plan will be eligible for payment if they meet the requirements of this Part;

ll) Costs incurred prior to the effective date of an owner's or operator's election to proceed in accordance with this Part, unless such costs were incurred for activities approved as corrective action under this Part;

mm) Costs associated with the preparation of free product removal reports not submitted in accordance with the schedule established in Section 734.215(a)(5) of this Part;
nn) Costs submitted more than one year after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;

oo) Costs for the destruction and replacement of concrete, asphalt, or paving, except as otherwise provided in Section 734.625(a)(16) of this Part;

pp) Costs incurred as a result of the destruction of, or damage to, any equipment, fixtures, structures, utilities, or other items during corrective action activities, except as otherwise provided in Sections 734.625(a)(16) or (17) of this Part;

qq) Costs associated with oversight by an owner or operator;

rr) Handling charges charged by persons other than the owner's or operator's primary contractor;

ss) Costs associated with the installation of concrete, asphalt, or paving as an engineered barrier to the extent they exceed the cost of installing an engineered barrier constructed of asphalt four inches in depth. This subsection does not apply if the concrete, asphalt, or paving being used as an engineered barrier was replaced pursuant to Section 734.625(a)(16) of this Part;

tt) The treatment or disposal of soil that does not exceed the applicable remediation objectives for the release, unless approved by the Agency in writing prior to the treatment or disposal;

uu) Costs associated with the removal or abandonment of a potable water supply well, or the replacement of such a well or connection to a public water supply, except as otherwise provided in Section 734.625(a)(19) of this Part;

vv) Costs associated with the repair or replacement of potable water supply lines, except as otherwise provided in Section 734.625(a)(20) of this Part;

ww) Costs associated with the replacement of underground structures or utilities, including but not limited to septic tanks, utility vaults, sewer lines, electrical lines, telephone lines, cable lines, or water supply lines, except as otherwise provided in Sections 734.625(a)(19) or (20) of this Part;

xx) For sites electing under Section 734.105 of this Part to proceed in accordance with this Part, costs incurred pursuant to Section 734.210 of this Part;
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yy) Costs associated with the maintenance, repair, or replacement of leased or subcontracted equipment, other than costs associated with routine maintenance that are approved in a budget;

zz) Costs that exceed the maximum payment amounts set forth in Subpart H of this Part;

aaa) Costs associated with on-site corrective action to achieve remediation objectives that are more stringent than the Tier 2 remediation objectives developed in accordance with 35 Ill. Adm. Code 742. This subsection (aaa) does not apply if Karst geology prevents the development of Tier 2 remediation objectives for on-site remediation, or if a court of law voids or invalidates a No Further Remediation Letter and orders the owner or operator to achieve Tier 1 remediation objectives on-site in response to the release.

bbb) Costs associated with groundwater remediation if a groundwater ordinance already approved by the Agency for use as an institutional control in accordance with 35 Ill. Adm. Code 742 can be used as an institutional control for the release being remediated.

Section 734.635 Payment for Handling Charges

Handling charges are eligible for payment only if they are equal to or less than the amount determined by the following table:

<table>
<thead>
<tr>
<th>Subcontract or Field Purchase Cost:</th>
<th>Eligible Handling Charges as a Percentage of Cost:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 − $5,000.........................................................12%</td>
<td></td>
</tr>
<tr>
<td>$5,001 − $15,000..............................$600 + 10% of amt. over $5,000</td>
<td></td>
</tr>
<tr>
<td>$15,001 − $50,000...............................$1,600 + 8% of amt. over $15,000</td>
<td></td>
</tr>
<tr>
<td>$50,001 − $100,000..............................$4,400 + 5% of amt. over $50,000</td>
<td></td>
</tr>
<tr>
<td>$100,001 − $1,000,000..............................$6,900 + 2% of amt. over $100,000</td>
<td></td>
</tr>
</tbody>
</table>

Section 734.640 Apportionment of Costs

a) The Agency may apportion payment of costs if:
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1) The owner or operator was deemed eligible to access the Fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and

2) The owner or operator failed to justify all costs attributable to each underground storage tank at the site. [415 ILCS 5/57.8(m)]

b) The Agency will determine, based on volume or number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing.

Section 734.645 Subrogation of Rights

Payment of any amount from the fund for corrective action or indemnification shall be subject to the State acquiring by subrogation the rights of any owner, operator, or other person to recover the costs of corrective action or indemnification for which the fund has compensated such owner, operator, or person from the person responsible or liable for the release [415 ILCS 5/57.8(h)].

Section 734.650 Indemnification

a) An owner or operator seeking indemnification from the Fund for payment of costs incurred as a result of a release of petroleum from an underground storage tank must submit to the Agency a request for payment on forms prescribed and provided by the Agency and, if specified by the Agency by written notice, in an electronic format.

1) A complete application for payment must contain the following:

A) A certified statement by the owner or operator of the amount sought for payment;

B) Proof of the legally enforceable judgment, final order, or determination against the owner or operator, or the legally enforceable settlement entered into by the owner or operator, for which indemnification is sought. The proof must include, but not be limited to, the following:

i) A copy of the judgment certified by the court clerk as a true and correct copy, a copy of the final order or determination certified by the issuing agency of State government or
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subdivision thereof as a true and correct copy, or a copy of the settlement certified by the owner or operator as a true and correct copy; and

ii) Documentation demonstrating that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from the UST for which the release was reported, and that the UST is owned or operated by the owner or operator;

C) A copy of the OSFM or Agency eligibility and deductibility determination;

D) Proof that approval of the indemnification requested will not exceed the limitations set forth in the Act and Section 734.620 of this Part;

E) A federal taxpayer identification number and legal status disclosure certification;

F) A private insurance coverage form; and

G) Designation of the address to which payment and notice of final action on the request for indemnification are to be sent to the owner or operator.

2) The owner's or operator's address designated on the application for payment may be changed only by subsequent notification to the Agency, on a form provided by the Agency, of a change of address.

3) Applications for payment must be mailed or delivered to the address designated by the Agency. The Agency's record of the date of receipt must be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

b) The Agency must review applications for payment in accordance with this Subpart F. In addition, the Agency must review each application for payment to determine the following:
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1) Whether the application contains all of the information and supporting documentation required by subsection (a) of this Section;

2) Whether there is sufficient documentation of a legally enforceable judgment entered against the owner or operator in a court of law, final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or settlement entered into by the owner or operator;

3) Whether there is sufficient documentation that the judgment, final order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator; and

4) Whether the amounts sought for indemnification are eligible for payment.

c) If the application for payment of the costs of indemnification is deemed complete and otherwise satisfies all applicable requirements of this Subpart F, the Agency must forward the request for indemnification to the Office of the Attorney General for review and approval in accordance with Section 57.8(c) of the Act. The owner or operator's request for indemnification must not be placed on the priority list for payment until the Agency has received the written approval of the Attorney General. The approved application for payment must then enter the priority list established at Section 734.615(e)(1) of this Part based on the date the complete application was received by the Agency in accordance with Section 57.8(c) of the Act.

d) Costs ineligible for indemnification from the Fund include, but are not limited to:

1) Amounts an owner or operator is not legally obligated to pay pursuant to a judgment entered against the owner or operator in a court of law, a final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or any settlement entered into by the owner or operator;

2) Amounts of a judgment, final order, determination, or settlement that do not arise out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator;
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3) Amounts incurred prior to July 28, 1989;

4) Amounts incurred prior to notification of the release of petroleum to IEMA in accordance with Section 734.210 of this Part;

5) Amounts arising out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank for which the owner or operator is not eligible to access the Fund;

6) Legal fees or costs, including but not limited to, legal fees or costs for seeking payment under this Part, unless the owner or operator prevails before the Board and the Board authorizes payment of such costs;

7) Amounts associated with activities that violate any provision of the Act or Board, OSFM, or Agency regulations;

8) Amounts associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 734.125 of this Part and Section 57.12 of the Act;

9) Amounts associated with a release that has not been reported to IEMA or is not required to be reported to IEMA;

10) Amounts incurred on or after the date the owner or operator enters the Site Remediation Program under Title XVII of the Act and 35 Ill. Adm. Code 740 to address the UST release; and

11) Amounts incurred prior to the effective date of the owner's or operator's election to proceed in accordance with this Part.

Section 734.655 Costs Covered by Insurance, Agreement, or Court Order

Costs of corrective action or indemnification incurred by an owner or operator which have been paid to an owner or operator under a policy of insurance, another written agreement, or a court order are not eligible for payment from the Fund. An owner or operator who receives payment under a policy of insurance, another written agreement, or a court order shall reimburse the
Section 734.660 Determination and Collection of Excess Payments

a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section.
   1) Upon identifying an excess payment, the Agency must notify the owner or operator receiving the excess payment by certified or registered mail, return receipt requested.
   2) The notification letter must state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.
   3) The Agency's determination of an excess payment must be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

b) An excess payment from the Fund includes, but is not limited to:
   1) Payment for a non-corrective action cost;
   2) Payment in excess of the limitations on payments set forth in Sections 734.620 and 734.635 and Subpart H of this Part;
   3) Payment received through fraudulent means;
   4) Payment calculated on the basis of an arithmetic error;
   5) Payment calculated by the Agency in reliance on incorrect information; or
   6) Payment of costs that are not eligible for payment.

c) Excess payments may be collected using any of the following procedures:
   1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section or pursuant to a Board order affirming such determination upon appeal, the Agency may attempt to
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negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section must prohibit the Agency from exercising at any time its options at subsection (c)(2) or (c)(3) of this Section or any other collection methods available to the Agency by law.

2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.

3) The Agency may deem an excess payment amount to be a claim or debt owed the Agency, and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.5 of the "State Comptroller Act." [15 ILCS 405/10.05]

Section 734.665 Audits and Access to Records; Records Retention

a) Owners or operators that submit a report, plan, budget, application for payment, or any other data or document under this Part must maintain all books, records, documents, and other evidence directly pertinent to the report, plan, budget, application for payment, data, or document, including but not limited to all financial information and data used in the preparation or support of applications for payment. All books, records, documents, and other evidence must be maintained in accordance with accepted business practices and appropriate accounting procedures and practices.

b) The Agency or any of its duly authorized representatives must have access to the books, records, documents, and other evidence set forth in subsection (a) of this Section during normal business hours for the purpose of inspection, audit, and copying. Owners or operators must provide proper facilities for such access and inspection.

c) Owners or operators must maintain the books, records, documents, and other evidence set forth in subsection (a) of this Section and make them available to the Agency or its authorized representative until the latest of the following:
1) The expiration of 4 years after the date the Agency issues a No Further Remediation Letter pursuant to Subpart G of this Part;

2) For books, records, documents, or other evidence relating to an appeal, litigation, or other dispute or claim, the expiration of 3 years after the date of the final disposition of the appeal, litigation, or other dispute or claim; or

3) The expiration of any other applicable record retention period.

SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

Section 734.700 General

Subpart G provides the procedures for the issuance of No Further Remediation Letters under Title XVI and this Part. Subpart G also sets forth the recording requirements and the circumstances under which the letter may be voidable.

Section 734.705 Issuance of a No Further Remediation Letter

a) Upon approval by the Agency of a report submitted pursuant to Section 734.210(h)(3) of this Part or a corrective action completion report, the Agency must issue to the owner or operator a No Further Remediation Letter. The No Further Remediation Letter must have the legal effect prescribed in Section 57.10 of the Act. The No Further Remediation Letter must be denied if the Agency rejects or requires modification of the applicable report.

b) The Agency must have 120 days after the date of receipt of the applicable report to issue a No Further Remediation Letter and may include the No Further Remediation Letter as part of the notification of approval of the report in accordance with Subpart E of this Part. If the Agency fails to send the No Further Remediation Letter within 120 days, it must be deemed denied by operation of law.

c) The notice of denial of a No Further Remediation Letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial of the letter must be stated in the notification. The denial must be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of
permit decisions in Section 40 of the Act. If any request for a No Further Remediation Letter is denied by operation of law in lieu of an immediate repeal to the Board, the owner or operator may either resubmit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

d) The Agency must mail the No Further Remediation Letter by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action must be deemed to have taken place on the post marked date that the letter is mailed.

e) The Agency at any time may correct errors in No Further Remediation Letters that arise from oversight, omission, or clerical mistake. Upon correction of the No Further Remediation Letter, the Agency must mail the corrected letter to the owner or operator as set forth in subsection (d) of this Section. The corrected letter must be perfected by recording in accordance with the requirements of Section 734.715 of this Part.

Section 734.710 Contents of a No Further Remediation Letter

A No Further Remediation Letter issued pursuant to this Part must include all of the following:

a) An acknowledgment that the requirements of the applicable report were satisfied;

b) A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries, or, for the purposes of Section 734.715(d) of this Part, other means sufficient to identify the site location with particularity;

c) A statement that the remediation objectives were determined in accordance with 35 Ill. Adm. Code 742, and the identification of any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;

d) A statement that the Agency's issuance of the No Further Remediation Letter signifies that:

1) All statutory and regulatory corrective action requirements applicable to the occurrence have been complied with;
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2) All corrective action concerning the remediation of the occurrence has been completed; and

3) No further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment [415 ILCS 5/57.10(c)(1)-(3)], or, if the No Further Remediation Letter is issued pursuant to Section 734.350(e) of this Part, that the owner or operator has demonstrated to the Agency’s satisfaction an inability to obtain access to an off-site property despite best efforts and therefore is not required to perform corrective action on the off-site property in order to satisfy the corrective action requirements of this Part, but is not relieved of responsibility to clean up portions of the release that have migrated off-site;

e) The prohibition under Section 734.715(e) of this Part against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;

f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report and notification that failure to manage the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;

g) The recording obligations pursuant to Section 734.715 of this Part;

h) The opportunity to request a change in the recorded land use pursuant to Section 734.715(e) of this Part;

i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act [5 ILCS 140]; and

j) Any other provisions agreed to by the Agency and the owner or operator.

Section 734.715 Duty to Record a No Further Remediation Letter

a) Except as provided in subsections (c) and (d) of this Section, an owner or operator receiving a No Further Remediation Letter from the Agency pursuant to this Subpart G must submit the letter, with a copy of any applicable institutional controls (as set forth in 35 Ill. Adm. Code 742, Subpart J) proposed as part of a
corrective action completion report, to the office of the recorder or the registrar of
titles of the county in which the site is located within 45 days after receipt of the
letter. The letter and any attachments must be filed in accordance with Illinois
law so that they form a permanent part of the chain of title for the site. Upon the
lapse of the 45 day period for recording, pursuant to Section 734.720(a)(5) of this
Part the Agency may void an unrecorded No Further Remediation Letter for
failure to record it in a timely manner.

b) Except as provided in subsections (c) and (d) of this Section, a No Further
Remediation Letter must be perfected upon the date of the official recording of
such letter. The owner or operator must obtain and submit to the Agency, within
30 days after the official recording date, a certified or otherwise accurate and
official copy of the letter and any attachments as recorded. An unperfected No
Further Remediation Letter is effective only as between the Agency and the
owner or operator.

c) For sites located in a highway authority right-of-way, the following requirements
must apply:

1) In order for the No Further Remediation Letter to be perfected, the
highway authority with jurisdiction over the right-of-way must enter into a
Memorandum of Agreement (MOA) with the Agency. The MOA must
include, but is not limited to:

A) The name of the site, if any, and any highway authority or Agency
identifiers (e.g., incident number, Illinois inventory identification
number);

B) The address of the site (or other description sufficient to identify
the location of the site with certainty);

C) A copy of the No Further Remediation Letter for each site subject
to the MOA;

D) Procedures for tracking sites subject to the MOA so that all
highway authority offices and personnel whose responsibilities
(e.g., land acquisition, maintenance, construction, utility permits)
may affect land use limitations will have notice of any
environmental concerns and land use limitations applicable to a
site;
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E) Provisions addressing future conveyances (including title or any lesser form of interest) or jurisdictional transfers of the site to any other agency, private person or entity and the steps that will be taken to ensure the long-term integrity of any land use limitations including, but not limited to, the following:

i) Upon creation of a deed, the recording of the No Further Remediation Letter and any other land use limitations requiring recording under 35 Ill. Adm. Code 742, with copies of the recorded instruments sent to the Agency within 30 days after recording;

ii) Any other arrangements necessary to ensure that property that is conveyed or transferred remains subject to any land use limitations approved and implemented as part of the corrective action plan and the No Further Remediation Letter; and

iii) Notice to the Agency at least 60 days prior to any such intended conveyance or transfer indicating the mechanism(s) to be used to ensure that any land use limitations will be operated or maintained as required in the corrective action plan and No Further Remediation Letter; and

F) Provisions for notifying the Agency if any actions taken by the highway authority or its permittees at the site result in the failure or inability to restore the site to meet the requirements of the corrective action plan and the No Further Remediation Letter.

2) Failure to comply with the requirements of this subsection (c) may result in voidance of the No Further Remediation Letter pursuant to Section 734.720 of this Part as well as any other penalties that may be available.

d) For sites located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title, the following requirements must apply:
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1) To perfect a No Further Remediation Letter containing any restriction on future land use(s), the Federal Landholding Entity or Entities responsible for the site must enter into a Land Use Control Memorandum of Agreement (LUC MOA) with the Agency that requires the Federal Landholding Entity to do, at a minimum, the following:

A) Identify the location on the Federally Owned Property of the site subject to the No Further Remediation Letter. Such identification must be by means of common address, notations in any available facility master land use plan, site specific GIS or GPS coordinates, plat maps, or any other means that identify the site in question with particularity;

B) Implement periodic site inspection procedures that ensure oversight by the Federal Landholding Entities of any land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

C) Implement procedures for the Federal Landholding Entities to periodically advise the Agency of continued compliance with all maintenance and inspection requirements set forth in the LUC MOA;

D) Implement procedures for the Federal Landholding Entities to notify the Agency of any planned or emergency changes in land use that may adversely impact land use limitations or restrictions imposed pursuant to the No Further Remediation Letter;

E) Notify the Agency at least 60 days in advance of a conveyance by deed or fee simple title, by the Federal Landholding Entities, of the site or sites subject to the No Further Remediation Letter, to any entity that will not remain or become a Federal Landholding Entity, and provide the Agency with information about how the Federal Landholding Entities will ensure the No Further Remediation Letter is recorded on the chain of title upon transfer of the property; and

F) Attach to the LUC MOA a copy of the No Further Remediation Letter for each site subject to the LUC MOA.
2) To perfect a No Further Remediation letter containing no restriction(s) on future land use, the Federal Landholding Entity must submit the letter to the Office of the Recorder or the Registrar of Titles of the county in which the site is located within 45 days after receipt of the letter. The letter must be filed in accordance with Illinois law so it forms a permanent part of the chain of title. The Federal Landholding Entity must obtain and submit to the Agency, within 30 days after recording, a copy of the letter demonstrating that the recording requirements have been satisfied.

3) Failure to comply with the requirements of this subsection (d) and the LUC MOA may result in voidance of the No Further Remediation Letter as well as any other penalties that may be available.

e) At no time must any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation set forth in the No Further Remediation Letter. The land use limitation specified in the No Further Remediation Letter may be revised only by the perfecting of a subsequent No Further Remediation Letter, issued pursuant to Title XVII of the Act and regulations thereunder, following further investigation or remediation that demonstrates the attainment of objectives appropriate for the new land use.

Section 734.720 Voidance of a No Further Remediation Letter

a) The No Further Remediation Letter must be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but not be limited to:

1) Any violations of institutional controls or land use restrictions, if applicable;

2) The failure of the owner or operator or any subsequent transferee to operate and maintain preventive, engineering, and institutional controls;

3) Obtaining the No Further Remediation Letter by fraud or misrepresentation;
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4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based that:

A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based;

B) results in the failure to meet the remediation objectives established for the site; and

C) pose a threat to human health or the environment;

5) Upon the lapse of the 45 day period for recording the No Further Remediation Letter, the failure to record and thereby perfect the No Further Remediation Letter in a timely manner;

6) The disturbance or removal of contamination left in place under an approved plan;

7) The failure to comply with the requirements of Section 734.715(c) of this Part and the Memorandum of Agreement entered in accordance with Section 734.715(c) of this Part for a site that is located in a highway authority right-of-way;

8) The failure to comply with the requirements of Section 734.715(d) of this Part and the LUC MOA entered in accordance with Section 734.715(d) of this Part for a site located on Federally Owned Property for which the Federal Landholding Entity does not have the authority under federal law to record institutional controls on the chain of title;

9) The failure to comply with the requirements of Section 734.715(d) of this Part or the failure to record a No Further Remediation Letter perfected in accordance with Section 734.715(d) of this Part within 45 days following the transfer of the Federally Owned Property subject to the No Further Remediation Letter to any entity that will not remain or become a Federal Landholding Entity; or

10) The failure to comply with the notice or confirmation requirements of 35 Ill. Adm. Code 742.1015(b)(5) and (c).
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b) If the Agency seeks to void a No Further Remediation Letter, it must provide a Notice of Voidance to the current title holder of the site and the owner or operator at his or her last known address.

1) The Notice of Voidance must specify the cause for the voidance and describe the facts in support of the cause.

2) The Agency must mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.

c) Within 35 days after receipt of the Notice of Voidance, the current title holder and owner or operator of the site at the time the No Further Remediation Letter was issued may appeal the Agency's decision to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.

d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition must be deemed denied and the petitioner must be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency must have the burden of proof in such action.

1) If the Agency's action is appealed, the action must not become effective until the appeal process has been exhausted and a final decision is reached by the Board or courts.

A) Upon receiving a notice of appeal, the Agency must file a Notice of lis pendens with the office of the recorder or the registrar of titles for the county in which the site is located. The notice must be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.

B) If the Agency's action is not upheld on appeal, the Notice of lis pendens must be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.

2) If the Agency's action is not appealed or is upheld on appeal, the Agency must submit the Notice of Voidance to the office of the recorder or the registrar of titles for the county in which the site is located. The Notice must be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.
SUBPART H: MAXIMUM PAYMENT AMOUNTS

Section 734.800 Applicability

a) Methods for Determining Maximum Amounts. This Subpart H provides three methods for determining the maximum amounts that can be paid from the Fund for eligible corrective action costs. All costs associated with conducting corrective action are grouped into the tasks set forth in Sections 734.810 through 734.850 of this Part.

1) The first method for determining the maximum amount that can be paid for each task is to use the maximum amounts for each task set forth in those Sections, and Section 734.870. In some cases the maximum amounts are specific dollar amounts, and in other cases the maximum amounts are determined on a site-specific basis.

2) As an alternative to using the amounts set forth in Sections 734.810 through 734.850 of this Part, the second method for determining the maximum amounts that can be paid for one or more tasks is bidding in accordance with Section 734.855 of this Part. As stated in that Section, when bidding is used, if the lowest bid for a particular task is less than the amount set forth in Sections 734.810 through 734.850, the amount in Sections 734.810 through 734.850 of this Part may be used instead of the lowest bid.

3) The third method for determining maximum amounts that can be paid from the Fund applies to unusual or extraordinary circumstances. The maximum amounts for such circumstances can be determined in accordance with Section 734.860 of this Part.

b) The costs listed under each task set forth in Sections 734.810 through 734.850 of this Part identify only some of the costs associated with each task. They are not intended as an exclusive list of all costs associated with each task for the purposes of payment from the Fund.

c) This Subpart H sets forth only the methods that can be used to determine the maximum amounts that can be paid from the Fund for eligible corrective action costs. Whether a particular cost is eligible for payment must be determined in accordance with Subpart F of this Part.
Section 734.810 UST Removal or Abandonment Costs

Payment for costs associated with UST removal or abandonment of each UST must not exceed the amounts set forth in this Section. Such costs must include, but not be limited to, those associated with the excavation, removal, disposal, and abandonment of UST systems.

<table>
<thead>
<tr>
<th>UST Volume</th>
<th>Maximum Total Amount per UST</th>
</tr>
</thead>
<tbody>
<tr>
<td>110 – 999 gallons</td>
<td>$2,100</td>
</tr>
<tr>
<td>1,000 – 14,999 gallons</td>
<td>$3,150</td>
</tr>
<tr>
<td>15,000 or more gallons</td>
<td>$4,100</td>
</tr>
</tbody>
</table>

Section 734.815 Free Product or Groundwater Removal and Disposal

Payment for costs associated with the removal and disposal of free product or groundwater must not exceed the amounts set forth in this Section. Such costs must include, but not be limited to, those associated with the removal, transportation, and disposal of free product or groundwater, and the design, construction, installation, operation, maintenance, and closure of free product or groundwater removal systems.

a) Payment for costs associated with each round of free product or groundwater removal via hand bailing or a vacuum truck must not exceed a total of $0.68 per gallon or $200, whichever is greater.

b) Payment for costs associated with the removal of free product or groundwater via a method other than hand bailing or vacuum truck must be determined on a time and materials basis and must not exceed the amounts set forth in Section 734.850 of this Part. Such costs must include, but are not limited to, those associated with the design, construction, installation, operation, maintenance, and closure of free product and groundwater removal systems.

Section 734.820 Drilling, Well Installation, and Well Abandonment

Payment for costs associated with drilling, well installation, and well abandonment must not exceed the amounts set forth in this Section.

a) Payment for costs associated with each round of drilling must not exceed the following amounts. Such costs must include, but are not limited to, those
associated with mobilization, drilling labor, decontamination, and drilling for the purposes of soil sampling or well installation.

<table>
<thead>
<tr>
<th>Type of Drilling</th>
<th>Maximum Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hollow-stem auger</td>
<td>greater of $23 per foot or $1,500</td>
</tr>
<tr>
<td>Direct-push platform</td>
<td></td>
</tr>
<tr>
<td>– for sampling or other</td>
<td>greater of $18 per foot or $1,200</td>
</tr>
<tr>
<td>– non-injection purposes</td>
<td></td>
</tr>
<tr>
<td>– for injection purposes</td>
<td>greater of $15 per foot or $1,200</td>
</tr>
</tbody>
</table>

b) Payment for costs associated with the installation of monitoring wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

<table>
<thead>
<tr>
<th>Type of Borehole</th>
<th>Maximum Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hollow-stem auger</td>
<td>$16.50/foot (well length)</td>
</tr>
<tr>
<td>Direct-push platform</td>
<td>$12.50/foot (well length)</td>
</tr>
</tbody>
</table>

c) Payment for costs associated with the installation of recovery wells, excluding drilling, must not exceed the following amounts. Such costs must include, but are not limited to, those associated with well construction and development.

<table>
<thead>
<tr>
<th>Well Diameter</th>
<th>Maximum Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 or 6 inches</td>
<td>$25.00/foot (well length)</td>
</tr>
<tr>
<td>8 inches or greater</td>
<td>$41.00/foot (well length)</td>
</tr>
</tbody>
</table>

d) Payment for costs associated with the abandonment of monitoring wells must not exceed $10 per foot of well length.

Section 734.825 Soil Removal and Disposal

Payment for costs associated with soil removal, transportation, and disposal must not exceed the amounts set forth in this Section. Such costs must include, but are not limited to, those associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives or visibly contaminated fill removed pursuant to Section 734.210(f) of this Part, and the purchase, transportation, and placement of material used to backfill the resulting excavation.
a) Payment for costs associated with the removal, transportation, and disposal of contaminated soil exceeding the applicable remediation objectives, visibly contaminated fill removed pursuant to Section 734.210(f) of this Part, and concrete, asphalt, or paving overlying such contaminated soil or fill must not exceed a total of $57 per cubic yard.

1) Except as provided in subsection (a)(2) of this Section, the volume of soil removed and disposed must be determined by the following equation using the dimensions of the resulting excavation:

\[(\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth}) \times 1.05\]

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 734.210(f) of this Part must be determined in accordance with Appendix C of this Part.

b) Payment for costs associated with the purchase, transportation, and placement of material used to backfill the excavation resulting from the removal and disposal of soil must not exceed a total of $20 per cubic yard.

1) Except as provided in subsection (b)(2) of this Section, the volume of backfill material must be determined by the following equation using the dimensions of the backfilled excavation:

\[(\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth}) \times 1.05\]

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

2) The volume of backfill material used to replace soil removed from within four feet of the outside dimension of the UST and disposed of pursuant to Section 734.210(f) of this Part must be determined in accordance with Appendix C of this Part.

c) Payment for costs associated with the removal and subsequent return of soil that does not exceed the applicable remediation objectives but whose removal is
required in order to conduct corrective action must not exceed a total of $6.50 per cubic yard. The volume of soil removed and returned must be determined by the following equation using the dimensions of the excavation resulting from the removal of the soil:

\[(\text{Excavation Length} \times \text{Excavation Width} \times \text{Excavation Depth})\]

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.

**Section 734.830  Drum Disposal**

Payment for costs associated with the purchase, transportation, and disposal of 55-gallon drums containing waste generated as a result of corrective action (e.g., boring cuttings, water bailed for well development or sampling, hand-bailed free product) must not exceed the following amounts or a total of $500, whichever is greater.

<table>
<thead>
<tr>
<th>Drum Contents</th>
<th>Maximum Total Amount per Drum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Solid waste</td>
<td>$250</td>
</tr>
<tr>
<td>Liquid waste</td>
<td>$150</td>
</tr>
</tbody>
</table>

**Section 734.835  Sample Handling and Analysis**

Payment for costs associated with sample handling and analysis must not exceed the amounts set forth in Appendix D of this Part. Such costs must include, but are not limited to, those associated with the transportation, delivery, preparation, and analysis of samples, and the reporting of sample results. For laboratory analyses not included in this Section, the Agency may determine reasonable maximum payment amounts on a site-specific basis.

**Section 734.840  Concrete, Asphalt, and Paving; Destruction or Dismantling and Reassembly of Above Grade Structures**

a) Payment for costs associated with concrete, asphalt, and paving installed as an engineered barrier, other than replacement concrete, asphalt, and paving, must not exceed the following amounts. Costs associated with the replacement of concrete, asphalt, and paving used as an engineered barrier are subject to the maximum amounts set forth in subsection (b) of this Section instead of this subsection (a).

<table>
<thead>
<tr>
<th>Depth of Material</th>
<th>Maximum Total Amount</th>
</tr>
</thead>
</table>
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<table>
<thead>
<tr>
<th>Depth of Material</th>
<th>Maximum Total Amount per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asphalt and paving</td>
<td></td>
</tr>
<tr>
<td>2 inches</td>
<td>$1.65</td>
</tr>
<tr>
<td>3 inches</td>
<td>$1.86</td>
</tr>
<tr>
<td>4 inches</td>
<td>$2.38</td>
</tr>
<tr>
<td>6 inches</td>
<td>$3.08</td>
</tr>
<tr>
<td>Concrete</td>
<td></td>
</tr>
<tr>
<td>any depth</td>
<td>$2.38</td>
</tr>
</tbody>
</table>

b) Payment for costs associated with the replacement of concrete, asphalt, and paving must not exceed the following amounts:

<table>
<thead>
<tr>
<th>Depth of Material</th>
<th>Maximum Total Amount per Square Foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asphalt and paving</td>
<td></td>
</tr>
<tr>
<td>2 inches</td>
<td>$1.65</td>
</tr>
<tr>
<td>3 inches</td>
<td>$1.86</td>
</tr>
<tr>
<td>4 inches</td>
<td>$2.38</td>
</tr>
<tr>
<td>6 inches</td>
<td>$3.08</td>
</tr>
<tr>
<td>Concrete</td>
<td></td>
</tr>
<tr>
<td>2 inches</td>
<td>$2.45</td>
</tr>
<tr>
<td>3 inches</td>
<td>$2.93</td>
</tr>
<tr>
<td>4 inches</td>
<td>$3.41</td>
</tr>
<tr>
<td>5 inches</td>
<td>$3.89</td>
</tr>
<tr>
<td>6 inches</td>
<td>$4.36</td>
</tr>
<tr>
<td>8 inches</td>
<td>$5.31</td>
</tr>
</tbody>
</table>

For depths other than those listed in this subsection, the Agency must determine reasonable maximum payment amounts on a site-specific basis.

c) Payment for costs associated with the destruction or the dismantling and reassembly of above grade structures must not exceed the time and material amounts set forth in Section 734.850 of this Part. The total cost for the destruction or the dismantling and reassembly of above grade structures must not exceed $10,000 per site.

Section 734.845 Professional Consulting Services

Payment for costs associated with professional consulting services will be reimbursed on a time and materials basis pursuant to Section 734.850. Such costs must include, but are not limited to,
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those associated with project planning and oversight; field work; field oversight; travel; per
diem; mileage; transportation; vehicle charges; lodging; meals; and the preparation, review,
certification, and submission of all plans, budgets, reports, applications for payment, and other
documentation.

Section 734.850 Payment on Time and Materials Basis

This Section sets forth the maximum amounts that may be paid when payment is allowed on a
time and materials basis.

a) Payment for costs associated with activities that have a maximum payment
amount set forth in other sections of this Subpart H (e.g., sample handling and
analysis, drilling, well installation and abandonment, or drum disposal) must not
exceed the amounts set forth in those Sections, unless payment is made pursuant
to Section 734.860 of this Part.

b) Maximum payment amounts for costs associated with activities that do not have a
maximum payment amount set forth in other Sections of this Subpart H must be
determined by the Agency on a site-specific basis, provided, however, that
personnel costs must not exceed the amounts set forth in Appendix E of this Part.
Personnel costs must be based upon the work being performed, regardless of the
title of the person performing the work. Owners and operators seeking payment
must demonstrate to the Agency that the amounts sought are reasonable.

BOARD NOTE: Alternative technology costs in excess of the costs of conventional technology
are ineligible for payment from the Fund. See Sections 734.340(b) and 734.630(z) of this Part.

Section 734.855 Bidding

As an alternative to the maximum payment amounts set forth in this Subpart H, one or more
maximum payment amounts may be determined via bidding in accordance with this Section.
Each bid must cover all costs included in the maximum payment amount that the bid is
replacing.

a) A minimum of three written bids must be obtained. The bids must be based upon
the same scope of work and must remain valid for a period of time that will allow
the owner or operator to accept them upon the Agency's approval of the
associated budget. Bids must be obtained only from persons qualified and able to
perform the work being bid. Bids must not be obtained from persons in which the
owner or operator, or the owner's or operator's primary contractor, has a financial interest.

b) The bids must be summarized on forms prescribed and provided by the Agency. The bid summary form, along with copies of the bid requests and the bids obtained, must be submitted to the Agency in the associated budget. If more than the minimum three bids are obtained, summaries and copies of all bids must be submitted to the Agency.

c) The maximum payment amount for the work bid must be the amount of the lowest bid, unless the lowest bid is less than the maximum payment amount set forth in this Subpart H, in which case the maximum payment amount set forth in this Subpart H must be allowed. The owner or operator is not required to use the lowest bidder to perform the work, but instead may use another person qualified and able to perform the work, including, but not limited to, a person in which the owner or operator, or the owner's or operator's primary consultant, has a direct or indirect financial interest. However, regardless of who performs the work, the maximum payment amount will remain the amount of the lowest bid.

Section 734.860 Unusual or Extraordinary Circumstances

If, as a result of unusual or extraordinary circumstances, an owner or operator incurs or will incur eligible costs that exceed the maximum payment amounts set forth in this Subpart H, the Agency may determine maximum payment amounts for the costs on a site-specific basis. Owners and operators seeking to have the Agency determine maximum payment amounts pursuant to this Section must demonstrate to the Agency that the costs for which they are seeking a determination are eligible for payment from the Fund, exceed the maximum payment amounts set forth in this Subpart H, are the result of unusual or extraordinary circumstances, are unavoidable, are reasonable, and are necessary in order to satisfy the requirements of this Part. Examples of unusual or extraordinary circumstances include, but are not limited to, an inability to obtain a minimum of three bids pursuant to Section 734.855 of this Part due to a limited number of persons providing the service needed.

Section 734.865 Handling Charges

Payment of handling charges must not exceed the amounts set forth in Section 734.635 of this Part.

Section 734.870 Increase in Maximum Payment Amounts
The maximum payment amounts set forth in this Subpart H must be adjusted annually by an inflation factor determined by the annual Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business.

a) The inflation factor must be calculated each year by dividing the latest published annual Implicit Price Deflator for Gross National Product by the annual Implicit Price Deflator for Gross National Product for the previous year. The inflation factor must be rounded to the nearest 1/100th. In no case must the inflation factor be more than five percent in a single year.

b) Adjusted maximum payment amounts must become effective on July 1 of each year and must remain in effect through June 30 of the following year. The first adjustment must be made on July 1, 2006, by multiplying the maximum payment amounts set forth in this Subpart H by the applicable inflation factor. Subsequent adjustments must be made by multiplying the latest adjusted maximum payment amounts by the latest inflation factor.

c) The Agency must post the inflation factors on its website no later than the date they become effective. The inflation factors must remain posted on the website in subsequent years to aid in the calculation of adjusted maximum payment amounts.

d) Adjusted maximum payment amounts must be applied as follows:

1) For costs approved by the Agency in writing prior to the date the costs are incurred, the applicable maximum payment amounts must be the amounts in effect on the date the Agency received the budget in which the costs were proposed. Once the Agency approves a cost, the applicable maximum payment amount for the cost must not be increased (e.g. by proposing the cost in a subsequent budget).

2) For costs not approved by the Agency in writing prior to the date the costs are incurred, including, but not limited to, early action costs, the applicable maximum payment amounts must be the amounts in effect on the date the costs were incurred.

3) Owners and operators must have the burden of requesting the appropriate adjusted maximum payment amounts in budgets and applications for payment.

Section 734.875 Agency Review of Payment Amounts
No less than every three years the Agency must review the amounts set forth in this Subpart H and submit a report to the Board on whether the amounts are consistent with the prevailing market rates. The report must identify amounts that are not consistent with the prevailing market rates and suggest changes needed to make the amounts consistent with the prevailing market rates. The Board must publish notice of receipt of the report in the Environmental Register and on the Board's web page.
## Section 734. Appendix A  Indicator Contaminants

<table>
<thead>
<tr>
<th>TANK CONTENTS</th>
<th>INDICATOR CONTAMINANTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GASOLINE</strong></td>
<td></td>
</tr>
<tr>
<td>leaded¹, unleaded, premium and gasohol</td>
<td>Benzene</td>
</tr>
<tr>
<td></td>
<td>Ethylbenzene</td>
</tr>
<tr>
<td></td>
<td>Toluene</td>
</tr>
<tr>
<td></td>
<td>Xylene</td>
</tr>
<tr>
<td></td>
<td>Methyl tertiary butyl ether (MTBE)</td>
</tr>
<tr>
<td><strong>MIDDLE DISTILLATE AND HEAVY ENDS</strong></td>
<td></td>
</tr>
<tr>
<td>aviation turbine fuels¹</td>
<td>Benzene</td>
</tr>
<tr>
<td>jet fuels</td>
<td>Ethylbenzene</td>
</tr>
<tr>
<td></td>
<td>Toluene</td>
</tr>
<tr>
<td></td>
<td>Xylene</td>
</tr>
<tr>
<td>diesel fuels</td>
<td>Acenaphthene</td>
</tr>
<tr>
<td>gas turbine fuel oils</td>
<td>Anthracene</td>
</tr>
<tr>
<td>heating fuel oils</td>
<td>Benzo(a)anthracene</td>
</tr>
<tr>
<td>illuminating oils</td>
<td>Benzo(a)pyrene</td>
</tr>
<tr>
<td>kerosene</td>
<td>Benzo(b)fluoranthene</td>
</tr>
<tr>
<td>lubricants</td>
<td>Benzo(k)fluoranthene</td>
</tr>
<tr>
<td>liquid asphalt and dust laying oils</td>
<td>Chrysene</td>
</tr>
<tr>
<td>cable oils</td>
<td>Dibenzo(a,h)anthracene</td>
</tr>
<tr>
<td>crude oil, crude oil fractions</td>
<td>Fluoranthene</td>
</tr>
<tr>
<td>petroleum feedstocks</td>
<td>Fluorene</td>
</tr>
<tr>
<td>petroleum fractions</td>
<td>Indeno(1,2,3-c,d)pyrene</td>
</tr>
<tr>
<td>heavy oils</td>
<td>Naphthalene</td>
</tr>
<tr>
<td>transformer oils²</td>
<td>Pyrene</td>
</tr>
<tr>
<td>hydraulic fluids³</td>
<td>Acenaphthylene</td>
</tr>
<tr>
<td>petroleum spirits⁴</td>
<td>Benzo(g,h,i)perylene</td>
</tr>
<tr>
<td>mineral spirits⁴, Stoddard solvents⁴</td>
<td>Phenanthrene</td>
</tr>
<tr>
<td>high-flash aromatic naphthas⁴</td>
<td></td>
</tr>
<tr>
<td>VM&amp;P naphthas⁴</td>
<td></td>
</tr>
<tr>
<td>moderately volatile hydrocarbon solvents⁴</td>
<td></td>
</tr>
<tr>
<td>petroleum extender oils⁴</td>
<td></td>
</tr>
<tr>
<td><strong>USED OIL</strong></td>
<td>Screening sample⁵</td>
</tr>
</tbody>
</table>

¹ lead is also an indicator contaminant
the polychlorinated biphenyl parameters listed in Appendix B are also indicator contaminants

barium is also an indicator contaminant

the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B are also indicator contaminants

used oil indicator contaminants must be based on the results of a used oil soil sample analysis – refer to Section 734.405(g) of this Part
Section 734. APPENDIX B  Additional Parameters

Volatile
1. Benzene
2. Bromoform
3. Carbon tetrachloride
4. Chlorobenzene
5. Chloroform
6. Dichlorobromomethane
7. 1,2-Dichloroethane
8. 1,1-Dichloroethene
9. cis-1,2-Dichloroethylene
10. Trans-1,2-Dichloroethylene
11. Dichloromethane (Methylene chloride)
12. 1,2-Dichloropropane
13. 1,3-Dichloropropylene (cis + trans)
14. Ethylbenzene
15. Styrene
16. Tetrachloroethylene
17. Toluene
18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

Base/Neutrals
1. Bis(2-chloroethyl)ether
2. Bis(2-ethylhexyl)phthalate
3. 1,2-Dichlorobenzene
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. n-Nitrosodi-n-propylamine
8. n-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

Polynuclear Aromatics
1. Acenaphthene
2. Anthracene
NOTICE OF ADOPTED RULES

3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Dibenzo(a,h)anthracene
9. Fluoranthene
10. Fluorene
11. Indeno(1,2,3-c,d)pyrene
12. Naphthalene
13. Pyrene
14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene

Metals (total inorganic and organic forms)
1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Lead
6. Mercury
7. Selenium

Polychlorinated Biphenyls
1. Polychlorinated Biphenyls
   (as Decachlorobiphenyl)
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 734. APPENDIX C  Backfill Volumes

<table>
<thead>
<tr>
<th>Volume of Tank in Gallons</th>
<th>Maximum amount of backfill material to be removed:</th>
<th>Maximum amount of backfill material to be replaced:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cubic yards</td>
<td>Cubic yards</td>
</tr>
<tr>
<td>&lt;285</td>
<td>54</td>
<td>56</td>
</tr>
<tr>
<td>285 to 299</td>
<td>55</td>
<td>57</td>
</tr>
<tr>
<td>300 to 559</td>
<td>56</td>
<td>58</td>
</tr>
<tr>
<td>560 to 999</td>
<td>67</td>
<td>70</td>
</tr>
<tr>
<td>1000 to 1049</td>
<td>81</td>
<td>87</td>
</tr>
<tr>
<td>1050 to 1149</td>
<td>89</td>
<td>96</td>
</tr>
<tr>
<td>1150 to 1999</td>
<td>94</td>
<td>101</td>
</tr>
<tr>
<td>2000 to 2499</td>
<td>112</td>
<td>124</td>
</tr>
<tr>
<td>2500 to 2999</td>
<td>128</td>
<td>143</td>
</tr>
<tr>
<td>3000 to 3999</td>
<td>143</td>
<td>161</td>
</tr>
<tr>
<td>4000 to 4999</td>
<td>175</td>
<td>198</td>
</tr>
<tr>
<td>5000 to 5999</td>
<td>189</td>
<td>219</td>
</tr>
<tr>
<td>6000 to 7499</td>
<td>198</td>
<td>235</td>
</tr>
<tr>
<td>7500 to 8299</td>
<td>206</td>
<td>250</td>
</tr>
<tr>
<td>8300 to 9999</td>
<td>219</td>
<td>268</td>
</tr>
<tr>
<td>10,000 to 11,999</td>
<td>252</td>
<td>312</td>
</tr>
<tr>
<td>12,000 to 14,999</td>
<td>286</td>
<td>357</td>
</tr>
<tr>
<td>&gt;15,000</td>
<td>345</td>
<td>420</td>
</tr>
</tbody>
</table>

A conversion factor of 1.5 tons per cubic yard must be used to convert tons to cubic yards.
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Section 734. APPENDIX D  Sample Handling and Analysis

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Max. Total Amount per Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>BETX Soil with MTBE</td>
<td>$85</td>
</tr>
<tr>
<td>BETX Water with MTBE</td>
<td>$81</td>
</tr>
<tr>
<td>COD (Chemical Oxygen Demand)</td>
<td>$30</td>
</tr>
<tr>
<td>Corrosivity</td>
<td>$15</td>
</tr>
<tr>
<td>Flash Point or Ignitability Analysis EPA 1010</td>
<td>$33</td>
</tr>
<tr>
<td>FOC (Fraction Organic Carbon)</td>
<td>$38</td>
</tr>
<tr>
<td>Fat, Oil, &amp; Grease (FOG)</td>
<td>$60</td>
</tr>
<tr>
<td>LUST Pollutants Soil – analysis must include all volatile, base/neutral, polynuclear aromatic, and metal parameters listed in Section 734. Appendix B of this Part</td>
<td>$693</td>
</tr>
<tr>
<td>Organic Carbon (ASTM-D 2974-87)</td>
<td>$33</td>
</tr>
<tr>
<td>Dissolved Oxygen (DO)</td>
<td>$24</td>
</tr>
<tr>
<td>Paint Filter (Free Liquids)</td>
<td>$14</td>
</tr>
<tr>
<td>PCB/Pesticides (combination)</td>
<td>$222</td>
</tr>
<tr>
<td>PCBs</td>
<td>$111</td>
</tr>
<tr>
<td>Pesticides</td>
<td>$140</td>
</tr>
<tr>
<td>PH</td>
<td>$14</td>
</tr>
<tr>
<td>Phenol</td>
<td>$34</td>
</tr>
<tr>
<td>Polynuclear Aromatics PNA, or PAH SOIL</td>
<td>$152</td>
</tr>
<tr>
<td>Polynuclear Aromatics PNA, or PAH WATER</td>
<td>$152</td>
</tr>
<tr>
<td>Reactivity</td>
<td>$68</td>
</tr>
<tr>
<td>SVOC – Soil (Semi-volatile Organic Compounds)</td>
<td>$313</td>
</tr>
<tr>
<td>SVOC – Water (Semi-volatile Organic Compounds)</td>
<td>$313</td>
</tr>
<tr>
<td>TKN (Total Kjeldahl) &quot;nitrogen&quot;</td>
<td>$44</td>
</tr>
<tr>
<td>TOC (Total Organic Carbon) EPA 9060A</td>
<td>$31</td>
</tr>
<tr>
<td>TPH (Total Petroleum Hydrocarbons)</td>
<td>$122</td>
</tr>
<tr>
<td>VOC (Volatile Organic Compound) – Soil (Non-Aqueous)</td>
<td>$175</td>
</tr>
<tr>
<td>VOC (Volatile Organic Compound) – Water</td>
<td>$169</td>
</tr>
</tbody>
</table>

Geo-Technical

<table>
<thead>
<tr>
<th>Test Method &amp; Standard Number</th>
<th>Max. Total Amount per Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulk Density ASTM D4292/D2937</td>
<td>$22</td>
</tr>
<tr>
<td>Ex-Situ Hydraulic Conductivity/Permeability</td>
<td>$255</td>
</tr>
<tr>
<td>Moisture Content ASTM D2216-90/D4643-87</td>
<td>$12</td>
</tr>
<tr>
<td>Porosity</td>
<td>$30</td>
</tr>
<tr>
<td>Rock Hydraulic Conductivity Ex-Situ</td>
<td>$350</td>
</tr>
</tbody>
</table>
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

Sieve/Particle Size Analysis ASTM D422-63/D1140-54 $145
Soil Classification ASTM D2488-90/D2487-90 $68

<table>
<thead>
<tr>
<th>Metals</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic TCLP Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Arsenic Total Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Arsenic Water</td>
<td>$18</td>
</tr>
<tr>
<td>Barium TCLP Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Barium Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Barium Water</td>
<td>$12</td>
</tr>
<tr>
<td>Cadmium TCLP Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Cadmium Total Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Cadmium Water</td>
<td>$18</td>
</tr>
<tr>
<td>Chromium TCLP Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Chromium Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Chromium Water</td>
<td>$12</td>
</tr>
<tr>
<td>Cyanide TCLP Soil</td>
<td>$28</td>
</tr>
<tr>
<td>Cyanide Total Soil</td>
<td>$34</td>
</tr>
<tr>
<td>Cyanide Water</td>
<td>$34</td>
</tr>
<tr>
<td>Iron TCLP Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Iron Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Iron Water</td>
<td>$12</td>
</tr>
<tr>
<td>Lead TCLP Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Lead Total Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Lead Water</td>
<td>$18</td>
</tr>
<tr>
<td>Mercury TCLP Soil</td>
<td>$19</td>
</tr>
<tr>
<td>Mercury Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Mercury Water</td>
<td>$26</td>
</tr>
<tr>
<td>Selenium TCLP Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Selenium Total Soil</td>
<td>$16</td>
</tr>
<tr>
<td>Selenium Water</td>
<td>$15</td>
</tr>
<tr>
<td>Silver TCLP Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Silver Total Soil</td>
<td>$10</td>
</tr>
<tr>
<td>Silver Water</td>
<td>$12</td>
</tr>
<tr>
<td>Metals TCLP Soil (a combination of all RCRA metals)</td>
<td>$103</td>
</tr>
<tr>
<td>Metals Total Soil (a combination of all RCRA metals)</td>
<td>$94</td>
</tr>
<tr>
<td>Metals Water (a combination of all RCRA metals)</td>
<td>$119</td>
</tr>
</tbody>
</table>

Soil preparation for Metals TCLP Soil (one fee per sample) $79
Soil preparation for Metals Total Soil (one fee per sample) $16
<table>
<thead>
<tr>
<th>Service Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water preparation for Metals Water (one fee per sample)</td>
<td>$11</td>
</tr>
<tr>
<td>Other</td>
<td></td>
</tr>
<tr>
<td>En Core* Sampler, purge-and-trap sampler, or equivalent sampling device</td>
<td>$10</td>
</tr>
<tr>
<td>Sample Shipping (*maximum total amount for shipping all samples collected in a calendar day)</td>
<td>$50*</td>
</tr>
</tbody>
</table>
**Section 734.APPENDIX E  Personnel Titles and Rates**

<table>
<thead>
<tr>
<th>Title</th>
<th>Degree Required</th>
<th>Ill. License Req'd.</th>
<th>Min. Yrs. Experience</th>
<th>Max. Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineer I</td>
<td>Bachelor's in Engineering</td>
<td>None</td>
<td>0</td>
<td>$75</td>
</tr>
<tr>
<td>Engineer II</td>
<td>Bachelor's in Engineering</td>
<td>None</td>
<td>2</td>
<td>$85</td>
</tr>
<tr>
<td>Engineer III</td>
<td>Bachelor's in Engineering</td>
<td>None</td>
<td>4</td>
<td>$100</td>
</tr>
<tr>
<td>Professional Engineer</td>
<td>Bachelor's in Engineering</td>
<td>P.E.</td>
<td>4</td>
<td>$110</td>
</tr>
<tr>
<td>Senior Prof. Engineer</td>
<td>Bachelor's in Engineering</td>
<td>P.E.</td>
<td>8</td>
<td>$130</td>
</tr>
<tr>
<td>Geologist I</td>
<td>Bachelor's in Geology or Hydrogeology</td>
<td>None</td>
<td>0</td>
<td>$70</td>
</tr>
<tr>
<td>Geologist II</td>
<td>Hydrogeology</td>
<td>None</td>
<td>2</td>
<td>$75</td>
</tr>
<tr>
<td>Geologist III</td>
<td>Bachelor's in Geology or Hydrogeology</td>
<td>None</td>
<td>4</td>
<td>$88</td>
</tr>
<tr>
<td>Professional Geologist</td>
<td>Hydrogeology</td>
<td>P.G.</td>
<td>4</td>
<td>$92</td>
</tr>
<tr>
<td>Senior Prof. Geologist</td>
<td>Bachelor's in Geology or Hydrogeology</td>
<td>P.G.</td>
<td>8</td>
<td>$110</td>
</tr>
<tr>
<td>Scientist I</td>
<td>Bachelor's in a Natural or Physical Science</td>
<td>None</td>
<td>0</td>
<td>$60</td>
</tr>
<tr>
<td>Scientist II</td>
<td>Science</td>
<td>None</td>
<td>2</td>
<td>$65</td>
</tr>
<tr>
<td>Scientist III</td>
<td>Bachelor's in a Natural or Physical Science</td>
<td>None</td>
<td>4</td>
<td>$70</td>
</tr>
<tr>
<td>Scientist IV</td>
<td>Science</td>
<td>None</td>
<td>6</td>
<td>$75</td>
</tr>
<tr>
<td>Senior Scientist</td>
<td>Bachelor's in a Natural or Physical Science</td>
<td>None</td>
<td>8</td>
<td>$85</td>
</tr>
<tr>
<td>Project Manager</td>
<td>None</td>
<td>None</td>
<td>8&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$90</td>
</tr>
<tr>
<td>Senior Project Manager</td>
<td>None</td>
<td>None</td>
<td>12&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$100</td>
</tr>
<tr>
<td>Technician I</td>
<td>None</td>
<td>None</td>
<td>0</td>
<td>$45</td>
</tr>
<tr>
<td>Technician II</td>
<td>None</td>
<td>None</td>
<td>2&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$50</td>
</tr>
<tr>
<td>Technician III</td>
<td>None</td>
<td>None</td>
<td>4&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$55</td>
</tr>
<tr>
<td>Technician IV</td>
<td>None</td>
<td>None</td>
<td>6&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$60</td>
</tr>
<tr>
<td>Senior Technician</td>
<td>None</td>
<td>None</td>
<td>8&lt;sup&gt;1&lt;/sup&gt;</td>
<td>$65</td>
</tr>
</tbody>
</table>
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

<table>
<thead>
<tr>
<th>Position</th>
<th>Experience</th>
<th>Education</th>
<th>Base Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account Technician I</td>
<td>None</td>
<td>None</td>
<td>$35</td>
</tr>
<tr>
<td>Account Technician II</td>
<td>None</td>
<td>None</td>
<td>$40</td>
</tr>
<tr>
<td>Account Technician III</td>
<td>None</td>
<td>None</td>
<td>$45</td>
</tr>
<tr>
<td>Account Technician IV</td>
<td>None</td>
<td>None</td>
<td>$50</td>
</tr>
<tr>
<td>Senior Acct. Technician</td>
<td>None</td>
<td>None</td>
<td>$55</td>
</tr>
<tr>
<td>Administrative Assistant I</td>
<td>None</td>
<td>None</td>
<td>$25</td>
</tr>
<tr>
<td>Administrative Assistant II</td>
<td>None</td>
<td>None</td>
<td>$30</td>
</tr>
<tr>
<td>Administrative Assistant III</td>
<td>None</td>
<td>None</td>
<td>$35</td>
</tr>
<tr>
<td>Administrative Assistant IV</td>
<td>None</td>
<td>None</td>
<td>$40</td>
</tr>
<tr>
<td>Senior Admin. Assistant</td>
<td>None</td>
<td>None</td>
<td>$45</td>
</tr>
<tr>
<td>Draftperson/CAD I</td>
<td>None</td>
<td>None</td>
<td>$40</td>
</tr>
<tr>
<td>Draftperson/CAD II</td>
<td>None</td>
<td>None</td>
<td>$45</td>
</tr>
<tr>
<td>Draftperson/CAD III</td>
<td>None</td>
<td>None</td>
<td>$50</td>
</tr>
<tr>
<td>Draftperson/CAD IV</td>
<td>None</td>
<td>None</td>
<td>$55</td>
</tr>
<tr>
<td>Senior Draftperson/CAD</td>
<td>None</td>
<td>None</td>
<td>$60</td>
</tr>
</tbody>
</table>

1. Equivalent work-related or college level education with significant coursework in the physical, life, or environmental sciences can be substituted for all or part of the specified experience requirements.
2. Equivalent work-related or college level education with significant coursework in accounting or business can be substituted for all or part of the specified experience requirements.
3. Equivalent work-related or college level education with significant coursework in administrative or secretarial services can be substituted for all or part of the specified experience requirements.
4. Equivalent work-related or college level education with significant coursework in drafting or computer aided design (CAD) can be substituted for all or part of the specified experience requirements.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Skilled Nursing and Intermediate Care Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 300

3) **Section Numbers:**

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Adopted Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>300.330</td>
<td>Amendment</td>
</tr>
<tr>
<td>300.615</td>
<td>Amendment</td>
</tr>
<tr>
<td>300.620</td>
<td>Amendment</td>
</tr>
<tr>
<td>300.625</td>
<td>New Section</td>
</tr>
<tr>
<td>300.626</td>
<td>New Section</td>
</tr>
<tr>
<td>300.627</td>
<td>New Section</td>
</tr>
</tbody>
</table>

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Rulemaking:** March 2, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain any incorporations by reference?** No

9) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** September 2, 2005; 29 Ill. Reg. 13346

10) **Has JCAR issued a Statement of Objection to these amendments?** Yes

   A) **Statement of Objection and Recommendation:** February 3, 2006, 30 Ill. Reg. 1538

   B) **Agency Response:** March 17, 2006; 30 Ill. Reg. 5443

   C) **Date Agency Response Submitted for Approval by the Joint Committee:**
      February 8, 2006

   D) **Statement of Recommendation:** March 3, 2006; 30 Ill. Reg. 2663

   E) **Agency Response:** March 17, 2006; 30 Ill. Reg. 5443
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

F) Date Agency Response Submitted for Approval by the Joint Committee: February 16, 2006

11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:

1. In Section 300.615(g), "Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation, and other facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois."

2. In Section 300.625(a), "January" was changed to "March".

3. In Section 300.627(e), "This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the
DEPARTMENT OF PUBLIC HEALTH

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resident, or are considering whether to do so; healthcare facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

The following modifications were made in response to JCAR comments and suggestions:

1. Delete Section 300.615(f)(2) and relabeled subsections (f)(3) and (4) as (f)(2) and (3).

2. In Section 300.615(f)(2), after the period added "If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.".

3. Changed Section 300.625(a) to:

   a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

   b) If the current resident has already had a criminal history record check requested by the facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

   c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.

4. In Section 300.625, relabeled "b)" as "d)".

5. Deleted Section 300.625(b)(1).

6. In Section 300.625(d), relabeled "2)" through "7)" as "1)" through "6)".

7. In Section 300.625(d)(6)(C), deleted the period.

8. In Section 300.625, relabeled "e)" through "h)" as "e)" through "j)".

9. In Section 300.625(g), changed "(b)" to "(d)".

10. In Section 300.625(h) and (i), changed "(h)" to "(i)".
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11. In Section 300.625, changed "(i)" to "(k)".

12. In Section 300.625(k), deleted the last sentence.

13. In Section 300.625(k), changed (1) through (3) to:

"1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:

A) The room must be in direct view of the main nurses' station; and

B) The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

A) All of the documentation required by subsection (j) of this Section; and

B) whether the individual is dependent on any type of life support system or equipment."
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3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

14. In Section 300.625, relabeled "j)" through "m)" as "l)" through "o)".

15. In Section 300.626(c), changed "(h)" to "(i)".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Rulemaking: The Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300) regulates nursing home licensure. This rulemaking implements Public Act 94-163, which was enacted by the General Assembly to regulate identified offenders in long-term care facilities.

Section 300.330 (Definitions) has been amended to include a definition of "identified offender." Section 300.615 (Determination of Need Screening) has been amended to require facilities to determine whether a prospective resident is a registered sex offender or meets the definition of identified offender, conduct a criminal background check, and determine whether the facility is able to care for the prospective resident if he/she is an
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identified offender. Section 300.620 (Admission and Discharge Policies) has been amended to require nursing homes to ensure that identified offenders meet all of the requirements of Section 300.615 and a new Section 300.625. Section 300.625 (Identified Offenders) added the minimum requirements that nursing homes must meet in order to admit identified offenders as residents and provisions for the identification of identified offenders who are current residents. Section 300.626 (Discharge Planning for Identified Offenders) has been added to list the minimum requirements facilities must fulfill with regard to discharges and transfers of identified offenders. Section 300.627 (Transfer of an Identified Offender) has been added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department, the Department of Healthcare and Families Services, and the Department of Human Services.

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

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

   217/782-2043
   e-mail: rule@idph.state.il.us

   The full text of the Adopted Amendments begins on the next page:
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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
300.110 General Requirements
300.120 Application for License
300.130 Licensee
300.140 Issuance of an Initial License for a New Facility
300.150 Issuance of an Initial License Due to a Change of Ownership
300.160 Issuance of a Renewal License
300.163 Alzheimer's Special Care Disclosure
300.165 Criteria for Adverse Licensure Actions
300.170 Denial of Initial License
300.175 Denial of Renewal of License
300.180 Revocation of License
300.190 Experimental Program Conflicting With Requirements
300.200 Inspections, Surveys, Evaluations and Consultation
300.210 Filing an Annual Attested Financial Statement
300.220 Information to Be Made Available to the Public By the Department
300.230 Information to Be Made Available to the Public By the Licensee
300.240 Municipal Licensing
300.250 Ownership Disclosure
300.260 Issuance of Conditional Licenses
300.270 Monitor and Receivership
300.271 Presentation of Findings
300.272 Determination to Issue a Notice of Violation or Administrative Warning
300.274 Determination of the Level of a Violation
300.276 Notice of Violation
300.277 Administrative Warning
300.278 Plans of Correction
300.280 Reports of Correction
300.282 Conditions for Assessment of Penalties
300.284 Calculation of Penalties
300.286 Determination to Assess Penalties
300.288 Reduction or Waiver of Penalties
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300.290 Quarterly List of Violators (Repealed)
300.300 Alcoholism Treatment Programs In Long-Term Care Facilities
300.310 Department May Survey Facilities Formerly Licensed
300.315 Supported Congregate Living Arrangement Demonstration
300.320 Waivers
300.330 Definitions
300.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
300.510 Administrator

SUBPART C: POLICIES

Section
300.610 Resident Care Policies
300.615 Determination of Need Screening and Request for Criminal History Record Information
300.620 Admission, Retention and Discharge Policies
300.625 Identified Offenders
300.626 Discharge Planning for Identified Offenders
300.627 Transfer of an Identified Offender
300.630 Contract Between Resident and Facility
300.640 Residents' Advisory Council
300.650 Personnel Policies
300.655 Initial Health Evaluation for Employees
300.660 Nursing Assistants
300.661 Health Care Worker Background Check
300.662 Resident Attendants
300.663 Registry of Certified Nursing Assistants
300.665 Student Interns
300.670 Disaster Preparedness
300.680 Restraints
300.682 Nonemergency Use of Physical Restraints
300.684 Emergency Use of Physical Restraints
300.686 Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690 Serious Incidents and Accidents
300.695 Contacting Local Law Enforcement
300.696 Infection Control
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SUBPART D: PERSONNEL

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300.810 General
300.820 Categories of Personnel
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300.840 Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section
300.1010 Medical Care Policies
300.1020 Communicable Disease Policies
300.1025 Tuberculin Skin Test Procedures
300.1030 Medical Emergencies
300.1035 Life-Sustaining Treatments
300.1040 Behavior Emergencies (Repealed)
300.1050 Dental Standards
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SUBPART F: NURSING AND PERSONAL CARE

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300.1210 General Requirements for Nursing and Personal Care
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300.1230 Staffing
300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

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300.1410 Activity Program
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SUBPART H: MEDICATIONS
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Section 300.1610 Medication Policies and Procedures
Section 300.1620 Compliance with Licensed Prescriber’s Orders
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Section 300.1640 Labeling and Storage of Medications
Section 300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section 300.1810 Resident Record Requirements
Section 300.1820 Content of Medical Records
Section 300.1830 Records Pertaining to Residents’ Property
Section 300.1840 Retention and Transfer of Resident Records
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SUBPART J: FOOD SERVICE

Section 300.2010 Director of Food Services
Section 300.2020 Dietary Staff in Addition to Director of Food Services
Section 300.2030 Hygiene of Dietary Staff
Section 300.2040 Diet Orders
Section 300.2050 Meal Planning
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Section 300.2070 Scheduling Meals
Section 300.2080 Menus and Food Records
Section 300.2090 Food Preparation and Service
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Section 300.2110 Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

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Section 300.2220 Housekeeping
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SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

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SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

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SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

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300.2820 Codes and Standards
300.2830 Preparation of Drawings and Specifications
300.2840 Site
300.2850 Administration and Public Areas
300.2860 Nursing Unit
300.2870 Dining, Living, Activities Rooms
300.2880 Therapy and Personal Care
300.2890 Service Departments
300.2900 General Building Requirements
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SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
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300.3010 Applicability
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300.3020 Codes and Standards
300.3030 Preparation of Drawings and Specifications
300.3040 Site
300.3050 Administration and Public Areas
300.3060 Nursing Unit
300.3070 Living, Dining, Activities Rooms
300.3080 Treatment and Personal Care
300.3090 Service Departments
300.3100 General Building Requirements
300.3110 Structural
300.3120 Mechanical Systems
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SUBPART P: RESIDENT’S RIGHTS

Section
300.3210 General
300.3220 Medical and Personal Care Program
300.3230 Restraints (Repealed)
300.3240 Abuse and Neglect
300.3250 Communication and Visitation
300.3260 Resident's Funds
300.3270 Residents' Advisory Council
300.3280 Contract With Facility
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300.3320 Confidentiality
300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

Section
300.3410 Application of Other Sections of These Minimum Standards (Repealed)
300.3420 Administrator (Repealed)
300.3430 Policies (Repealed)
300.3440 Personnel (Repealed)
300.3450 Resident Living Services Medical and Dental Care (Repealed)
300.3460 Resident Services Program (Repealed)
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300.3470 Psychological Services (Repealed)
300.3480 Social Services (Repealed)
300.3490 Recreational and Activities Services (Repealed)
300.3500 Individual Treatment Plan (Repealed)
300.3510 Health Services (Repealed)
300.3520 Medical Services (Repealed)
300.3530 Dental Services (Repealed)
300.3540 Optometric Services (Repealed)
300.3550 Audiometric Services (Repealed)
300.3560 Podiatric Services (Repealed)
300.3570 Occupational Therapy Services (Repealed)
300.3580 Nursing and Personal Care (Repealed)
300.3590 Resident Care Services (Repealed)
300.3600 Record Keeping (Repealed)
300.3610 Food Service (Repealed)
300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

SUBPART R: DAYCARE PROGRAMS

Section
300.3710 Day Care in Long-Term Care Facilities

SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section
300.4000 Applicability of Subpart S
300.4010 Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4020 Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4030 Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
300.4040 General Requirements for Facilities Subject to Subpart S
300.4050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart S
300.4060 Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
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300.4090 Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF PUBLIC AID'S DEMONSTRATION PROGRAM FOR PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section
300.6000 Applicability of Subpart T
300.6005 Quality Assessment and Improvement for Facilities Subject to Subpart T
300.6010 Comprehensive Assessments for Residents of Facilities Subject to Subpart T
300.6020 Reassessments for Residents of Facilities Subject to Subpart T
300.6030 Individualized Treatment Plan for Residents of Facilities Subject to Subpart T
300.6040 General Requirements for Facilities Subject to Subpart T
300.6045 Serious Incidents and Accidents in Facilities Subject to Subpart T
300.6047 Medical Care Policies for Facilities Subject to Subpart T
300.6049 Emergency Use of Restraints for Facilities Subject to Subpart T
300.6050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart T
300.6060 Discharge Plans for Residents of Facilities Subject to Subpart T
300.6070 Work Programs for Residents of Facilities Subject to Subpart T
300.6080 Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T
300.6090 Personnel for Providing Services to Residents of Facilities Subject to Subpart T
300.6095 Training and Continuing Education for Facilities Subject to Subpart T

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300.7000 Applicability
300.7010 Admission Criteria
300.7020 Assessment and Care Planning
300.7030 Ability-Centered Care
300.7040 Activities
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300.7080 Variances to Enhance Residents' Quality of Life
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300.APPENDIX A Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities (Repealed)

300.APPENDIX B Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)

300.APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights (Repealed)

300.APPENDIX D Forms for Day Care in Long-Term Care Facilities

300.APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)

300.APPENDIX F Guidelines for the Use of Various Drugs

300.APPENDIX G Facility Report

300.TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities

300.TABLE B Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities

300.TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities

300.TABLE D Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS
Section 300.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

*Abuse* — *any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility.* (Section 1-103 of the Act)

Abuse means:

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

Mental injury arises from the following types of conduct:

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

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

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

Sexual assault.

*Access* — *the right to:*

*Enter any facility;*

*Communicate privately and without restriction with any resident who consents to the communication;*
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Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 300.680 of this Part as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 300.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.
Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

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

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.
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Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.
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Chemical Restraint – *any* drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 300.680 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing,
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personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person which:

- is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;
- is manifested before the person attains age 22;
- is likely to continue indefinitely;
- results in substantial functional limitations in 3 or more of the following areas of major life activity:
  - self-care,
  - receptive and expressive language,
  - learning,
  - mobility,
  - self-direction,
  - capacity for independent living, and
  - economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor – a person who:
is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of the Department of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or
penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility that provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities that may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more
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persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];
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Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – means on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term
objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – *a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5].* (Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged – *any facility that provides maintenance, personal care, nursing or sheltered care to three or more residents, ninety percent of whom are 60 or more years of age.*

Hospitalization – the care and treatment of a person in a hospital as an inpatient.
Identified Offender – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Individual Education Program (IEP) – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) – a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)
Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or
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a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the
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achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-
Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

**Physical Restraint** – *any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body.* (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

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

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

- Be a physician as defined in this Section.
- Be a registered nurse as defined in this Section.
- Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art,
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dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character – having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care
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facility.

*Resident's Representative* — a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care — a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room — a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization — the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory — same as adequate.

Seclusion — the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation — the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

*Sheltered Care — maintenance and personal care.* (Section 1-124 of the Act)

Social Worker — a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal — the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization — the act or process of destroying completely all forms of microbial life, including viruses.

*Stockholder of a Corporation* — any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class
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of securities issued by the corporation. (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 300.140(a)(3) and 300.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 300.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National
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Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

*Title XVIII* – *Title XVIII of the Federal Social Security Act as now or hereafter amended.* (Section 1-126 of the Act)

*Title XIX* – *Title XIX of the Federal Social Security Act as now or hereafter amended.* (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

*Type A Violation* – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

*Type B Violation* – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 30 Ill. Reg. 5213, effective March 2, 2006)
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SUBPART C: POLICIES

Section 300.615 Determination of Need Screening and Request for Criminal History Record Information

a) For the purpose of this Section only, a nursing facility is any bed licensed as a skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.

b) All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. (Section 2-201.5(a) of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the Department of Public Aid’s rules of the Department of Healthcare and Family Services titled “Medical Payment” (89 Ill. Adm. Code 140.642(c)) is met.

c) Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5(a) of the Act)

d) Screening shall be administered through procedures established by administrative rule by the agency responsible for screening. (Section 2-201.5(a) of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Healthcare and Family Services or its designee is responsible for the screening required in subsection (c) of this Section.

e) In addition to the screening required by Section 2-201.5(a) of the Act and this Section, identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 300.625 of this Part. (Section 2-201.5(b) of the Act)

f) Screening must include the following:
1) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;

2) The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record information request are pending; and

3) If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

The facility must review the screenings and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 300.620 and 300.625 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 300.625 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving
verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.

(Source: Amended at 30 Ill. Reg. 5213, effective March 2, 2006)

**Section 300.620 Admission, Retention and Discharge Policies**

a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

b) An individual who needs services that are not readily available in a particular facility, or through arrangement with a qualified outside resource, shall not be admitted to or kept in that facility. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.

c) Each facility shall have a policy concerning the admission of persons needing prenatal and/or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house and/or outside resources. (See Section 300.3220.)

d) No resident shall be admitted to or kept in the facility:

1) Who is at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future, as determined by professional evaluation.

2) Who is destructive of property, if the destruction jeopardizes the safety of him/herself or others

3) Who is an identified offender, unless the requirements of Section 300.615(f) and (g) for new admissions and the requirements of Section 300.625 are met.

e) No resident shall be admitted to the facility who is developmentally disabled and who needs programming for such conditions, as described in the rules governing intermediate care facilities for the developmentally disabled (77 Ill. Adm. Code
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350). Such persons shall be admitted only to facilities licensed as intermediate care facilities for the developmentally disabled under 77 Ill. Adm. Code 350 or, if the person is under 18, to a long-term care facility for persons under 22 years of age that is licensed under 77 Ill. Adm. Code 390. Persons from 18 to 21 years of age in need of such care may be kept in either facility.

f) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.

g) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.

h) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

i) Persons with communicable, contagious, or infectious diseases may be admitted under the conditions and in accordance with the procedures specified in Section 300.1020.

j) A facility shall not admit more residents than the number authorized by the license issued to it.

(Source: Amended at 30 Ill. Reg. 5213, effective March 2, 2006)

Section 300.625 Identified Offenders

a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.
If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release. (Section 2-110 of the Act) Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.

2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 300.695 of this Part.

3) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.

4) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

5) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.
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6) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:

A) pre-sentence investigation reports or social investigation reports;

B) any applicable probation orders and corresponding compliance plans;

C) the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])

e) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).

f) Facilities must maintain written documentation of compliance with Section 300.615(f) of this Part and subsection (a) of this Section.

g) Facilities must annually complete all of the steps required in subsection (d) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.

h) For current residents who are identified offenders, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).

i) Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized plan of care that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.

j) In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:
1) The care and supervision needs, if any, specific to the individual's criminal offense;

2) The results of the screening conducted pursuant to Section 300.615 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;

6) The individual's needs in relation to his or her status as an identified offender;

7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and

8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.

k) The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)

1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:

A) The room must be in direct view of the main nurses' station; and

B) The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not
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have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

A) All of the documentation required by subsection (j) of this Section; and

B) whether the individual is dependent on any type of life support system or equipment.

3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

The facility must evaluate care plans quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.
m) Incident reports must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 300.690 of this Part. The facility must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 300.3300 of this Part.

n) The facility must notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

o) The facility must develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Added at 30 Ill. Reg. 5213, effective March 2, 2006)

Section 300.626 Discharge Planning for Identified Offenders

a) All discharges and transfers shall be in accordance with Section 300.3300 of this Part.

b) A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:

1) The facility's inability to meet the needs of the resident, based on Section 300.615(g) and Section 300.625 of this Part;

2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or
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3) The physical safety of the resident, other residents, the facility staff, or facility visitors.

c) Discharge planning shall be included as part of the plan of care developed in accordance with Section 300.625(j).

(Source: Added at 30 Ill. Reg. 5213, effective March 2, 2006)

**Section 300.627 Transfer of an Identified Offender**

a) All discharges and transfers shall be in accordance with Section 300.3300 of this Part.

b) When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

c) This notification must include all of the documentation required under Section 300.625 of this Part, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.

d) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

1) *The mittimus and any pre-sentence investigation reports;*

2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*

3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*

4) *Reports of disciplinary infractions and dispositions;*

5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*
6) **The name and contact information for the assigned parole agent and parole supervisor.** (Section 3-14-1 of the Unified Code of Corrections)

e) **The information required by this Section shall be provided upon transfer.** Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Added at 30 Ill. Reg. 5213, effective March 2, 2006)
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1) Heading of the Part: Sheltered Care Facilities Code

2) Code Citation: 77 Ill. Adm. Code 330

3) Section Numbers: Adopted Action:
   330.330   Amendment
   330.715   New Section
   330.720   Amendment
   330.725   New Section
   330.726   New Section
   330.727   New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rulemaking: March 2, 2006

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

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 2, 2005; 29 Ill. Reg. 13389

10) Has JCAR issued a Statement of Objection to these amendments? Yes

   If "yes," please complete the following:

   A) Statement of Objection and Recommendation: February 3, 2006; 30 Ill. Reg. 1539


   C) Date Agency Response Submitted for Approval by the Joint Committee: February 8, 2006

   D) Statement of Recommendation: March 3, 2006; 30 Ill. Reg. 2664

   E) Agency Response: March 17, 2006; 30 Ill. Reg. 5444
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F) Date Agency Response Submitted for Approval by the Joint Committee:
February 16, 2006

11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:

1. Section 330.715(c), "Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation, and other facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois."

2. In Section 330.725(a), "January" was changed to "March".

3. In Section 330.727(e), "This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers
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in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois."

The following modifications were made in response to JCAR comments and suggestions:

1. Deleted Section 330.715(b)(2) and relabeled subsections (b)(3) and (4) as (b)(2) and (3).

2. In Section 330.715(b)(2), after the period added "If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.".

3. Changed Section 330.725(a) to:

"a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.".

4. In Section 330.725, relabeled "b)" as "d)".

5. Deleted Section 330.725(b)(1).

6. In Section 330.725(d), relabeled "2)" through "7)" as "1)" through "6)".

7. In Section 330.725(d)(6)(C), deleted the period.

8. In Section 330.725, relabeled "c)" through "h)" as "e)" through "j)".

9. In Section 330.725(g), changed "(b)" to "(d)".

10. In Section 330.725(h) and (i), changed "(h)" to "(j)".
11. In Section 330.725, changed "(i)" to "(k)".

12. In Section 330.725(k), deleted the last sentence.

13. Changed 330.725(k)(1) and (2) to:

"1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms. The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

A) All of the documentation required by subsection (j) of this Section; and

B) whether the individual is dependent on any type of life support system or equipment.

3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:
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A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

14. In Section 330.725, relabeled "j)" through "m)" as "l)" through "o)".

15. In Section 330.726(c), changed "(h)" to "(i)".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Rulemaking: The Sheltered Care Facilities Code (77 Ill. Adm. Code 330) regulates sheltered care facilities licensure. This rulemaking implements Public Act 94-163, which was enacted by the General Assembly to regulate identified offenders in long-term care facilities.

Section 330.330 (Definitions) has been amended to include a definition of "identified offender." Section 330.715 (Pre-admission Assessment and Request for Criminal History Record Information) has been added to require facilities to determine whether a prospective resident is a registered sex offender or meets the definition of identified offender, conduct a criminal background check, and determine whether the facility is able to care for the prospective resident if he/she is an identified offender. Section 330.720 (Admission and Discharge Policies) has been amended to require nursing homes to ensure that identified offenders meet all of the requirements of Section 330.715 and a new Section 330.725. Section 330.725 (Identified Offenders) added the minimum
requirements that nursing homes must meet in order to admit identified offenders as residents and provisions for the identification of identified offenders who are current residents. Section 330.726 (Discharge Planning for Identified Offenders) has been added to list the minimum requirements facilities must fulfill with regard to discharges and transfers of identified offenders. Section 330.727 (Transfer of an Identified Offender) has been added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department, the Department of Healthcare and Families Services, and the Department of Human Services.

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

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

217/782-2043  
e-mail: rules@idph.state.il.us

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE

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Section 330.120 Application for License
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].
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SUBPART A: GENERAL PROVISIONS

Section 330.330 Definitions
The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

**Abuse** – any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

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

Mental injury arises from the following types of conduct:

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

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

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

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**Access** – the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;
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*Inspect the clinical and other records of a resident with the express written consent of the resident;*

*Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)*

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 330.1145 as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 330.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)
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Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

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

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate
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social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons
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Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives — service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract — a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract — a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience — the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 330.1145 of this Part.

Corporal Punishment — painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident — failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist — any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department — as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide — any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability — means a severe, chronic disability of a person which:
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is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

  self-care,

  receptive and expressive language,

  learning,

  mobility,

  self-direction,

  capacity for independent living, and

  economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1801 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service
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supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of the Department of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental
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harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or
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other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3].

(Section 1-113 of the Act)
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Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training,
education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant — a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) — the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged — any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization — the care and treatment of a person in a hospital as an inpatient.

Individual Education Program (IEP) — a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) — a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team — a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual’s strengths and needs, and designs a program to meet those needs. This team shall
include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator — a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse — a person with a valid Illinois license to practice as a practical nurse.

Licensee — the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract — a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance — food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior — impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Mentally Retarded and Mental Retardation — subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property — using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory — unable to walk independently or without assistance, but
able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or medical condition. This shall include any allegation where:

- the alleged failure causing injury or deterioration is ongoing or repetitious; or
- a resident required medical treatment as a result of the alleged failure; or
- the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing
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and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include,
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but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

*Owner* – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

*Person* – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

*Personal Care* – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

*Pharmacist, Registered* – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

*Physical Restraint* – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

*Physical Therapist Assistant* – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

*Physical Therapist* – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

*Physician* – any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].
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Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

- Be a physician as defined in this Section.
- Be a registered nurse as defined in this Section.
- Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10 A.M. and 8 P.M. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid Illinois license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same
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rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character – having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.
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Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care – maintenance and personal care. (Section 1-124 of the Act)

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

- an academic credit requirement in a high school or undergraduate institution;
- or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements except for variance from the
strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 330.140(a)(3) and 330.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 330.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

*Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended.* (Section 1-126 of the Act)

*Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended.* (Section 1-127 of the Act)

*Transfer – a change in status of a resident's living arrangements from one facility to another facility.* (Section 1-128 of the Act)

*Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom.* (Section 1-129 of the Act)

*Type B Violation – a violation of the Act or of the rules promulgated thereunder*
which creates a condition or occurrence relating to the operation and
maintenance of a facility directly threatening to the health, safety or welfare of a
resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area having facilities meeting
the standards applicable to the levels of service to be provided. Staff and services
for each distinct resident area are established as set forth in the respective rules
governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative
documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 30 Ill. Reg. 5260, effective March 2, 2006)

SUBPART C: POLICIES

Section 330.715 Pre-admission Assessment and Request for Criminal History Record
Information

a) Identified offenders who seek admission to a licensed facility shall not be admitted
unless the licensed facility complies with the requirements of this Section and
Section 330.725 of this Part. (Section 2-201.5(b) of the Act)

b) Assessment must include the following:

1) The facility shall check for the individual's name on the Illinois Sex
Offender Registration website at www.isp.state.il.us and the Illinois
Department of Corrections sex registrant search page at
www.idoc.state.il.us to determine if the individual is listed as a registered
sex offender;

2) The facility shall request criminal history record information in
accordance with the Uniform Conviction Information Act (UCIA) [20
ILCS 2635]. If the results of the criminal history record check are
inconclusive, then the facility shall initiate a fingerprint-based criminal
history record check as prescribed by the Illinois State Police. Persons
may be admitted to facilities while the results of a criminal history record
request are pending; and
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3) If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

c) The facility must review the assessments and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 330.720 and 330.725 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 330.725 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

d) The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.

(Source: Added at 30 Ill. Reg. 5260, effective March 2, 2006)

Section 330.720 Admission and Discharge Policies

a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

b) No resident determined by professional evaluation to be in need of nursing care shall be admitted to or kept in a sheltered care facility. Neither shall any such resident be kept in a distinct part designated and classified for sheltered care.

c) Homes in Chicago licensed as Residential Care (Half-Way) Homes shall only accept and keep persons requiring residential care. Residential care is defined as
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Maintenance and oversight. Oversight is defined as general watchfulness and appropriate action to meet the total needs of residents, exclusive of nursing or personal care, as defined in Chapter 136.1 of the "Municipal Code of the City of Chicago." Oversight shall include, at a minimum, social, recreational, and employment opportunities for residents who, by reason of previous physical or mental disability, or in the opinion of a licensed physician, are in need of residential care.

d) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.

e) No person shall be admitted to or kept in the facility:

1) Who is at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future, as determined by professional evaluation;

2) Who is destructive of property and that destruction jeopardizes the safety of her/himself or others;

3) Who has serious mental or emotional problems based on medical diagnosis;

4) Who is an identified offender, unless the assessment requirements of Section 330.715(b) and (c) for new admissions and the requirements of Section 330.725 are met.

f) Children under 18 years of age shall not be cared for in a facility for adults.

g) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.

h) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 330.1130 of this Part.
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i) A facility shall not admit more residents than the number authorized by the license issued to it.

(Source: Amended at 30 Ill. Reg. 5260, effective March 2, 2006)

Section 330.725 Identified Offenders

a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.

d) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release. (Section 2-110 of the Act) Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.

2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 330.785 of this Part.
3) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.

4) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

5) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.

6) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:

   A) pre-sentence investigation reports or social investigation reports;

   B) any applicable probation orders and corresponding compliance plans;

   C) the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])

   e) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).

   f) Facilities must maintain written documentation of compliance with Section 330.715(b) of this Part and subsection (a) of this Section.
g) Facilities must annually complete all of the steps required in subsection (d) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.

h) For current residents who are identified offenders, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).

i) Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized plan of care that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.

j) In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:

1) The care and supervision needs, if any, specific to the individual's criminal offense;

2) The results of the screening conducted pursuant to Section 330.715 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;

6) The individual's needs in relation to his or her status as an identified offender;

7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and

8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.
The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)

1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms. The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

A) All of the documentation required by subsection (j) of this Section; and

B) whether the individual is dependent on any type of life support system or equipment.

3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;
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B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

l) The facility must evaluate care plans quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

m) Incident reports must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 330.780 of this Part. The facility must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 330.4300 of this Part.

n) The facility must notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

o) The facility must develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Added at 30 Ill. Reg. 5260, effective March 2, 2006)

Section 330.726 Discharge Planning for Identified Offenders

a) All discharges and transfers shall be in accordance with Section 330.4300 of this Part.
b) A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:

1) The facility's inability to meet the needs of the resident, based on Section 330.715(c) and Section 330.725 of this Part;

2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or

3) The physical safety of the resident, other residents, the facility staff, or facility visitors.

c) Discharge planning shall be included as part of the plan of care developed in accordance with Section 330.725(j).

(Source: Added at 30 Ill. Reg. 5260, effective March 2, 2006)

Section 330.727 Transfer of an Identified Offender

a) All discharges and transfers shall be in accordance with Section 330.4300 of this Part.

b) When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

c) This notification must include all of the documentation required under Section 330.725 of this Part, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.

d) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

1) The mittimus and any pre-sentence investigation reports;
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2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];

3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];

4) Reports of disciplinary infractions and dispositions;

5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and

6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)

e) The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Added at 30 Ill. Reg. 5260, effective March 2, 2006)
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1) Heading of the Part: Illinois Veterans' Homes Code

2) Code Citation: 77 Ill. Adm. Code 340

3) Section Numbers: Adopted Action:
   340.1000 Amendment
   340.1305 New Section
   340.1310 Amendment
   340.1315 New Section
   340.1316 New Section
   340.1317 New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rulemaking: March 2, 2006

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

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department’s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 2, 2005; 29 Ill. Reg. 13429

10) Has JCAR issued a Statement of Objection to these amendments? Yes

   A) Statement of Objection and Recommendation: February 3, 2006; 30 Ill. Reg. 1540

   B) Agency Response: March 17, 2006; 30 Ill. Reg. 5445

   C) Date Agency Response Submitted for Approval by the Joint Committee: February 8, 2006

   D) Statement of Recommendation: March 3, 2006; 30 Ill. Reg. 2665

   E) Agency Response: March 17, 2006; 30 Ill. Reg. 5445

   F) Date Agency Response Submitted for Approval by the Joint Committee: February 16, 2006
11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:

4. In Section 340.1305(c), "Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Division of Long-Term Care Field Operations in the Department's Office of Heath Care Regulation, and other facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois."

2. In Section 340.1315(a), "January" was changed to "March"

3. In Section 340.1316(e), "This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois."
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licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois."

The following modifications were made in response to JCAR comments and suggestions:

1. Deleted Section 340.1305(b)(2) and relabeled subsections (b)(3) and (4) as (b)(2) and (3).

2. In Section 340.1305(b)(2), after the period, added "If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.".

3. Changed Section 340.1315(a) to:

   "a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

   b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

   c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police."

4. In Section 340.1315, relabeled "b)" as "d)".

5. Deleted Section 340.1315(b)(1).

6. In Section 340.1315(d), relabeled "2)" through "7)" as "1)" through "6)".

7. In Section 340.1315(d)(6)(C), deleted the period.

8. In Section 340.1315, relabeled "e)" through "h)" as "e)" through "j)".

9. In Section 340.1315(g), changed "(b)" to "(d)".

10. In Section 340.1315(h) and (i), changed "(h)" to "(i)".

11. In Section 340.1315, changed "(i)" to "(k)".
12. In Section 340.1315(k), deleted the last sentence.

13. Changed 340.1315(k)(1) through (3) to:

"1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:

A) The room must be in direct view of the main nurses' station; and

B) The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

A) All of the documentation required by subsection (j) of this Section; and

B) Whether the individual is dependent on any type of life support system or equipment.

3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:
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A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

14. In Section 340.1315, relabeled "j)" through "m)" as "l)" through "o)".

15. In Section 340.1316(c), changed "(h)" to "(i)".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The Illinois Veterans' Homes Code (77 Ill. Adm. Code 340) regulates nursing home licensure. This rulemaking implements Public Act 94-163, which was enacted by the General Assembly to regulate identified offenders in long-term care facilities.

Section 340.1000 (Definitions) has been amended to include a definition of "identified offender." Section 340.1305 (Pre-admission Assessment and Request for Criminal History Record Information) has been added to require facilities to determine whether a prospective resident is a registered sex offender or meets the definition of identified offender, conduct a criminal background check, and determine whether the facility is able to care for the prospective resident if he/she is an identified offender. Section 340.1310 (Admission and Discharge Policies) has been amended to require nursing homes to ensure that identified offenders meet all of the requirements of Section 340.1305 and a new Section 340.1315. Section 340.1315 (Identified Offenders) added the minimum requirements that nursing homes must meet in order to admit identified offenders as
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Residents and provisions for the identification of identified offenders who are current residents. Section 340.1316 (Discharge Planning for Identified Offenders) has been added to list the minimum requirements facilities must fulfill with regard to discharges and transfers of identified offenders. Section 340.1317 (Transfer of an Identified Offender) has been added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department, the Department of Healthcare and Families Services, and the Department of Human Services.

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

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

217/782-2043
e-mail: rule@idph.state.il.us

The full text of the Adopted Amendments begins on the next page:
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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

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340.1110 General Requirements
340.1115 Federal Veterans' Regulations
340.1120 Application for License
340.1125 Alzheimer's Special Care Disclosure
340.1130 Criteria for Adverse Licensure Actions
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340.1305 Pre-admission Assessment and Request for Criminal History Record Information
340.1310 Admission, Retention and Discharge Policies
340.1315 Identified Offenders
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340.1330 Serious Incidents and Accidents
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340.1590 Nonemergency Use of Physical Restraints
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340.1910 Diet Orders
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340.1930  Therapeutic Diets (Repealed)
340.1940  Menus and Food Records
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340.TABLE A Heat Index Table/Apparent Temperature
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 340.1000 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

\[ Abuse = \text{any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility.} \text{ (Section 1-103 of the Act) } \]

Abuse means:

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

Mental injury arises from the following types of conduct:

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

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

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

Sexual assault.

\[ Access = \text{The right to enter any facility} \]

Enter any facility.
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Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 340.1580 as a physical restraint.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 340.1220 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a Type A or Type B violation.

Administrator – the person who is directly responsible for the operation and
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administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

*Affiliate – means:*

*With respect to a partnership, each partner thereof.*

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

*With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.* (Section 1-106 of the Act)

Aide – any person providing direct personal care, training or habilitation services to residents.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with
applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, that is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 340.1580 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disability – means a severe, chronic disability of a person which: 

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;
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is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or
has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of the Department of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the
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Facility or Long-term Care Facility — A private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

- A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

- A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

- Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

- Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

- Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

- Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall
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comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3].

(Section 1-113 of the Act)

Financial Resources – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5].

(Section 1-114 of the Act)
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a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Hospitalization – the care and treatment of a person in a hospital as an in-patient.

Identified Offender – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Illinois Veterans' Home – a facility operated by or under the authority of the Illinois Department of Veterans' Affairs. (Section 1-113(1) of the Act)

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. The Interdisciplinary Team includes at least the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.
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Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the
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resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.
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Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

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

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10 a.m.
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and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door which the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.
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Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

- an academic credit requirement in a high school or undergraduate institution;
- or

  immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 340.1130(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in this Part, the supervisor must be on the premises if the person does not meet assistant level (two-year training
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program) qualifications specified in these definitions.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 30 Ill. Reg. 5303, effective March 2, 2006)

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1305 Pre-admission Assessment and Request for Criminal History Record Information
a) Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 340.1315 of this Part. (Section 2-201.5(b) of the Act)

b) Assessment must include the following:

1) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;

2) The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record request are pending; and

3) If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

c) The facility must review the assessments and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 340.1310 and 340.1315 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 340.1315 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other
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states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

d) The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.

(Source: Added at 30 Ill. Reg. 5303, effective March 2, 2006)

Section 340.1310 Admission, Retention and Discharge Policies

a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

b) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or distinct part of a facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.

c) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning keeping of persons who become pregnant while they are residents of the facility. If these policies permit these persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to these persons from in-house or outside resources. (See Section 340.1550.)

d) Residents with a history of aggressive or self-abusive behavior may be admitted only if the facility has in place appropriate, effective and individualized programs to manage the resident's behaviors and adequate, properly trained and supervised staff to administer the programs.

e) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.

f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.
g) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

h) A facility shall document all leaves and temporary transfers. Such documentation shall include date, time, condition of resident, person to whom the resident was released, planned destination, anticipated date of return, and any special instructions on medication dispensed.

i) No person shall be admitted to or kept in the facility who is an identified offender, unless the requirements of Section 340.1305(b) and (c) for new admissions and the requirements of Section 340.1315 are met.

(Source: Amended at 30 Ill. Reg. 5303, effective March 2, 2006)

Section 340.1315 Identified Offenders

a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.

d) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or
mandated supervised release. (Section 2-110 of the Act) Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.

2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 340.1380 of this Part.

3) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.

4) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

5) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.

6) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:

A) pre-sentence investigation reports or social investigation reports;

B) any applicable probation orders and corresponding compliance plans;

C) the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])
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e) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).

f) Facilities must maintain written documentation of compliance with Section 340.1305(b) of this Part and subsection (a) of this Section.

g) Facilities must annually complete all of the steps required in subsection (d) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.

h) For current residents who are identified offenders, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).

i) Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized plan of care that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.

j) In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:

1) The care and supervision needs, if any, specific to the individual's criminal offense;

2) The results of the screening conducted pursuant to Section 340.1305 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;
6) The individual's needs in relation to his or her status as an identified offender;

7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and

8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.

k) The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)

1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:

A) The room must be in direct view of the main nurses' station; and

B) The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:
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A) All of the documentation required by subsection (j) of this Section; and

B) Whether the individual is dependent on any type of life support system or equipment.

3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

l) The facility must evaluate care plans quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

m) Incident reports must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 340.1330 of this Part. The facility must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 340.1470 of this Part.

n) The facility must notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and
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whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

o) The facility must develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Added at 30 Ill. Reg. 5303,, effective March 2, 2006)

Section 340.1316 Discharge Planning for Identified Offenders

a) All discharges and transfers shall be in accordance with Section 340.1470 of this Part.  

b) A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:

1) The facility's inability to meet the needs of the resident, based on Section 340.1305(c) and Section 340.1315 of this Part;  

2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or

3) The physical safety of the resident, other residents, the facility staff, or facility visitors.

c) Discharge planning shall be included as part of the plan of care developed in accordance with Section 340.1315(j).

(Source: Added at 30 Ill. Reg. 5303,, effective March 2, 2006)

Section 340.1317 Transfer of an Identified Offender

a) All discharges and transfers shall be in accordance with Section 340.1470 of this Part.

b) When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the
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Department and the receiving facility that the individual is an identified offender before making the transfer.

c) This notification must include all of the documentation required under Section 340.1315 of this Part, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.

d) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

1) *The mittimus and any pre-sentence investigation reports;*

2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*

3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*

4) *Reports of disciplinary infractions and dispositions;*

5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*

6) *The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)*

e) The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.
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(Source: Added at 30 Ill. Reg. 5303, effective March 2, 2006)
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1) **Heading of the Part:** Intermediate Care for the Developmentally Disabled Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 350

3) **Section Numbers:**
   - 350.330 Amendment
   - 350.625 Amendment
   - 350.630 Amendment
   - 350.635 New Section
   - 350.636 New Section
   - 350.637 New Section

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Rulemaking:** March 2, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain any incorporations by reference?** No

10) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** September 2, 2005; 29 Ill. Reg. 13460

10) **Has JCAR issued a Statement of Objection to these amendments?** Yes

   A) **Statement of Objection and Recommendation:** February 3, 2006, 30 Ill. Reg. 1541

   B) **Agency Response:** March 17, 2006; 30 Ill. Reg. 5446

   C) **Date Agency Response Submitted for Approval by the Joint Committee:**
      February 8, 2006

   D) **Statement of Recommendation:** March 3, 2006; 30 Ill. Reg. 2666

   E) **Agency Response:** March 17, 2006; 30 Ill. Reg. 5446
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F) Date Agency Response Submitted for Approval to the Joint Committee: February 16, 2006

11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:

5. In Section 350.625(e), "350.655" was changed to "350.635"

6. In Section 350.625(g), "Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Division of Long-Term Care Field Operations in the Department's Office of Heath Care Regulation, and other facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois."

7. In Section 350.635(a), "January" was changed to "March".

4. In Section 350.637(e), "This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do
so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

The following modifications were made in response to JCAR comments and suggestions:

1. Deleted Section 350.625(f)(2) and relabel subsections (f)(3) and (4) as (f)(2) and (3).

2. In Section 350.625(f)(2), after the period added "If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police."

3. Changed Section 350.635(a) to:

   "a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

   b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

   c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police."

4. In Section 350.635, relabeled "b)" as "d)".

5. Deleted Section 350.635(d)(1).

6. In Section 350.635(d), relabeled "2)" through "7)" as "1)" through "6)".

7. In Section 350.635(d)(6), deleted the period.

8. In Section 350.635, relabeled "e)" through "h)" as "a)" through "d)".

9. In Section 350.635(g), changed "(b)" to "(d)".
10. In Section 350.635(h) and (i), changed "(h)" to "(j)".

11. In Section 350.635, changed "(i)" to "(k)".

12. In Section 350.635(k), deleted the last sentence.

13. Changed Section 350.635(k)(1) and (2) to:

   "1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms. The resident must not share his or her room or bathroom with any other resident.

   2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

   A) All of the documentation required by subsection (j) of this Section; and

   B) whether the individual is dependent on any type of life support system or equipment.

   3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:
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A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

14. In Section 350.635, relabeled "(j)" through "(m)" as "(l)" through "(o)".

15. In Section 350.636(c), changed "(h)" to "(j)".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? Yes

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15) Summary and Purpose of Rulemaking: The Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350) regulates developmentally disabled facilities licensure. This rulemaking implements Public Act 94-163, which was enacted by the General Assembly to regulate identified offenders in long-term care facilities.

Section 350.330 (Definitions) has been amended to include a definition of "identified offender." Section 350.625 (Determination of Need Screening) has been amended to require facilities to determine whether a prospective resident is a registered sex offender or meets the definition of identified offender, conduct a criminal background check, and
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determine whether the facility is able to care for the prospective resident if he/she is an identified offender. Section 350.630 (Admission and Discharge Policies) has been amended to require nursing homes to ensure that identified offenders meet all of the requirements of Section 350.625 and a new Section 350.635. Section 350.635 (Identified Offenders) added the minimum requirements that nursing homes must meet in order to admit identified offenders as residents and provisions for the identification of identified offenders who are current residents. Section 350.636 (Discharge Planning for Identified Offenders) has been added to list the minimum requirements facilities must fulfill with regard to discharges and transfers of identified offenders. Section 350.637 (Transfer of an Identified Offender) has been added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department, the Department of Healthcare and Families Services, and the Department of Human Services.

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

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

217/782-2043
e-mail: rules@idph.state.il.us

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 350.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse – any physical or mental injury or sexual assault inflicted on a resident
Abuse means:

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

Mental injury arises from the following types of conduct:

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

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

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

Sexual assault.

Access – the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)
Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 350.1080 as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 350.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.
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Affiliate – means:

With respect to a partnership, each partner thereof.

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

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in
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young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must
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function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 350.1080 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

*Developmental Disability – means a severe, chronic disability of a person which:*
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is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

  self-care,

  receptive and expressive language,

  learning,

  mobility,

  self-direction,

  capacity for independent living, and

  economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1-801 of the Act)

Dietetic Service Supervisor – a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service
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supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of the Department of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or
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operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:
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A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangement Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or
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An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3].
(Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5].
(Section 1-114 of the Act)
Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged – any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization – the care and treatment of a person in a hospital as an inpatient.

Identified Offender – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Individual Education Program (IEP) – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) – a total plan of care that is developed by the
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interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner – a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the
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American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

- the alleged failure causing injury or deterioration is ongoing or repetitious; or
- a resident required medical treatment as a result of the alleged failure; or
- the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.
New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225
Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant...
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pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

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

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).
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Qualified Professional — a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered or certified by the State of Illinois, if required.

Reasonable Visiting Hours — any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse — a person with a valid license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation — for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character — having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident — person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director — the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative — a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a
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resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care – maintenance and personal care. (Section 1-124 of the Act)

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story – when used in this Part means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the
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topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution; or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 350.140(a)(3) and 350.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 350.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.
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Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area consisting of not less than five nor more than 20 beds, and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 30 Ill. Reg. 5338, effective March 2, 2006)

SUBPART C: POLICIES

Section 350.625 Determination of Need Screening and Request for Criminal History
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Record Information

a) For the purpose of this Section only, a nursing facility is any bed licensed as a skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.

b) All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. (Section 2-201.5(a) of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the Department of Public Aid’s rules of the Department of Healthcare and Family Services titled “Medical Payment” (89 Ill. Adm. Code 140.642(c)) is met.

c) Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5(a) of the Act)

d) Screening shall be administered through procedures established by administrative rule by the agency responsible for screening. (Section 2-201.5(a) of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Healthcare and Family Services or its designee is responsible for the screening required in subsection (c) of this Section.

e) In addition to the screening required by Section 2-201.5(a) of the Act and this Section, identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 350.635 of this Part. (Section 2-201.5(b) of the Act)

f) Screening must include the following:

1) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois
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Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;

2) The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police. Persons may be admitted to facilities while the results of a criminal history record information request are pending; and

3) If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

g) The facility must review the screenings and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 350.630 and 350.635 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 350.635 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

h) The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.
Section 350.630 Admission, Retention and Discharge Policies

a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

b) Residents shall only be admitted who have had a comprehensive evaluation covering physical, emotional, social and cognitive factors, conducted by an appropriately constituted interdisciplinary team.

c) No resident determined by professional evaluation to be in need of skilled level of nursing care shall be admitted to, or kept in, an Intermediate Care Facility, or Intermediate Care Facility for the Developmentally Disabled, or any distinct part of the facility designated and classified for intermediate care for the developmentally disabled.

d) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.

e) A facility for infants and children under 18 years of age shall be used exclusively for children. Persons under 18 years of age may not be cared for in a facility for adults without prior approval from the Department. Such approval will be granted only when it is the best possible placement for the person under the particular set of circumstances.

f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.

g) If a resident insists on being discharged and is discharged against the advice of a physician or a Qualified Mental Retardation Professional, the facts involved in the situation shall be fully documented in the resident's clinical record.

h) No resident shall be discharged without the concurrence of the attending physician.
i) No resident shall be admitted with a communicable, contagious or infectious
disease except as set forth in Section 350.1223 of this Part.

j) A facility shall not admit more residents than the number authorized by the
license issued to it.

k) **No identified offender** shall be admitted to or kept in a facility, unless the
requirements of Section 350.625(f) and (g) for new admissions and the
requirements of Section 350.635 are met.

(Source: Amended at 30 Ill. Reg. 5338, effective March 2, 2006)

**Section 350.635 Identified Offenders**

a) The facility shall initiate, for current residents, a request for criminal history
record information, in accordance with the Uniform Conviction Information Act,
by May 31, 2006.

b) If the current resident has already had a criminal history record check requested
by that facility and performed subsequent to July 12, 2005, subsection (a) shall
not apply.

c) If the results of a criminal history record check on any individual are
inconclusive, then the facility shall initiate a fingerprint-based criminal history
record check as prescribed by the Illinois State Police.

d) If identified offenders are residents of a facility, the facility shall comply with all
of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement
offices of the identity of identified offenders who are registered sex
offenders or are serving a term of parole, mandatory supervised release or
probation for a felony offense who are residents of the facility. **If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release.** (Section 2-110 of the Act) Reasonable
access under this provision shall not interfere with the identified offender's medical or psychiatric care.

2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 350.750 of this Part.

3) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.

4) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

5) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.

6) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:

A) pre-sentence investigation reports or social investigation reports;

B) any applicable probation orders and corresponding compliance plans;

C) the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])
e) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).

f) Facilities must maintain written documentation of compliance with Section 350.625(f) of this Part and subsection (a) of this Section.

g) Facilities must annually complete all of the steps required in subsection (d) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.

h) For current residents who are identified offenders, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).

i) Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized plan of care that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.

j) In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:

1) The care and supervision needs, if any, specific to the individual’s criminal offense;

2) The results of the screening conducted pursuant to Section 350.625 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;
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6) The individual’s needs in relation to his or her status as an identified offender;

7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and

8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.

k) The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)

1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms. The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

A) All of the documentation required by subsection (j) of this Section; and
B) whether the individual is dependent on any type of life support system or equipment.

3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

l) The facility must evaluate care plans quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

m) Incident reports must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 350.700 of this Part. The facility must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 350.3300 of this Part.

n) The facility must notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.
The facility must develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Added at 30 Ill. Reg. 5338, effective March 2, 2006)

Section 350.636 Discharge Planning for Identified Offenders

a) All discharges and transfers shall be in accordance with Section 350.3300 of this Part.

b) A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:

1) The facility's inability to meet the needs of the resident, based on Section 350.625(f) and Section 350.635 of this Part;

2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or

3) The physical safety of the resident, other residents, the facility staff, or facility visitors.

c) Discharge planning shall be included as part of the plan of care developed in accordance with Section 350.635(j).

(Source: Added at 30 Ill. Reg. 5338, effective March 2, 2006)

Section 350.637 Transfer of an Identified Offender

a) All discharges and transfers shall be in accordance with Section 350.3300 of this Part.

b) When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.
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c) This notification must include all of the documentation required under Section 350.635 of this Part, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.

d) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:

1) The mittimus and any pre-sentence investigation reports;

2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];

3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];

4) Reports of disciplinary infractions and dispositions;

5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and

6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)

e) The information required by this Section shall be provided upon transfer. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Added at 30 Ill. Reg. 5338, effective March 2, 2006)
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1) **Heading of the Part:** Long-Term Care for Under Age 22 Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 390

3) **Section Numbers:**
   - 390.330 Amendment
   - 390.625 New Section
   - 390.630 Amendment
   - 390.635 New Section
   - 390.636 New Section
   - 390.637 New Section

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Rulemaking:** March 2, 2006

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain any incorporations by reference?** No

11) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** September 2, 2006; 29 Ill. Reg. 13501

10) **Has JCAR issued a Statement of Objection to these amendments?** Yes

   A) **Statement of Objection and Recommendation:** February 3, 2006; 30 Ill. Reg. 1542

   B) **Agency Response:** March 17, 2006; 30 Ill. Reg. 5447

   C) **Date Agency Response Submitted for Approval by the Joint Committee:** February 8, 2006

   D) **Statement of Recommendation:** March 3, 2006; 30 Ill. Reg. 2667

   E) **Agency Response:** March 17, 2006; 30 Ill. Reg. 5447
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F) Date Agency Response Submitted for Approval by the Joint Committee: February 16, 2006

11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:

8. In Section 390.625(c), "Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Division of Long-Term Care Field Operations in the Department's Office of Heath Care Regulation, and other facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.".

9. In Section 390.635(a), "January" was changed to "March"

3. In Section 390.636(e), "This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed or regulated by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services." was changed to "Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the
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resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.".

The following modifications were made in response to JCAR comments and suggestions:

1. Deleted 390.625(b)(2) and relabeled subsections (b)(3) and (4) as (b)(2) and (3).

2. In Section 390.625(b)(2), after the period added "If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.".

3. Changed Section 390.635(a) to:

   "a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

   b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

   c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police."

4. In Section 390.635, relabeled "b)" as "d)".

5. Deleted Section 390.635(d)(1).

6. In Section 390.635(d), relabeled "2)" through "7)" as "1)" through "6)".

7. In Section 390.635(d)(6)(C), deleted the period.

8. In Section 390.635, relabel "c)" through "h)" as "e)" through "j)".

9. In Section 390.635(g), changed "(b)" to "(d)".

10. In Section 390.635(h) and (i), changed "(h)" to "(i)".
11. In Section 390.635, changed "(i)" to "(k)".

12. In Section 390.635(k), deleted the last sentence.

13. Changed Section 390.635(k)(1) through (3) to:

"1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:

A) The room must be in direct view of the main nurses' station; and

B) The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

A) All of the documentation required by subsection (j) of this Section; and

B) Whether the individual is dependent on any type of life support system or equipment."
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3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;

B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

14. In Section 390.635, relabeled "j)" through "m)" as "l)" through "o)".

15. In Section 350.636(c), changed "(h)" to "(i)".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) regulates licensure for facilities that serve patients under 22 years of age. This rulemaking implements Public Act 94-163, which was enacted by the General Assembly to regulate identified offenders in long-term care facilities.

Section 390.330 (Definitions) has been amended to include a definition of “identified offender.” Section 390.625 (Pre-admission Assessment and Request for Criminal History Record Information) has been added to require facilities to determine whether a prospective resident is a registered sex offender or meets the definition of identified offender, conduct a criminal background check, and determine whether the facility is able
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to care for the prospective resident if he/she is an identified offender. Section 390.630 (Admission and Discharge Policies) has been amended to require nursing homes to ensure that identified offenders meet all of the requirements of Section 390.625 and a new Section 390.635. Section 390.635 (Identified Offenders) added the minimum requirements that nursing homes must meet in order to admit identified offenders as residents and provisions for the identification of identified offenders who are current residents. Section 390.636 (Discharge Planning for Identified Offenders) has been added to list the minimum requirements facilities must fulfill with regard to discharges and transfers of identified offenders. Section 390.637 (Transfer of an Identified Offender) has been added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department, the Department of Healthcare and Families Services, and the Department of Human Services.

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

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

217/782-2043
e-mail: rules@idph.state.IL.us

The full text of the Adopted Amendments begins on the next page:
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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 390.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse – any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

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

Mental injury arises from the following types of conduct:

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

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

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

Sexual assault.

Access – the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement
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or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 390.1310 as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 390.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

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

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)
Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.
Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior
or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 390.1310 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person which:

- is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

- is manifested before the person attains age 22;

- is likely to continue indefinitely;

- results in substantial functional limitations in 3 or more of the following areas of major life activity:

  - self-care,
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receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.13-801 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and
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Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of the Department of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the
Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans’ Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans’ Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];
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Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3].

(Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance, and personal care.
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Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American
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Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged – any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization – the care and treatment of a person in a hospital as an inpatient.

Identified Offender – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Individual Education Program (IEP) – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) – a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other
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individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.
Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

**Neglect** – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

- the alleged failure causing injury or deterioration is ongoing or repetitious; or
- a resident required medical treatment as a result of the alleged failure; or
- the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

*Nurse* – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and
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Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.
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Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician – any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.
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Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

  Be a physician as defined in this Section.

  Be a registered nurse as defined in this Section.

  Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10:00 a.m. and 8:00 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid Illinois license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – For purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)
Reputable Moral Character – having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.
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Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

_Sheltered Care – maintenance and personal care._ (Section 1-124 of the Act)

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

_Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation._ (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

_Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:_

- an academic credit requirement in a high school or undergraduate institution; or

- immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment._ (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements except for variance from the
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strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 390.140(a)(3) and 390.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 390.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)
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Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended at 30 Ill. Reg. 5383, effective March 2, 2006)

SUBPART C: POLICIES

Section 390.625 Pre-admission Assessment and Request for Criminal History Record Information

a) Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of this Section and Section 390.635 of this Part. (Section 2-201.5(b) of the Act)

b) To the extent authorized and accessible by law for persons under age 22, assessment must include the following:

1) The facility shall check for the individual's name on the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections sex registrant search page at www.idoc.state.il.us to determine if the individual is listed as a registered sex offender;

2) The facility shall request criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If the results of the criminal history record check are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.
may be admitted to facilities while the results of a criminal history record information request are pending; and

3) If the individual has a felony conviction and was in the custody of the Department of Corrections, the facility shall request the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

c) The facility must review the assessments and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Section 390.630 and 390.635 of this Part. The facility is responsible for the development of a plan of care appropriate to the needs of the identified offender, in accordance with Section 390.635 of this Part. Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

d) The facility shall inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation within 48 hours after receiving verification from the Illinois State Police that a prospective or newly admitted resident is an identified offender.

(Source: Added at 30 Ill. Reg. 5383, effective March 2, 2006)

Section 390.630 Admission, Retention and Discharge Policies

a) All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

b) A facility shall admit only residents who have had a comprehensive evaluation of their medical history and physical and psycho/social factors conducted by an
appropriately constituted interdisciplinary team. No resident determined by professional evaluation to be in need of services not readily available in a particular facility shall be admitted to or kept in that facility. Additionally, emotional and cognitive histories shall be evaluated when applicable and available.

c) A facility for persons under 22 years of age shall be used exclusively for persons under 22 years of age, except when the facility's interdisciplinary team has determined that either initial or continued placement in the facility is appropriate because of the resident's physical and mental functioning status, and that the facility has the service resources to meet the needs of the resident. The facility interdisciplinary team shall further determine that placement shall not constitute a serious danger to the other residents.

d) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is a minor, by the resident's parent or guardian.

e) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

f) No resident shall be discharged without the concurrence of the attending physician. If such approval is given, the facility shall have the right to discharge or transfer a resident to an appropriate resource in accordance with Sections 3-401 through 3-423 of the Act.

g) A facility shall not admit more residents than the number authorized by the license issued to it.

h) **No identified offender shall be admitted to or kept in the facility, unless the requirements of Section 390.625(b) and (c) for new admissions and the requirements of Section 390.635 are met.**

(Source: Amended at 30 Ill. Reg. 5383, effective March 2, 2006)

**Section 390.635 Identified Offenders**
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a) The facility shall initiate, for current residents, a request for criminal history record information, in accordance with the Uniform Conviction Information Act, by May 31, 2006.

b) If the current resident has already had a criminal history record check requested by that facility and performed subsequent to July 12, 2005, subsection (a) shall not apply.

c) If the results of a criminal history record check on any individual are inconclusive, then the facility shall initiate a fingerprint-based criminal history record check as prescribed by the Illinois State Police.

d) If identified offenders are residents of a facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense who are residents of the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release. (Section 2-110 of the Act) Reasonable access under this provision shall not interfere with the identified offender's medical or psychiatric care.

2) The facility staff shall meet with local law enforcement officials to discuss the need for and to develop, if needed, policies and procedures to address the presence of facility residents who are registered sex offenders or are serving a term of parole, mandatory supervised release or probation for a felony offense, including compliance with Section 390.700 of this Part.

3) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification, prescribed by the Department, that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of
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Corrections sex registrant search page at www.idoc.state.il.us, the Department of State Police, or local law enforcement agencies.

4) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

5) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record.

6) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation if the probation officer has not, within three days after the identified offender becomes a resident, provided the facility with copies of the following:

   A) pre-sentence investigation reports or social investigation reports;

   B) any applicable probation orders and corresponding compliance plans;

   C) the name and contact information for the assigned probation officer. (Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110])

   e) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act).

   f) Facilities must maintain written documentation of compliance with Section 390.625(b) of this Part and subsection (a) of this Section.

   g) Facilities must annually complete all of the steps required in subsection (d) of this Section for identified offenders. This requirement does not apply to residents who have not been discharged from the facility during the previous 12 months.
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h) For current residents who are identified offenders, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of retention in the facility in accordance with subsection (j).

i) Upon admission of an identified offender to a facility or a decision to retain an identified offender in a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized plan of care that reflects the risk assessment of the individual, in accordance with subsection (j) of this Section.

j) In conducting a risk assessment of an identified offender and developing a plan of care, the facility shall consider the following:

1) The care and supervision needs, if any, specific to the individual's criminal offense;

2) The results of the screening conducted pursuant to Section 390.625 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents, staff and visitors in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;

6) The individual's needs in relation to his or her status as an identified offender;

7) Approaches to resident care that are proactive and are appropriate and effective in dealing with any behaviors specific to the identified offense; and

8) The number and qualifications of staff needed to meet the needs of the individual and the required level of supervision at all times.

k) The care planning of identified offenders shall include a description of the security measures necessary to protect facility residents from the identified offender, including whether the identified offender should be segregated from other residents. (Section 3-202.3(5) of the Act)
1) Registered sex offenders and individuals serving a term of parole, mandatory supervised release, or probation for a felony offense shall have their own rooms, under the following conditions:

   A) The room must be in direct view of the main nurses' station; and

   B) The resident must not share his or her room or bathroom with any other resident.

2) If the facility's risk assessment determines that a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act (Section 1-114.01 of the Act) need not have his or her own room, then the facility shall submit in writing to the Department the basis for this determination. The Department shall have an opportunity to raise concerns or objections to the facility determination. Any Department assent to the facility determination shall not relieve or indemnify in any manner the facility's liability or responsibility with regard to any issue regarding the identified offender or other facility residents. The Department shall notify the facility in writing of the results of the Department's review. The notification shall include any objections raised by the Department and the results of the Department's decision as to whether the identified offender requires placement in a separate room. If the facility does not comply with the Department's determination, then the facility will be subject to a notice of violation. The facility request shall include the following supporting documentation:

   A) All of the documentation required by subsection (j) of this Section; and

   B) Whether the individual is dependent on any type of life support system or equipment.

3) In determining whether to raise concerns or objections to a facility determination not to segregate the identified offender in a single room, the Department shall consider, but not be limited to:

   A) The existence of a severe debilitating physical, medical, or mental condition that nullifies any potential risk presented by the resident;
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B) The length of time since the individual's release from parole, probation, or mandatory supervised release;

C) The age of the individual at the time of the conviction; and

D) Whether the individual has a felony conviction for a crime listed in Section 955.270(e) of the Health Care Worker Background Check Code (77 Ill. Adm. Code 955.270(e)).

l) The facility must evaluate care plans quarterly for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

m) Incident reports must be submitted to the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in compliance with Section 390.700 of this Part. The facility must review its placement determination of identified offenders based on incident reports involving the identified offender. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility shall transfer or discharge the identified offender in accordance with Section 390.3300 of this Part.

n) The facility must notify the appropriate local law enforcement agency, the Illinois Prisoner Review Board, or the Department of Corrections of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

o) The facility must develop procedures for implementing changes in resident care and facility policies when the resident no longer meets the definition of identified offender.

(Source: Added at 30 Ill. Reg. 5383, effective March 2, 2006)

Section 390.636 Discharge Planning for Identified Offenders
DEPARTMENT OF PUBLIC HEALTH

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a) All discharges and transfers shall be in accordance with Section 390.3300 of this Part.

b) A facility that admits or retains an identified offender shall have in place policies and procedures for the discharge of an identified offender for reasons related to the individual's status as an identified offender, including, but not limited to:

1) The facility's inability to meet the needs of the resident, based on Section 390.625(c) and Section 390.635 of this Part;

2) The facility's inability to provide the security measures necessary to protect facility residents, staff and visitors; or

3) The physical safety of the resident, other residents, the facility staff, or facility visitors.

c) Discharge planning shall be included as part of the plan of care developed in accordance with Section 390.635(j).

(Source: Added at 30 Ill. Reg. 5383, effective March 2, 2006)

Section 390.637 Transfer of an Identified Offender

a) All discharges and transfers shall be in accordance with Section 390.3300 of this Part.

b) When a resident who is an identified offender is transferred to another facility regulated by the Department, the Department of Healthcare and Family Services, or the Department of Human Services, the transferring facility must notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

c) This notification must include all of the documentation required under Section 390.635 of this Part, and the transferring facility must provide this information to the receiving facility to complete the discharge planning.

d) If the following information has been provided to the transferring facility from the Department of Corrections, the transferring facility shall provide copies to the receiving facility before making the transfer:
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1) The mittimus and any pre-sentence investigation reports;

2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];

3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];

4) Reports of disciplinary infractions and dispositions;

5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and

6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)

e) The information required this Section shall be provided upon transfer.

Information compiled concerning an identified offender must not be further disseminated except to the resident; the resident's legal representative; law enforcement agencies; the resident's parole or probation officer; the Division of Long Term Care Field Operations in the Department's Office of Health Care Regulation; other facilities licensed by the Department, the Illinois Department of Healthcare and Family Services, or the Illinois Department of Human Services that are or will be providing care to the resident, or are considering whether to do so; health care and social service providers licensed by the Illinois Department of Financial and Professional Regulation who are or will be providing care to the resident, or are considering whether to do so; health care facilities and providers in other states that are licensed and/or regulated in their home state and would be authorized to receive this information if they were in Illinois.

(Source: Added at 30 Ill. Reg. 5383, effective March 2, 2006)
NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

3) Section Numbers: Emergency Action:
   160.5 Amendment
   160.89 New Section


5) Effective Date: March 1, 2006

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable

7) Date Filed with the Index Department: March 1, 2006

8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: This emergency rulemaking is being filed to implement provisions under Public Acts 94-89 and 94-90 on assessing interest related to child support judgments. Immediate implementation of these changes by emergency rulemaking is necessary because the Public Acts took effect on January 1, 2006.

10) Complete Description of the Subjects and Issues Involved: These emergency amendments are necessary to add new provisions under Public Acts 94-89 and 94-90 regarding the assessment of interest on child support judgments. In Section 160.5, the definition on "Date of Collection" is being revised to accommodate situations in which child support is collected in the month when due, but it is not received in the State Disbursement Unit until the following month. Since the date of collection affects the accrual of interest, this change will prevent the charging of improper interest. New Section 160.88 specifically details when the Department shall assess interest on child support judgments.

11) Are there any other amendments pending on this Part? Yes

Section Number: Proposed Action Illinois Register Citation
160.65 Amendment 29 Ill. Reg. 14148; September 23, 2005
12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.

13) Information and questions regarding this amendment shall be directed to:

    Joanne Scattoloni
    Office of the General Counsel, Rules Section
    Illinois Department of Healthcare and Family Services
    201 South Grand Avenue East, Third Floor
    Springfield, Illinois  62763-0002

    (217) 524-0081

The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section
160.1 Incorporation by Reference
160.5 Definitions

EMERGENCY
160.10 Child Support Enforcement Program
160.12 Administrative Accountability Process
160.15 Application Fee for IV-D Non-TANF Cases
160.20 Assignment of Rights to Support
160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section
160.30 Cooperation With Support Enforcement Program
160.35 Good Cause for Failure to Cooperate with Support Enforcement
160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section
160.60 Establishment of Support Obligations
160.61 Uncontested and Contested Administrative Paternity and Support Establishment
160.62 Cooperation with Paternity Establishment and Continued Eligibility Demonstration Program (Repealed)
160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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160.70 Enforcement of Support Orders
160.71 Credit for Payments Made Directly to the Title IV-D Client
160.75 Withholding of Income to Secure Payment of Support
160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies
160.80 Amnesty – 20% Charge (Repealed)
160.85 Diligent Efforts to Serve Process
160.88 State Case Registry
160.89 Interest

EMERGENCY

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section 160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section 160.95 State Disbursement Unit
160.100 Distribution of Child Support for TANF Recipients
160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Enforcement Services
160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130 Distribution of Intercepted Federal Income Tax Refunds
160.132 Distribution of Child Support for Non-TANF Clients
160.134 Distribution of Child Support For Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section 160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section 160.150 Department Review of Distribution of Child Support for TANF Recipients
NOTICE OF EMERGENCY AMENDMENTS

160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients


DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS


SUBPART A: GENERAL PROVISIONS

Section 160.5 Definitions

| EMERGENCY |

"Assignment of Medical Support" refers to the transfer of support rights to the Department by the acceptance of Medicaid benefits under 42 USC 1396k and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1].

"Assignment of support" refers to the transfer of support rights to the Department by the acceptance of TANF benefits, pursuant to 42 USC 608(a)(3) and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1] or the Department of Children and Family Services ("DCFS"), in the case of IV-E foster care, pursuant to 42 USC 671(a)(17) and Section 9.1 of the Children and Family Services Act [20 ILCS 505/9.1].

"Assistance Standard" shall have the meaning ascribed to it in 89 Ill. Adm. Code 111.

"Cancellation" refers to the discontinuance of TANF financial and medical benefits for an assistance unit because of the failure to satisfy the conditions of eligibility under the Title IV-A State Plan.

"Child" refers to any child under the age of 18 years and any child under the age of 19 years who is still attending high school (see Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]).

"Child support enforcement services" refers to those services provided to establish, enforce and collect support, in accordance with an approved State Plan.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

under Title IV-D of the Social Security Act (42 USC 654).

"Date of Collection" for distribution purposes in all cases refers to the date on which (a) a payor of income withholds an amount from a responsible relative's wages or other income to meet a support obligation when there is a served income withholding notice, (b) the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to meet a support obligation when there is withholding of UIB, (c) a collection as a result of intercept of a federal income tax refund is received by the Department, or (d) in all other instances, a support payment is received by the State Disbursement Unit (SDU) except that if current support is withheld by an employer in the month when due and received by the SDU in the month following the month when due, the date of withholding may be deemed to be the date of collection.

"IV-D account receivable" or "support account" refers to a part of the accounting system in KIDS used to record charges, payments, and account adjustments for a particular account. More than one account may exist for a given caretaker relative and for a given responsible relative. For example, a mother with two children by one father from one marriage, and three children by a second father from another marriage, will have two support accounts if there are two separate support obligations. If children are born in a non-marital relationship, there will be one account per child.

"IV-D program" or "IV-D" refers to the child support program set forth in 42 USC 651 et seq. and this Part.

"IV-E foster care" or "IV-E" refers to the foster care program set forth in 42 USC 670 et seq.

"Initial receipt in the State" for disbursement purposes in all cases refers to the date on which the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to meet a support obligation, when there is a withholding of UIB, a collection as a result of intercept of a federal income tax refund is received by the Department, or in all other instances, a support payment is received by the State Disbursement Unit.

"Key Information Delivery System" or "KIDS" refers to the data processing system used to process all IV-D cases in Illinois.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

"MANG" refers to Medical Assistance No Grant under the Medicaid Program, Title XIX of the Social Security Act (42 USC 1396k), that is medical assistance to families and individuals wherein no cash payment is made.

"Responsible relative" refers to a person who is responsible, or alleged to be responsible, under law for support of a dependent.

"Support case" refers to a case established in the KIDS for the purpose of providing establishment, enforcement and collection services to dependent children and their custodial parent, in accordance with the provisions of Title IV-D of the Social Security Act (42 USC 654).

"Support obligation" refers to the duty a non-custodial relative owes to his or her dependents, as set forth in a legally-valid court or administrative order.

"TANF" refers to Temporary Assistance for Needy Families, Title IV-A of the Social Security Act (42 USC 601 et seq.) that is financial and medical assistance available to families with one or more children or on behalf of children in foster care under the guardianship of the Department of Children and Family Services.

"TANF MANG" refers to Medical Assistance No Grant cases in which medical assistance only is available to families with one or more children.

"TANF MANG recipient" refers to a member of a family with one or more children receiving medical assistance only in the current month.

"TANF recipient" refers to a person who is receiving financial and medical assistance under the TANF program in the current month.

"Two business days", for purposes of disbursement of support payments under Subpart F of this Part, shall have the meaning and be qualified in the same manner as in Section 454B of the Social Security Act (42 USC 654b).

"Unreimbursed former AFDC or TANF" refers to the total amount of financial assistance provided to a family unit, in accordance with Title IV-A of the Social Security Act (42 USC 601 et seq.) for which the State and Federal governments have not been reimbursed. The State and Federal governments are limited in the amount of support payments they may retain for "unreimbursed former AFDC or TANF", in accordance with the provisions set forth in Sections 160.100, 160.110 and 160.130 of this Part. The "amount of unreimbursed assistance accrued prior
NOTICE OF EMERGENCY AMENDMENTS

to the former AFDC or TANF cancellation", reported in the Department's "Statements of Child Support Account Activity for Former Recipients" (see Section 160.140), is that limited amount which the Department is entitled to retain.

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.89 Interest

EMERGENCY

a) The Department shall calculate interest on child support judgments, including judgments arising by operation of law from child support orders, by applying one-twelveth of the current statutory interest rate as provided in Section 2-1303 of the Code of Civil Procedure to the unpaid child support balance as of the end of each calendar month. The unpaid child support balance at the end of the month is the total amount of child support ordered, excluding the child support that was due for that month to the extent that it was not paid in that month and including judgments for retroactive child support, less all payments received and applied as set forth in this Section.

b) The accrued interest shall not be included in the unpaid child support balance when calculating interest at the end of the month.

c) The unpaid child support balance as of the end of each month shall be determined by calculating the current monthly child support obligation and applying all payments received for that month, except federal income tax refund intercepts, first to the current monthly child support obligation and then applying any payments in excess of the current monthly child support obligation to the unpaid child support balance owed from previous months. The current monthly child support obligation shall be determined from the document that established the support obligation.

d) Federal income tax refund intercepts and any payments in excess of the current monthly child support obligation shall be applied to the unpaid child support balance. Any payments in excess of the current monthly child support obligation and the unpaid child support balance shall be applied to the accrued interest on the unpaid child support balance. Interest on child support obligations may be
collected by any means available under federal and State laws, rules, and regulations providing for the collection of child support.

e) The provisions of this Section shall also apply to calculation of interest on maintenance and unallocated maintenance and child support judgments arising by operation of law from maintenance and unallocated maintenance and child support orders.

(Source: Added by emergency rulemaking at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF MODIFICATION TO EMERGENCY AMENDMENT IN RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Illinois Cares Rx Program

2) Code Citation: 89 Ill. Adm. Code 119

3) Section Numbers: 119.80

4) Notice of Emergency Rules Published in the Illinois Register: January 13, 2006; 30 Ill. Reg. 482

5) JCAR Statement of Objection to Emergency Rules: The Objection states that HFS omitted two classes of prescription drugs that are covered under the Illinois Cares Rx Basic Program. The Objection further states that the emergency rule needs to be modified to include these drug classes and avoid HFS' implementation of policy not in rule.

6) Date agency submitted this modification to JCAR for approval: February 28, 2006

7) Summary of Action Taken by the Agency: The Department accepts the Joint Committee's Objection and will file an emergency amendment modification in response to the Objection.

The full text of the Section of the Emergency Amendments being modified begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF MODIFICATION TO EMERGENCY AMENDMENT IN RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 119
ILLINOIS CARES RX PROGRAM

Section
119.10 Definitions
119.20 Eligibility
119.30 Low Income Subsidy
119.40 Automatic Enrollment of Program Beneficiaries
119.50 Assignment and Coordination of Benefits
119.60 Covered Services
119.70 Prior Authorization and Preferred Drug List (PDL)
119.80 Illinois Cares Rx Basic Covered Prescription Drugs
119.90 Co-Payments and Cost Sharing
119.100 Pharmacy Payment
119.110 Inspection and Disclosure of Records
119.120 Establishment of Liens
119.130 Penalties
119.140 Penalties (Repealed)
NOTICE OF MODIFICATION TO EMERGENCY AMENDMENT IN RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES


SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 13816, effective October 1, 2004, for a maximum of 150 days; adopted at 29 Ill. Reg. 4069, effective February 25, 2005; emergency amendment at 30 Ill. Reg. 482, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified in response to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 5436, effective February 28, 2006, for the remainder of the maximum 150 days.

Section 119.80 Illinois Cares Rx Basic Covered Prescription Drugs

The Illinois Cares Rx Basic Program shall cover pharmaceutical products as described in this Section for the treatment of heart disease and its related conditions, diabetes, arthritis, cancer, Alzheimers' disease, Parkinson's disease, glaucoma, lung disease and smoking related illnesses, osteoporosis, and multiple sclerosis.

a) Drugs prescribed for treatment of heart disease and its related conditions that fall within the following categories qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Antihypertensives
2) Antiarrhythmics
3) Antihyperlipidemics
4) Cardiac Glycosides
5) Calcium Channel Blockers
6) Vasodilators
7) Anti-Adrenergic/sympatholytics
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF MODIFICATION TO EMERGENCY AMENDMENT IN RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

8) Renin Angiotensin System Antagonists
9) Diuretics
10) Potassium Supplements
11) Anticoagulants
12) Vasopressor Used in Shock
13) Potassium Removing Agents
14) System Alkalinizers

b) Drugs that fall within the following categories for the treatment of diabetes, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Insulin
2) Syringes and Needles
3) Oral Hypoglycemics
4) Posterior Pituitary Hormones
5) Hyperglycemics

c) Drugs that fall within the following categories and are prescribed for the treatment of arthritis, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Adrenocortical Steroids
2) Antimalarials
3) Analgesics
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF MODIFICATION TO EMERGENCY AMENDMENT IN RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

4) Antirheumatic Agents
5) Immunomodulators
6) Immunosuppressives
7) NSAIDS
8) Penicillamine

d) Drugs that fall within the following categories and are prescribed for the treatment of cancer, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Analgesics
2) Anticonvulsants
3) Antineoplastics
4) Immunomodulators

e) Drugs which fall within the following categories and are prescribed for the treatment of Alzheimer's disease, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) NMDA Receptor Antagonists
2) Cholinesterase Inhibitors

f) Drugs which fall within the following categories and are prescribed for the treatment of Parkinson's disease, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Antiparkinson Agents, Anticholinergics
2) Antiparkinson Agents, Other
NOTICE OF MODIFICATION TO EMERGENCY AMENDMENT IN RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

3) Pituitary Suppressive Agent

g) Drugs that which fall within the following categories and are prescribed for the treatment of glaucoma, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Miotics/Other Intracocular Pressure Reducers

2) Mydriatics

3) Carbonic Anhydrase Inhibitors

h) Drugs that fall within the following categories and are prescribed for the treatment of lung disease and smoking related illnesses, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Bronchodilators

2) Diluents

3) Mucolytics

4) Pancreatic Enzymes

5) Smoking Cessation Products

6) Corticosteroid Respiratory Inhalants/and Combinations

7) Antituberculosis Agents

8) Mast Cell Stabilizers

9) Leukotriene Receptor Antagonists

10) Leukotriene Formation Inhibitors

11) Monoclonal Antibodies
Respiratory Enzymes

i) Drugs that fall within the category of Bone Resorption Inhibitors and are prescribed for the treatment of osteoporosis, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs.

j) Drugs that fall within the following categories and are prescribed for the treatment of multiple sclerosis, qualify for inclusion in the Illinois Cares Rx Basic Pharmaceutical Assistance Program as covered prescription drugs:

1) Immunomodulators

2) Immunosuppressives

3) Adrenocortical Steroids

k) An Illinois Cares Rx Basic covered prescription drug must be approved by the Food and Drug Administration of the federal Department of Health and Human Services for the treatment of a specific disease category.

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 482, effective January 1, 2006, for a maximum of 150 days; emergency amendment modified in response to the Joint Committee on Administrative Rules Objection at 30 Ill. Reg. 5436, effective February 28, 2006, for the remainder of the maximum 150 days)
NOTICE OF MODIFICATION TO MEET THE OBJECTION AND RECOMMENDATIONS OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) **Heading of the Part:** Skilled Nursing and Intermediate Care Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 300

3) **Section Numbers:**
   - 300.615 Modification
   - 300.625 Modification

4) **Date Notice of Proposed Amendments Published in the Register:** September 2, 2005; 29 Ill. Reg. 13346

5) **Date JCAR Statement of Objection and Recommendations Published in the Register:** February 3, 2006; 30 Ill. Reg. 1538 and March 3, 2006; 30 Ill Reg. 2663

6) **Summary of Action Taken by the Agency:** A copy of the text of the adopted modified rulemaking appears in this issue of the *Illinois Register* on page 5213.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION TO MEET THE OBJECTION AND RECOMMENDATIONS OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) **Heading of the Part**: Sheltered Care Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 330

3) **Section Numbers**: 
   
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<td>330.725  Modification</td>
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4) **Date Notice of Proposed Amendments Published in the Register**: September 2, 2005; 29 Ill. Reg. 13389

5) **Date JCAR Statement of Objection and Recommendations Published in the Register**: February 3, 2006; 30 Ill. Reg. 1539 and March 3, 2006; 30 Ill. Reg. 2664

6) **Summary of Action Taken by the Agency**: A copy of the text of the adopted modified rulemaking appears in this issue of the *Illinois Register* on page 5260.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION TO MEET THE OBJECTION AND RECOMMENDATIONS OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) **Heading of the Part:** Illinois Veterans' Homes Code

2) **Code Citation:** 77 Ill. Adm. Code 340

3) **Section Numbers:**
   - 340.1305  Action: Modification
   - 340.1315  Action: Modification

4) **Date Notice of Proposed Amendments Published in the Register:** September 2, 2005; 29 Ill. Reg. 13429

5) **Date JCAR Statement of Objection and Recommendations Published in the Register:** February 3, 2006; 30 Ill. Reg. 1540 and March 3, 2006; 30 Ill. Reg. 2665

6) **Summary of Action Taken by the Agency:** A copy of the text of the adopted modified rulemaking appears in this issue of the *Illinois Register* on page 5303.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION TO MEET THE OBJECTION AND RECOMMENDATIONS OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) **Heading of the Part:** Intermediate Care for the Developmentally Disabled Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 350

3) **Section Numbers:**
   - 350.625  Action: Modification
   - 350.635  Action: Modification

4) **Date Notice of Proposed Amendments Published in the Register:** September 2, 2005; 29 Ill. Reg. 13460

5) **Date JCAR Statement of Objection and Recommendations Published in the Register:** February 3, 2006; 30 Ill. Reg. 1541 and March 3, 2006; 30 Ill. Reg. 2666

6) **Summary of Action Taken by the Agency:** A copy of the text of the adopted modified rulemaking appears in this issue of the *Illinois Register* on page 5338.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF MODIFICATION TO MEET THE OBJECTION AND RECOMMENDATIONS OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) **Heading of the Part:** Long-Term Care for Under Age 22 Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 390

3) **Section Numbers:**
   - 390.625 Action: Modification
   - 390.635 Action: Modification

4) **Date Notice of Proposed Amendments Published in the Register:** September 2, 2005; 29 Ill. Reg. 13501

5) **Date JCAR Statement of Objection and Recommendations Published in the Register:**
   - February 3, 2006; 30 Ill. Reg. 1542
   - March 3, 2006; 30 Ill. Reg. 2667

6) **Summary of Action Taken by the Agency:** A copy of the text of the adopted modified rulemaking appears in this issue of the Illinois Register on page 5383.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Health Maintenance Organization

2) Code Citation: 50 Ill. Adm. Code 5421

3) Section Number: Action:
   5421.50 Refusal

4) Date Notice of Proposed Amendments Published in the Register: March 4, 2005; 29 Ill. Reg. 3057

5) Date JCAR Statement of Objection Published in the Register: February 3, 2006; 30 Ill. Reg. 1534

6) Summary of Action Taken by Agency:

   Agency Response to Specific Joint Committee Objection: At its meeting on January 18, 2006, the Joint Committee on Administrative Rules objected to the Division's proposed amendments to Part 5421 (the "Rules") on the basis that the Division lacks statutory authority to require a contractual provision that bars individual health care providers from seeking monetary recovery for services from HMO enrollees in the event the HMO becomes insolvent.

   Division Response: The Division understands and appreciates, but respectfully disagrees with, the Committee's objection. The Division relies on existing law as authority to require hold-harmless language in the contract provisions between the HMO and MCO's for the following reasons:

   The authority source note for 50 Ill. Adm. Code 5421 states that it is implementing and authorized by Section 5-7 of the HMO Act, among others. Section 5-7(1) provides that the Director after notice and hearing may promulgate reasonable rules and regulations as are necessary and proper to "[e]stablish minimum coverage standards for basic health care services[]" [215 ILCS 125/5-7(1)]. Hold-harmless provisions address the enrollee's right to covered services in the event of nonpayment for those services by the HMO or a contracted MCO. Without such a provision, the enrollee does not have coverage to the extent that the provider is not paid by the HMO or MCO. Therefore, hold-harmless provisions are coverage standards that the Division is directly authorized to regulate.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

Additional authority is found in Section 10 of the Managed Care Reform and Patient Rights Act [215 ILCS 134/10]. The definition of "health care plan" provides that the plan (not the enrollee) has the ultimate obligation to arrange for the provision of or payment of services. This statutory obligation of a plan to its enrollees, to ensure that its provider contracts assume the "ultimate obligation" for payment of services, establishes additional statutory support for the Rule's requirement that the provider contracts recite the absence of further liability to the enrollee. Moreover, the Director has plenary authority to regulate these HMO/provider contracts in accordance with the filing requirements set forth in Sections 2-1(c)(5) and 4-12 [215 ILCS 125/2-1(c)(5) and 125/4-12]. Similarly, Section 2-2(7) allows the Director to correct deficiencies identified in the filings. [215 ILCS 125/2-2(7)].

Also, provider contracts without hold-harmless provisions cause the HMO insurance policy with the enrollee to violate Section 143 of the Illinois Insurance Code. That statute requires the Director to withhold approval of policy provisions or other matters "incorporated by reference into the policy that are ....unjust, unfair, inequitable, ambiguous, misleading, inconsistent, deceptive, contrary to law or the public policy of this state, or contain exceptions and conditions that unreasonable or deceptively affect the risk purported to be assumed in the general coverage of the policy." [215 ILCS 5/143, emphasis added]. The enrollee pays for services rendered with his insurance premium, and the enrollee does not have a contract with the service provider. To allow the service provider to collect from the enrollee with whom the provider does not have a contract construes the enrollee's insurance policy as containing the requirement. Such provisions require payment for benefits already purchased and are prohibited by Section 143 of the Code. Correspondingly, it would be against public policy to allow enforcement of any supplementary written agreement between the provider and the enrollee, as it would have been obtained under the duress of sickness or injury.

Finally, to address JCAR's concerns and more clearly identify that the hold-harmless provisions shall be contained in contracts between HMO's and providers, on the first line of Section 5421.50(e) the Division will add "between the HMO and it's capitated providers" following "agreements". The Division is making this clarification at the request of the Joint Committee and by agreement.

The Division respectfully submits this response and trusts that it adequately addresses the Committee's objection pursuant to Section 220.1300(a) of the Illinois Administrative Code. (1 Ill. Adm. Code 220.1300(a)).
STATE BOARD OF EDUCATION

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Special Education

2) **Code Citation:** 23 Ill. Adm. Code 226

3) | Section Numbers | Proposed Action |
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STATE BOARD OF EDUCATION

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

226.520 Amendment
226.530 Amendment
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226.710 Amendment
226.720 Amendment
226.730 Amendment
226.735 New Section
226.740 Amendment
226.750 Amendment
226.760 Amendment

4) Date Notice of Proposed Amendments Published in the Illinois Register: February 10, 2006; 30 Ill. Reg. 1567

5) Reason for the Withdrawal: In the weeks since the comprehensive amendments to Part 226 were presented for the Board's consideration, one aspect of the proposed changes has caused serious concerns, and these have been raised with such frequency and intensity that we have concluded that the rule should be revisited.
At issue are the maximum class sizes for students with particular levels of need. In the proposed changes, we have grouped all students according to the percentage of time for which they are removed from the general education setting. This is likely to affect how students will be grouped and served, because it relies on a measure of need rather than a type or intensity of disability as in the existing rules, which result in more than a dozen possible configurations with possible exceptions to each. Clearly this type of reorganization of service will require considerable planning and preparation. Colleagues in the field have brought to our attention the budgetary issues and other difficulties that would result if the proposed changes were put in place as rapidly as originally proposed. We also received feedback to the same effect from several members of the State Advisory Council and became convinced that a different approach should be taken.

On our original rulemaking timeline, the amendments to Part 226 would presumably have gone into effect early in 2007, after consideration of the final federal regulations under the Individuals with Disabilities Education Improvement Act. However, districts' and cooperatives' decisions about staffing and hiring for the 2007-08 school year would already need to have been made and budgeted for at that time. This sequence of events would provide inadequate notice for districts and cooperatives because they would have to complete their plans without certainty as to the version of the rule that would actually be filed for adoption.

We continue to believe it is desirable to eliminate the categorical basis for class sizes, as was recommended by the State Advisory Council, but it is clear that this must be done with sufficient advance notification to allow for the changes to be made smoothly at the local level. We, therefore, intend to replace what has been published with a version that includes two sets of requirements. Section 226.730 will establish the "eventual" class size parameters (i.e., those that will apply in the long run) but will provide for those to take effect beginning with the 2008-09 school year instead of whenever the rules happen to go into effect. These numbers have also been modified somewhat in the current version in order to align more closely with current practice. At the same time, the new version of the proposed rules includes a separate new Section 226.731 providing for the continuation of the current requirements through the 2007-08 school year.

In this way we will be able to gather and consider comments on the proposed changes in approach to class size without confounding the discussion with a timing problem that can readily be avoided. No other changes in the previously published version of Part 226 are involved in this new rulemaking, which is proposed in this issue of the Illinois Register.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF MODIFICATON TO MEET THE OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES


2) Code Citation: 68 Ill. Adm. Code 1275

3) Section Number: Action:
   1275.55 modify by withdrawing this Section from the rulemaking

4) Date of Notice of Proposed Amendments Published in the Register: August 12, 2005; 29 Ill. Reg. 12320

5) Date JCAR Statement of Objection Published in the Register: December 30, 2005; 29 Ill. Reg. 21173

6) Summary of Action Taken by the Agency: At its meeting on December 13, 2005, JCAR objected to Section 1275.55(a) of the rulemaking cited above because the Department failed to make a clear distinction as to which applicants will apply for licensure under this subsection as opposed to Section 1275.60, which provides for licensure by endorsement.

   In response to JCAR’s objection, the Department is withdrawing Section 1275.55 in its entirety from this rulemaking and will continue to review the need for revisions in the application process for this profession.
The following second notices were received by the Joint Committee on Administrative Rules during the period of February 28, 2006 through March 6, 2006 and have been scheduled for review by the Committee at its April 11, 2006 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<table>
<thead>
<tr>
<th>Second Notice Expires</th>
<th>Agency and Rule</th>
<th>Start Of First Notice</th>
<th>JCAR Meeting</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/12/06</td>
<td>Department of Human Services, Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)</td>
<td>10/21/05</td>
<td>4/11/06</td>
</tr>
<tr>
<td></td>
<td></td>
<td>29 Ill. Reg. 15776</td>
<td></td>
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<tr>
<td>4/12/06</td>
<td>Department of Human Services, Food Stamps (89 Ill. Adm. Code 121)</td>
<td>10/21/05</td>
<td>4/11/06</td>
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<td>29 Ill. Reg. 15779</td>
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<tr>
<td>4/12/06</td>
<td>Pollution Control Board, Maximum Setback Zones (35 Ill. Adm. Code 618)</td>
<td>12/2/05</td>
<td>4/11/06</td>
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<td>29 Ill. Reg. 19503</td>
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</tr>
<tr>
<td>4/14/06</td>
<td>State Board of Education, Nonpublic Special Education Facilities (23 Ill. Adm. Code 401)</td>
<td>12/9/05</td>
<td>4/11/06</td>
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<tr>
<td></td>
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<td>29 Ill. Reg. 19740</td>
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</tr>
<tr>
<td>4/14/06</td>
<td>Property Tax Appeal Board, Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)</td>
<td>9/16/05</td>
<td>4/11/06</td>
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<tr>
<td></td>
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<td>29 Ill. Reg. 13983</td>
<td></td>
</tr>
<tr>
<td>4/15/06</td>
<td>Department of Healthcare and Family Services, Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)</td>
<td>12/9/05</td>
<td>4/11/06</td>
</tr>
<tr>
<td></td>
<td></td>
<td>29 Ill. Reg. 19775</td>
<td></td>
</tr>
<tr>
<td>4/15/06</td>
<td>Department of Central Management Services, Pay Plan (80 Ill. Adm. Code 310)</td>
<td>1/13/06</td>
<td>4/11/06</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30 Ill. Reg. 231</td>
<td></td>
</tr>
</tbody>
</table>
|--------|---------------------------------------------------------------------|--------|-----------------------
| 4/15/06 | Department of Healthcare and Family Services, Hospital Services (89 Ill. Adm. Code 148) | 9/23/05 | 14148  
| 4/15/06 | Department of Healthcare and Family Services, Child Support Enforcement (89 Ill. Adm. Code 160) | 11/28/05 | 19043  
| 4/11/06 | Department of Healthcare and Family Services, Hospital Services (89 Ill. Adm. Code 148) |
NOTICE OF LODGING OF PARTIAL CONSENT DECREES PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT

In accordance with 42 U.S.C. 9622(d)(2)(A) and (B), notice is hereby given that on March 8, 2006, two proposed Partial Consent Decrees in the case of People of the State of Illinois, ex rel., Lisa Madigan, Attorney General of the State of Illinois v. Pharmacia Corporation, et al., Civil Action No. 05-CV-197 (S.D. Illinois), were lodged with the United States District Court for the Southern District of Illinois.

This action under Section 107(a) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607(a), involves Superfund Sites in Sauget, Cahokia, and East St. Louis, Illinois, commonly known as the Sauget Area Sites. Under the Amended Complaint in that action, Illinois seeks recovery of past costs from a number of Defendants.

One Partial Consent Decree is with Afton Chemical Corporation (formerly Ethyl Petroleum Additives, Inc. and Edwin Cooper, Inc.) on its own behalf and on behalf of its parent NewMarket Corporation; Blue Tee Corp. on its own behalf and on behalf of American Zinc Company; BASF Corporation (on its own behalf and as successor to Inmont Corporation); BFI Waste Systems of North America, Inc., including Browning-Ferris Industries of Illinois, Inc.; Cerro Flow Products, Inc.; Chemical Waste Management; ExxonMobil Corporation; The Glidden Company (d/b/a ICI Paints), on behalf of Grow Group and its former U.S. Paint division; The Pillsbury Company; Sequa Corporation; and TH Agriculture & Nutrition, L.L.C. The other Partial Consent Decree is with PolyOne Corporation. Under these Partial Consent Decrees, the Settling Defendants agree to reimburse the Illinois Environmental Protection Agency for a portion of its past costs incurred with regard to the Sauget Area Sites and covenant not to sue the State for any costs relating to the Site.

The Illinois Attorney General’s Office will accept, for a period of thirty days from the date of publication of this Notice, comments relating to the Partial Consent Decrees. Comments should be addressed to James L. Morgan, Senior Assistant Attorney General, Environmental Bureau, 500 South Second Street, Springfield, Illinois, 62706, and should refer to case of People of the State of Illinois, ex rel., Lisa Madigan, Attorney General of the State of Illinois v. Pharmacia Corporation, et al., Civil Action No. 05-CV-197.

The Partial Consent Decrees may be examined at: (1) The Illinois Environmental Protection Agency, 1021 North Grand Avenue East, Springfield, Illinois, or (2) the Cahokia Public Library, 140 Chaokia Park Drive, Chaokia, Illinois. A copy of each Partial Consent Decree may be
NOTICE OF PUBLIC INFORMATION

NOTICE OF LODGING OF PARTIAL CONSENT DECREES PURSUANT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT

obtained by mailing a request to James Morgan at the address above, by faxing the request to 217-524-7740, or by e-mailing the request to jmorgan@atg.state.il.us.
Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period October 1, 2005 through December 31, 2005.


<table>
<thead>
<tr>
<th>Chemical: Acenaphthene</th>
<th>CAS #83-32-9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acute criterion: 120 ug/l</td>
<td>Chronic criterion: 62 ug/l</td>
</tr>
<tr>
<td>Date criteria derived: November 14, 1991; revised February 1999</td>
<td></td>
</tr>
<tr>
<td>Applicable waterbodies: Not used during this period.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chemical: Acenaphthylene</th>
<th>CAS #208-96-8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acute criterion: 190 ug/L</td>
<td>Chronic criterion: 15 ug/L</td>
</tr>
<tr>
<td>Date criteria derived: March 1, 1998</td>
<td></td>
</tr>
<tr>
<td>Applicable waterbodies: Not used during this period.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Chemical: Acetone</th>
<th>CAS #67-64-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acute criterion: 1,500 mg/l</td>
<td>Chronic criterion: 120 mg/l</td>
</tr>
<tr>
<td>Date criteria derived: May 25, 1993</td>
<td></td>
</tr>
</tbody>
</table>
**NOTICE OF PUBLIC INFORMATION**

**LISTING OF DERIVED WATER QUALITY CRITERIA**

<table>
<thead>
<tr>
<th>Chemical</th>
<th>CAS #</th>
<th>Acute criterion</th>
<th>Chronic criterion</th>
<th>Date criteria derived</th>
<th>Applicable waterbodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acetonitrile</td>
<td>75-05-8</td>
<td>380 mg/l</td>
<td>30 mg/l</td>
<td>December 7, 1993</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Acrylonitrile</td>
<td>107-13-1</td>
<td>910 ug/l</td>
<td>73 ug/l</td>
<td>November 13, 1991</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Anthracene</td>
<td>120-12-7</td>
<td></td>
<td></td>
<td>August 18, 1993</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Atrazine</td>
<td>1912-24-9</td>
<td>82 ug/l</td>
<td>9.0 ug/L</td>
<td>May 2, 2005</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Benzo(a)anthracene</td>
<td>56-55-3</td>
<td></td>
<td></td>
<td>August 10, 1993; revised February 1999</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Benzo(a)pyrene</td>
<td>50-32-8</td>
<td></td>
<td></td>
<td>August 10, 1993; revised February 1999</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Benzo(b)fluoranthene</td>
<td>205-99-2</td>
<td></td>
<td></td>
<td>August 10, 1993; revised February 1999</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Benzo(k)fluoranthene</td>
<td>207-08-9</td>
<td></td>
<td></td>
<td>August 10, 1993; revised February 1999</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Carbon tetrachloride</td>
<td>56-23-5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# Listing of Derived Water Quality Criteria

<table>
<thead>
<tr>
<th>Chemical</th>
<th>CAS Number</th>
<th>Acute Criterion (ug/l)</th>
<th>Chronic Criterion (ug/l)</th>
<th>Human Health Criterion (HNC) (ug/l)</th>
<th>Date Criteria Derived</th>
<th>Applicable Waterbodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chlorobenzene</td>
<td>108-90-7</td>
<td>3,500</td>
<td>280</td>
<td>1.4</td>
<td>June 18, 1993</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Chloroform</td>
<td>67-66-3</td>
<td>990</td>
<td>79</td>
<td>130</td>
<td>December 11, 1991</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Chrysene</td>
<td>218-01-9</td>
<td>1,900</td>
<td>150</td>
<td>130</td>
<td>October 26, 1992</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>1,2-dichlorobenzene</td>
<td>95-50-1</td>
<td>210</td>
<td>17</td>
<td>16</td>
<td>December 1, 1993</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>1,3-dichlorobenzene</td>
<td>541-73-1</td>
<td>500</td>
<td>200</td>
<td>23</td>
<td>July 31, 1991</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>1,1-dichloroethane</td>
<td>75-34-3</td>
<td>20</td>
<td>2</td>
<td></td>
<td>June 18, 1997</td>
<td>Unnamed tributary of Grape Creek</td>
</tr>
<tr>
<td>1,2-dichloroethane</td>
<td>107-06-2</td>
<td>25</td>
<td>4.5</td>
<td>4.5</td>
<td>March 19, 1992</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>1,1-dichloroethylene</td>
<td>75-35-4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
LISTING OF DERIVED WATER QUALITY CRITERIA

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<thead>
<tr>
<th>Chemical</th>
<th>CAS Number</th>
<th>Acute Criterion</th>
<th>Chronic Criterion</th>
<th>Date Criteria Derived</th>
<th>Applicable Waterbodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,2-dichloroethylene</td>
<td>540-59-0</td>
<td>3,000 ug/l</td>
<td>240 ug/l</td>
<td>March 20, 1992</td>
<td>Unnamed tributary of Grape Creek</td>
</tr>
<tr>
<td>2,4-dichlorophenol</td>
<td>120-83-2</td>
<td>14 mg/l</td>
<td>1.1 mg/l</td>
<td>March 16, 1992</td>
<td>Unnamed tributary of Grape Creek</td>
</tr>
<tr>
<td>2,4-dimethyl phenol</td>
<td>105-67-9</td>
<td>630 ug/l</td>
<td>83 ug/l</td>
<td>November 14, 1991</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>1,2-dichloropropane</td>
<td>78-87-5</td>
<td>4,800 ug/l</td>
<td>380 ug/l</td>
<td>December 7, 1993</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>1,3-dichloropropylene</td>
<td>542-75-6</td>
<td>99 ug/l</td>
<td>7.9 ug/l</td>
<td>November 13, 1991</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>2,4-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol</td>
<td>534-52-1</td>
<td>29 ug/l</td>
<td>2.3 ug/l</td>
<td>November 14, 1991</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>2,4-dinitrophenol</td>
<td>51-28-5</td>
<td>85 ug/l</td>
<td>4.1 ug/l</td>
<td>December 1, 1993</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>2,6-dinitrotoluene</td>
<td>606-20-2</td>
<td>1,900 ug/l</td>
<td>150 ug/l</td>
<td>February 14, 1992</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Chemical</td>
<td>CAS #</td>
<td>Acute criterion (ug/l)</td>
<td>Chronic criterion (ug/l)</td>
<td>Date criteria derived</td>
<td>Applicable waterbodies</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
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<td>------------------------</td>
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<td>-----------------------</td>
<td>-------------------------------------------</td>
</tr>
<tr>
<td>Diquat bromide</td>
<td>#85-00-7</td>
<td>990</td>
<td>80</td>
<td>January 30, 1996</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Ethyl mercaptan (ethanethiol)</td>
<td>#75-08-1</td>
<td>17</td>
<td>2</td>
<td>April 8, 2002</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Fluoranthene</td>
<td>#206-44-0</td>
<td></td>
<td></td>
<td>August 10, 1993</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Formaldehyde</td>
<td>#50-00-0</td>
<td>4.9</td>
<td>0.39</td>
<td>January 19, 1993</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Hexachlorobenzene</td>
<td>#118-74-1</td>
<td></td>
<td></td>
<td>November 15, 1991</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Hexachlorobutadiene</td>
<td>#87-68-3</td>
<td>35</td>
<td>2.8</td>
<td>March 23, 1992</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Hexachloroethane</td>
<td>#67-72-1</td>
<td>380</td>
<td>31</td>
<td>November 15, 1991</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>n-Hexane</td>
<td>#110-54-3</td>
<td>250</td>
<td>20</td>
<td>April 8, 2002</td>
<td>Not used during this period.</td>
</tr>
<tr>
<td>Isobutyl alcohol = 2-methyl-1-propanol</td>
<td>#78-83-1</td>
<td></td>
<td></td>
<td></td>
<td>Not used during this period.</td>
</tr>
</tbody>
</table>
# Listing of Derived Water Quality Criteria

<table>
<thead>
<tr>
<th>Chemical</th>
<th>CAS #</th>
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<th>Applicable waterbodies</th>
<th>Date criteria derived</th>
</tr>
</thead>
<tbody>
<tr>
<td>Methylene chloride</td>
<td>75-09-2</td>
<td>430 mg/l</td>
<td>35 mg/l</td>
<td>Not used during this period</td>
<td>December 1, 1993</td>
</tr>
<tr>
<td>Methylethylketone</td>
<td>78-93-3</td>
<td>17 mg/l</td>
<td>1.4 mg/l</td>
<td>Unnamed tributary of Grape Creek</td>
<td>January 21, 1992</td>
</tr>
<tr>
<td>4-methyl-2-pentanone</td>
<td>108-10-1</td>
<td>320 mg/l</td>
<td>26 mg/l</td>
<td>Not used during this period</td>
<td>July 1, 1992</td>
</tr>
<tr>
<td>2-methyl phenol</td>
<td>95-48-7</td>
<td>46 mg/l</td>
<td>1.4 mg/l</td>
<td>Not used during this period</td>
<td>November 8, 1993</td>
</tr>
<tr>
<td>4-methyl phenol</td>
<td>106-44-5</td>
<td>670 ug/l</td>
<td>120 ug/l</td>
<td>Not used during this period</td>
<td>January 13, 1992</td>
</tr>
<tr>
<td>methyl tert-butyl ether (MTBE)</td>
<td>1634-04-4</td>
<td>67 mg/l</td>
<td>6.7 mg/l</td>
<td>Not used during this period</td>
<td>September 18, 1997</td>
</tr>
<tr>
<td>Naphthalene</td>
<td>91-20-3</td>
<td>510 ug/l</td>
<td>68 ug/l</td>
<td>Not used during this period</td>
<td>November 7, 1991; revised February 1999</td>
</tr>
<tr>
<td>4-nitroaniline</td>
<td>100-01-6</td>
<td>1.5 mg/l</td>
<td>0.12 mg/l</td>
<td>Not used during this period</td>
<td>May 5, 1996</td>
</tr>
</tbody>
</table>
### NOTICE OF PUBLIC INFORMATION

**LISTING OF DERIVED WATER QUALITY CRITERIA**

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Acute criterion</th>
<th>Chronic criterion</th>
<th>Date criteria derived</th>
<th>Applicable waterbodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nitrobenzene</td>
<td>15 mg/l</td>
<td>8.0 mg/l</td>
<td>February 14, 1992; revised February 1999</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Pentachlorophenol</td>
<td>20 ug/l</td>
<td>13 ug/l</td>
<td>September 1986</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Phenanthrene</td>
<td>46 ug/l</td>
<td>3.7 ug/l</td>
<td>October 26, 1992</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Propylene</td>
<td>4.0 mg/l</td>
<td>0.40 mg/l</td>
<td>April 8, 2002</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Pyrene</td>
<td></td>
<td>3.5 mg/l</td>
<td>December 22, 1992</td>
<td>Not used during this period</td>
</tr>
<tr>
<td>Tetrachloroethylene</td>
<td>1,200 ug/l</td>
<td>150 ug/l</td>
<td>March 23, 1992</td>
<td>Unnamed tributary of Grape Creek</td>
</tr>
<tr>
<td>Tetrahydrofuran</td>
<td>220 mg/l</td>
<td>17 mg/l</td>
<td>March 16, 1992</td>
<td>Not used during this period</td>
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<td>1,2,4-trichlorobenzene</td>
<td>370 ug/l</td>
<td>72 ug/l</td>
<td>December 14, 1993; revised February 1999</td>
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<td>1,1,1-trichloroethane</td>
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ENVIRONMENTAL PROTECTION AGENCY
NOTICE OF PUBLIC INFORMATION
LISTING OF DERIVED WATER QUALITY CRITERIA

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<th>Chronic criterion</th>
<th>Date criteria derived</th>
<th>Applicable waterbodies</th>
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<td>1,1,2-trichloroethane</td>
<td>79-00-5</td>
<td>19 mg/l</td>
<td>4.4 mg/l</td>
<td>December 13, 1993; revised February 1999</td>
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<td>Trichloroethylene</td>
<td>79-01-6</td>
<td>12,000 ug/l</td>
<td>940 ug/l</td>
<td>October 23, 1992</td>
<td>Unnamed tributary of Grape Creek.</td>
</tr>
</tbody>
</table>

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Bob Mosher  
Illinois Environmental Protection Agency  
Division of Water Pollution Control  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276  
217/782-3362
WHEREAS, the problems of obesity and food insecurity are growing issues in Illinois and across the country; and

WHEREAS, it is crucial that we as a state do our part to promote good health and nutrition by encouraging all citizens to practice sound eating habits; and

WHEREAS, according to the Illinois Behavioral Risk Factor Surveillance System, over 36 percent of all Illinois citizens are overweight. At the same time, nearly 8 percent of the state's population does not have routine access to adequate amounts of food; and

WHEREAS, it is important that people eat neither too much nor too little of any food or nutrient in order to help maintain a healthy lifestyle. Overindulgence in food can result in excess weight and related health complications, while eating too little can lead to numerous nutrient deficiencies and low body mass; and

WHEREAS, the Illinois Department of Human Services, along with the Illinois Interagency Nutrition Council, and the Illinois Department of Public Health is joining forces with nutrition professionals in Illinois and throughout the United States to promote good nutrition during the month of March. The theme of this year's awareness campaign is “Eat Right – Be Fit 4 Life!”:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 2006 as NUTRITION MONTH in Illinois, and encourage all citizens to support food programs and establish healthy eating habits in hopes of reducing the risk for obesity and preventing hunger.

Issued by the Governor on February 28, 2006.
Filed by the Secretary of State February 28, 2006.
PROCLAMATIONS

WHEREAS, the Federated Club Women of The Chicago and Northern District Association of Club Women, Girls and Boys, Inc., will honor Cordelia West and Ida B. Wells Barnett as the Club founders; and

WHEREAS, the Federated Club Women of the Chicago and Northern District Association of Club Women, Girls and Boys, Inc., promote the education of women, raise the standards of the home, work for moral, economic, social, religious welfare of children, protects the rights of women and children, work toward the enforcement of civil rights for all people and promote interracial understanding so that justice may prevail for all people; and

WHEREAS, the Federated Club Women of the Chicago and Northern District Association of Club Women, Girls and Boys, Inc. is an active affiliate of the National Association of Colored Women's Clubs and the Illinois Association of Club Women and Youth Affiliates, Inc.; and

WHEREAS, the State of Illinois is proud to recognize this outstanding organization for their valuable support of our State's youth through their Girls and Boys Clubs:

THEREFORE, I, Rod R. Blagojevich, Governor for the State of Illinois, do hereby proclaim, March 18, 2006, as FEDERATED CLUB WOMEN OF THE CHICAGO AND NORTHERN DISTRICT ASSOCIATION OF CLUB WOMEN, GIRLS AND BOYS, INCORPORATED DAY in honor of their 100 years of outstanding contributions to local communities and our great State.

Issued by the Governor on February 28, 2006.
Filed by the Secretary of State February 28, 2006.

2006-59
GHANA INDEPENDENCE DAY

WHEREAS, the Republic of Ghana is a nation in West Africa. In 1957, Ghana became the first sub-Saharan country in colonial Africa to gain its independence; and

WHEREAS, Ghana gained independence from the United Kingdom on March 6; and

WHEREAS, Ghana has 9 regions and the Ghana National Council is made up of three representatives of each region as well as the chairman, president and vice president; and
PROCLAMATIONS

WHEREAS, the Ghana National Council of Metropolitan Chicago is dedicated to sponsoring various events and activities that create unity within the Ghanaian community in Metropolitan Chicago, as well as help develop surrounding communities. Their hard work is part of a collaborative effort to foster relationships within the Chicago Metropolitan area and the global community; and

WHEREAS, this year, the Ghana National Council of Metropolitan Chicago and the Ghanaian community are coming together to celebrate Ghana's 49th Independence Day on March 4, 2006:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 1, 2006 as GHAANA INDEPENDENCE DAY in Illinois in recognition of the country's 49th Anniversary of Independence, and in tribute to all the Ghanaian Americans who call Illinois their home.

Issued by the Governor on February 28, 2006.
Filed by the Secretary of State February 28, 2006.

2006-60 POSTPARTUM DEPRESSION AWARENESS MONTH

WHEREAS, the birth of a baby can be one of the biggest and happiest events in a woman's life. However, at the same time, life with a new baby can be difficult and stressful; and

WHEREAS, women experience many physical and emotional changes while pregnant and after giving birth. These changes can leave new mothers feeling sad, anxious, afraid, or confused; and

WHEREAS, the "baby blues" is an extremely common reaction occurring in women during the first few days after delivery, which results in sudden mood swings, sadness, and anxiety. Usually appearing suddenly on the third or fourth day, it can affect up to 80 percent of women who have just given birth and can last only a few hours or as long as one to two weeks; and

WHEREAS, problems arise when women who have recently given birth experience reactions that exceed that of "baby blues." Postpartum depression, which has symptoms similar to the "baby blues" only stronger, may affect a woman's ability to function. Postpartum psychosis, an even more serious reaction to childbirth, is a very serious mental illness that can cause women to lose touch with reality; and
WHEREAS, treatment varies for disorders associated with depression after delivery, depending on the type and severity of symptoms. A woman experiencing any of the symptoms described should immediately contact a health care professional:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 2006 as POSTPARTUM DEPRESSION AWARENESS MONTH in Illinois, and encourage all citizens to become cognizant of the symptoms and the seriousness of this disorder for new mothers.

Issued by the Governor on February 28, 2006.
Filed by the Secretary of State February 28, 2006.
ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 30, Issue 11 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

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**ADOPTED RULES**

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