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DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Animal Welfare Act

2) **Code Citation:** 8 Ill. Adm. Code 25

3) **Section Numbers:**

   - 25.10 Amend
   - 25.20 Amend
   - 25.30 Amend
   - 25.40 Repeal
   - 25.45 Repeal
   - 25.47 New
   - 25.50 Amend
   - 25.60 Amend
   - 25.90 Amend
   - 25.130 Amend
   - 25.160 New

4) **Statutory Authority:** Animal Welfare Act [225 ILCS 605] and the Illinois Diseased Animals Act [510 ILCS 50]

5) **A Complete Description of the Subjects and Issues Involved:** Updates references to the Code of Federal Regulations. Under Section 25.10, strikes the definition of "exotic or non-domesticated animals" and adds "Work Progress Form", "Dog Daycare Operator", "Dog Daycare Facility" and "Equine Shelter". In Section 25.20, clarification is being made that certain Sections do not apply to equine shelters. A new subsection is being added in Section 25.30 regarding the guidelines for equine shelters. Sections 25.40 and 25.45 are being repealed, and a new Section 25.47 is being added for animals imported into Illinois. In Section 25.60, two new subsections (e) and (f) are being added deeming an animal unfit for sale or release. Section 25.90 is excluding fish from records of sale by licensees and striking the requirement that licensees must report the number of dogs, puppies, cats, kittens and exotic or non-domesticated animals sold for the previous calendar year at the time of license renewal. In Section 25.130(c), language is being added "provided the licensee is equipped to accept that type of animal and has available space for the animal" in reference to disposing an animal. A new Section 25.160 is being added for dog daycare facilities.

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

7) **Will this rulemaking replace any emergency rulemaking in effect?** No
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed rulemaking will be held on Thursday, October 26, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

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

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

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 23, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Equine shelters; licensees importing animals into Illinois; operators of dog daycare facilities

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

C) Types of professional skills necessary for compliance: No additional skills necessary.
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated at the time the January or July 2006 regulatory agendas were published.

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 25
ANIMAL WELFARE ACT

Section 25.10 Definitions
25.15 Incorporations By Reference
25.20 Buildings and Premises
25.30 General Care of Animals
25.40 Dogs and Other Companion Animals Brought into Illinois (Repealed)
25.45 Importation of Exotic or Non-Domestic Animals; Permit (Repealed)
25.47 Animals Imported Into Illinois
25.50 Shipment of Mammals and Birds
25.60 Health of Animals at Time of Release
25.70 Department May Restrict The Sale of Animals
25.80 Quarantine
25.90 Records
25.100 Consent Statement and Inspection
25.110 Animals Prohibited from Sale
25.115 Guard and Sentry Dogs
25.120 Boarding and Training
25.130 Animal Control Facilities and Animal Shelters
25.140 Foster Homes
25.150 Illinois Diseased Animals Act
25.160 Dog Daycare Facilities

AUTHORITY: Implementing and authorized by the Animal Welfare Act [225 ILCS 605] and the Illinois Diseased Animals Act [510 ILCS 50].

Section 25.10 Definitions

"Act" means the Animal Welfare Act [225 ILCS 605].

"Animal" as used in this Act means any mammal, bird, fish, or reptile offered for sale, trade, or adoption or for which a service is provided by any person licensed under this Act.

"Companion animal" means an animal that is commonly considered to be, or is considered by the owner to be, a pet. Companion animal includes, but is not limited to, canines, felines and equines.

"Dog Daycare Facility" is a facility, operated by a dog daycare operator, where dogs are cared for in a socialized and commingled environment for less than 24 consecutive hours per visit.

"Dog Daycare Operator" is a kennel operator as defined in Section 2 of the Act that operates a facility where dogs are cared for in a socialized and commingled environment for less than 24 consecutive hours per visit.

"Equine Shelter" is an animal shelter as defined in Section 2 of the Act that is only for equines.

"Exotic or non-domesticated animals" means mammals (including non-human primates), reptiles and birds that are not native to North America and are not normally maintained livestock (llamas, ratites, cervids and similar animals are considered livestock under this definition) or native mammals that are not domesticated and normally maintained as pets (i.e., prairie dogs). Not included in this definition are hamsters, guinea pigs and gerbils or any member of the species felis catus that have been domesticated or canis familiaris.

"Work Progress Form" is a form issued by the Department to licensees or applicants notifying them of deficiencies and the improvements required to be made by them within a specified period of time to comply with the Act.

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

Section 25.20 Buildings and Premises

a) All buildings and premises shall be maintained in a sanitary condition and the
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

licensee shall:

1) Have covered, leak-proof containers available for storage of waste materials before disposal to control vermin and insects. Such containers shall be maintained in a sanitary condition. **This subsection (a)(1) does not apply to equine shelters.**

2) Dispose of dead animals in compliance with the Illinois Dead Animal Disposal Act [225 ILCS 610] and rules enacted pursuant to that law (8 Ill. Adm. Code 85) or the Companion Animal Cremation Act [815 ILCS 381]. Compliance with this State Law shall not exempt licensee from compliance with local ordinances.

3) Take effective control measures to prevent infestation of animals and premises with external parasites and vermin.

4) Provide water from a source having sufficient pressure to properly sanitize and clean the facility and equipment. **This subsection (a)(4) does not apply to equine shelters.**

5) Provide hand washing facilities.

b) All buildings shall be constructed so as to provide adequate shelter for the comfort of the animals and shall provide adequate facilities for isolation of diseased animals and their waste to avoid exposure to healthy and salable animals.

c) Floors of buildings housing or displaying animals shall be of permanent construction to enable thorough cleaning and sanitizing. **Except equine shelters.** Dirt and unfinished wood floors are unacceptable, **except for equine shelters.** Cleaning shall be performed daily, or more often if necessary, to prevent any accumulation of debris, dirt or waste.

d) Cages shall be constructed of a material that is impervious to urine and water and able to withstand damage from gnawing and chewing. **This subsection (d) does not apply to equine shelters.**

1) The cages must be cleaned and sanitized at least once daily, or more often if necessary.

2) All empty cages shall be kept clean at all times.
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

3) Cages shall be of sufficient size to allow the animal to comfortably stand, sit, or lie, and offer freedom of movement.

4) An ambient temperature as defined in the rules for the Federal Animal Welfare Act (9 CFR 3.2; 2006) shall be maintained for warmblooded animals. In the case of coldblooded animals, the temperature that is compatible to the well-being of the species shall be maintained.

e) Runs shall be constructed of material of sufficient strength and design to confine the animals. This subsection (e) does not apply to equine shelters.

1) They shall be kept in good repair and condition.

2) For new construction or remodeling, the licensee shall provide runs surfaced with concrete or other impervious material.

3) Surface of the run shall be designed to permit the surface to be cleaned and kept free from excessive accumulation of animal waste.

4) Provisions must be made for adequate drainage, including gutters and discharge of any fluid or content into a sewer, septic tank or filter field, and shall comply with any local zoning.

f) Cages or aquariums for housing of small animals, birds, or fish shall provide space not less than 2½ times the body volume of living creatures contained therein.

g) If animals are group-housed, they shall be maintained in compatible groups without overcrowding. No female animal in estrus shall be placed in a pen with male animals, except for breeding purposes.

h) Upon an inspection of a licensee or applicant by the Department, the Department may provide a Work Progress Form to the licensee or applicant if deficiencies are detected during the inspection. The licensee or applicant must make the improvements to correct the deficiencies listed in the form within the time period specified in the form.

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

Section 25.30 General Care of Animals
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

a) All persons or establishments licensed under this Act shall comply with all Sections of the Humane Care for Animals Act [510 ILCS 70].

b) Sufficient clean water and fresh food shall be offered to each animal daily as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.5-3.7; 20062005). In the case of young animals, they shall be fed more than once daily. Reptiles, fish or amphibians shall be fed and cared for in accordance with the eating patterns and environmental conditions compatible with each individual species.

c) The licensee or his representative shall be present for general care and maintenance of the animals at least once daily.

d) Aquariums containing fish shall be kept in a clean healthful condition. Live algae shall not be considered an unhealthful condition. Any dead fish shall be removed from aquariums.

e) Adult cats shall be provided with litter pans at all times. The pans shall be cleaned and sanitized at least once daily or more often if necessary.

f) Equine shelters shall follow the American Association of Equine Practitioners (AAEP) Care Guidelines for Equine Research and Retirement Facilities (2004). The AAEP care guidelines are available from the Department and published on the Department's web site.

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

Section 25.40 Dogs and Other Companion Animals Brought into Illinois (Repealed)

a) Dogs of any age brought into Illinois shall be accompanied by an official health certificate issued within 30 days prior to entry, showing the age, sex, breed, and description of each animal; that the animals in shipment are free from visible evidence of communicable diseases; that they originated in an area not under quarantine because of rabies; and that all animals over 16 weeks of age have been vaccinated against rabies as set forth in Section 30.90 of the rules for the Illinois Animal Control Act (8 Ill. Adm. Code 30). A copy of the health certificate bearing the approval of the Animal Health Official of the state of origin shall be filed with the Department.

b) “This rule shall not apply to dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or teaching, nor to
performing dogs or dogs brought in for a limited period of time for exhibition or breeding purposes and kept under direct control while in Illinois.”*  

AGENCY NOTE* Quoted from Section 30.10 of the rules for the Animal Control Act (8 Ill. Adm. Code 30).

e) All other companion animals, except fish, entering Illinois for sale or resale shall be accompanied by a certificate of veterinary inspection issued within 30 days prior to entry showing the age, sex and number of animals in the shipment. The certificate of veterinary inspection must also indicate that the animals are free from visible evidence of communicable diseases.

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

Section 25.45 Importation of Exotic or Non-Domestic Animals; Permit (Repealed)

a) All exotic or non-domestic animals, including prairie dogs, entering Illinois must be accompanied by a permit from the Department and an official certificate of veterinary inspection.

b) The official certificate of veterinary inspection must:

1) Be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture or by a licensed veterinarian of the country of origin;

2) Be approved by the Animal Health official of the state or country of origin;

3) Show that the animals are free from visible evidence of contagious, infectious or communicable diseases; and

4) Show the state or country of origin.

c) Permits:

1) Permits will be issued by telephoning or writing the Department.

2) Applicants for permits shall furnish the following information to the Department:
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

A) Name and complete mailing address of Illinois destination;
B) Name and address of consignor;
C) Number and species of animals in shipment; and
D) United States Department of Agriculture license numbers.

3) Grounds for refusal to issue a permit are:
   A) Violation of the Act or any Section of this Part; and
   B) Presence of a disease that might endanger the Illinois livestock or companion animal industry or pose a threat to public health.

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

Section 25.47 Animals Imported Into Illinois

Licensees shall not accept animals imported into Illinois from another state or country, unless the animals are accompanied by a health certificate and an entry permit number that satisfy the following requirements:

a) Health Certificate Requirements

1) The health certificate shall state the age, sex, breed, number and description of each animal.

2) The health certificate shall state that the animal is free from visible evidence of contagious, infectious or communicable diseases, that it originated in an area not under quarantine because of rabies, and that all animals required to be vaccinated against rabies have been vaccinated as set forth in 8 Ill. Adm. Code 30.90 (Illinois Animal Control Act).

3) A copy of the health certificate shall be filed with the Department prior to entry of the animal into Illinois.

4) A health certificate shall not be required for:
   A) fish;
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

B) dogs consigned to hospitals, pharmaceutical companies, or licensed research institutions for research or teaching; and

C) performing dogs or dogs brought in for a limited period of time for exhibition or breeding purposes and kept under direct control while in Illinois.

5) All health certificates shall be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture (USDA) or by a licensed veterinarian of the country of origin.

6) The form of the health certificate shall be approved by the animal health official of the state or country of origin and shall reflect the state or country of origin.

7) The health certificate must have an issuance date within 30 days prior to entry of the animal into Illinois.

b) Entry Permit Number Requirements

1) A person may request an entry permit number by calling or writing the Department.

2) Before the Department shall issue an entry permit number, the person requesting the permit number shall provide to the Department the following information:

A) Name, address and telephone number of the owner of the animal;

B) Name, address and telephone number of the person transporting the animal into Illinois;

C) Name, address and telephone number of the person making request for the entry permit number;

D) Name, address and telephone number of the place of origin and destination;

E) Number and species of animals entering Illinois;
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

F) Date of entry into Illinois; and

G) USDA license numbers, if applicable.

3) The entry permit number must have an issuance date within 30 days prior to entry of the animal into Illinois.

4) Grounds for refusal to issue an entry permit number are:

   A) Violation of the Act or rules; and

   B) Presence of a disease that might endanger the Illinois livestock or companion animal industry or pose a threat to public health.

   c) Licensees shall retain copies of the health certificates as part of their business records that are subject to inspection by the Department under the Act and rules. Such records are required to be kept by licensees for 2 years from the date of receipt of the imported animal.

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

Section 25.50 Shipment of Mammals and Birds

a) Animals shall be transported in crates constructed of a smooth, durable material which is easily cleaned and shall:

   1) Have a solid floor which may have a false bottom above it.

   2) Be so constructed as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.13-3.19; 2006) as to provide maximum safety for the particular animal or animals being transported.

   3) Have openings on 2 sides and the top to assure adequate ventilation.

b) In all cases, the crates shall be large enough to provide space for the animals to lie down in an extended position and to allow ease of movement when standing or turning around as prescribed in the rules for the Federal Animal Welfare Act (9 CFR 3.13-3.19; 2006). When the temperature is over 85° F., increased space shall be provided within reason.

c) The crates shall be cleaned before use for each trip.
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d) Food and water containers shall be cleaned and sanitized before each trip.

e) If bedding is used it shall be clean, dry, and relatively dust-free.

f) Animals in transit for 4 or more hours shall be offered food 2 hours before loading and fresh water about 30 minutes before loading.

g) The person or persons responsible for the welfare of the animal or animals while in transit shall:

1) Offer the animals food at least once each 24 hours, except that newly weaned young shall be offered suitable food at 4-hour intervals.

2) Offer all animals water at 8-hour intervals at least, except that water shall be offered at 2-hour intervals when the temperature reaches 90° F.

3) Clean the crate or crates at least every 24 hours and, if bedding is used, shall provide clean bedding.

4) Inspect each animal at 4-hour intervals, or oftener.

h) No female obviously near parturition shall be transported.

i) Trucks transporting animals shall provide protection from the sun in hot weather, and protection from cold weather. Adequate ventilation shall be provided in hot weather, and the trucks shall be draft-free in cold weather. Provisions shall be made for warming an area carrying weaned young if the temperature falls below 50° F., and for unweaned young if the temperature falls below 65° F.

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

Section 25.60 Health of Animals at Time of Release

The following shall deem an animal unfit for sale or release:

a) Obvious signs of infectious disease; or diseases such as distemper, hepatitis, leptospirosis, rabies, or other similar diseases.

b) Obvious signs of nutritional deficiency; or deficiencies which may include rickets, emaciation, etc.
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c) Obvious signs of severe parasitism – extreme enough to be influencing general health of animal; or.
d) Obvious fractures or congenital abnormalities affecting general health of animal; or.
e) Obvious sign of disease extreme enough to be influencing the general health of the animal; or.
f) Failure to comply with 42 CFR 71.51(c), rabies vaccination requirements for dogs.

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

Section 25.90 Records

a) Records of sale of all animals, excluding fish, a dog, cat, non-human primate, or exotic or non-domesticated animal, including prairie dogs, shall be maintained by the licensee for a minimum period of 12 months after date of sale or transfer of animal, and shall include the source of animal, date of sale, description and sex of animal sold, and the name and address of purchaser. Records of sales of small mammals (i.e., hamsters, mice, gerbils or rats that were born in the United States), birds and fish are not required. These records must be available for inspection during normal business hours by Department employees or persons designated by the Department. Each licensee must report to the Department the number of dogs, puppies, cats, kittens and exotic or non-domesticated animals sold for the previous calendar year at the time of license renewal. Shelters and animal control facilities must report to the Department the total number of dogs, cats and other animals received, adopted, euthanized or reclaimed by the owner for the previous calendar year at the time of license renewal.

b) If record of prophylactic medication is used in advertisement or is furnished the purchaser or person acquiring an animal, specific information regarding type, amount, and date of prophylactic medication shall be kept by the licensee and shall become a part of the retail sales record.

c) The licensee or his representative shall furnish the purchaser of a dog, cat or non-human primate a written statement at the time of sale.
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1) The statement shall show:

A) Date of sale and date of birth, if known.
B) Name, address, and telephone number of licensee.
C) Name, address, and telephone number of purchaser.
D) Breed and description of dog, cat or non-human primate, including age, sex and weight of the animal.
E) Prophylactic immunizations and dates administered.
F) Internal parasite medications and dates administered.
G) A record of sterilization or lack of sterilization.
H) Guarantee, if offered; if none, so state.
I) If the dog or cat is being sold as being capable of registration, the name and registration numbers of the sire and dam and registry information.

2) This information may be recorded on Department Form PS-5 (Animal Welfare Release Statement), or on a similar form prepared by the licensee and approved in advance by the Department.

d) The licensee shall have any dog used as a sire tested annually for canine brucellosis. The test must be performed by a licensed veterinarian and the licensee must keep a copy of the test results for two years.

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

Section 25.130 Animal Control Facilities and Animal Shelters

Persons licensed to operate Animal Control Facilities and Animal Shelters shall comply with the Illinois Humane Euthanasia in Animal Shelters Act [510 ILCS 72], the Humane Care for Animals Act [510 ILCS 70], and the following rules, in addition to the other rules already prescribed.

a) Licensee shall make a record of each animal received, including the date it was
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received, the source, and the eventual disposition.

b) Euthanasia shall be done in compliance with the Humane Euthanasia in Animal Shelters Act [510 ILCS 72]. If the species is not covered by the Act, the most recent American Veterinary Medical Association Panel on Euthanasia guidelines shall be used. Under no circumstances can unacceptable agents or methods of euthanasia be used.

c) Licensee shall accept any animal for which the person wishing to dispose of the animal is willing to sign an affidavit of ownership giving his name, address, telephone number, reasons for wishing to dispose of the animal, and description of the animal, including distinguishing marks and pertinent medical information, if any, provided the licensee is equipped to accept that type of animal and has available space for the animal.

d) Any animal presented to an animal control facility or shelter in an injured, diseased, or ill condition shall be examined by and, if feasible, treated by a licensed veterinarian as soon as possible. If the veterinarian deems that, for humane reasons, the animal should be euthanized, his recommendations for euthanasia shall be followed.

e) Licensee operating an animal control facility for a municipality or other political subdivision shall, in a conspicuous place at the establishment, post the hours the facility will be open with an attendant on duty to release estrayed pets back to their owner. Any expense incurred during the period of impoundment shall be paid by the owner prior to release of the impounded animal.

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

Section 25.160 Dog Daycare Facilities

Dog daycare operators must comply with the following requirements when operating a dog daycare facility:

a) Indoor common and play areas must be constructed of impervious surfaces. All indoor common and play areas must be cleaned and maintained after each group use or once every 12 hours, whichever is earlier.

b) Outdoor common and play areas must be constructed of surfaces that are easily maintained and allow for dog waste to be easily removed after use. All outdoor
common and play areas must be cleaned and maintained after each group use or once every 12 hours, whichever is earlier.

c) Dogs may only be group-housed with the permission of the owner.

d) Dog daycare facilities shall only accept dogs if the following requirements have been satisfied:

1) Dogs have current vaccination for distemper and parvovirus and proof of vaccination is furnished to the dog daycare operator;

2) Dogs have current vaccination for rabies pursuant to the requirements of the Illinois Animal Control Act [510 ILCS 5];

3) Dogs must have had a fecal exam within the last 12 months that was negative for internal parasitism; and

4) Dogs must not have any visual signs of external parasitism.

e) Any dog that appears to be ill may not be commingled with any other dog at the daycare facility until certified healthy by a licensed veterinarian.

f) Dog daycare facilities may require other vaccinations.

(Source: Added at 30 Ill. Reg. _____, effective _____________)
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1) **Heading of the Part:** Diseased Animals

2) **Code Citation:** 8 Ill. Adm. Code 85

3) **Section Numbers:**
   - 85.5 Amend
   - 85.135 Amend
   - 85.140 Amend
   - 85.145 Amend

4) **Statutory Authority:** Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65]

5) **A Complete Description of the Subjects and Issues Involved:** Updates references to the Code of Federal Regulations and the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program. In Section 85.5, the definition of "exposed to" will be amended to clarify that the exemption for no testing requirements for animals originating from herds that are enrolled in the Voluntary Risk Management Program applies only to herds where a complete herd test of test-eligible animals has been completed in the past 12 months. Section 85.135 is being amended to reflect that herds established and maintained in accordance with the U.S. Animal Health Association except test eligible animals are 24 months of age and older and testing strategies using environmental sampling or pooled fecal cultures are not allowed. Only animal testing is recognized of herd certification or herd testing for the Risk Management program. In Section 85.140 the Department is removing certification requirements for second and higher lactation animals and bulls, and is adding that if herd animals test positive on an organism detection test within the past two years, the herd will be restricted. The Department is amending Section 85.145 to indicate that Johne's disease positive animals can only be sold for slaughter.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** Yes

10) **Are there any other proposed rulemakings pending on this Part?** Yes
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Section Numbers  Proposed Action  Illinois Register Citation
85.5  Amend  January 20, 2006; 30 Ill. Reg. 737
85.10 Amend  January 20, 2006; 30 Ill. Reg. 737
85.15 Amend  January 20, 2006; 30 Ill. Reg. 737
85.55 Amend  January 20, 2006; 30 Ill. Reg. 737
85.75 Amend  January 20, 2006; 30 Ill. Reg. 737
85.80 Amend  January 20, 2006; 30 Ill. Reg. 737
85.100 Amend  January 20, 2006; 30 Ill. Reg. 737
85.110 Amend  January 20, 2006; 30 Ill. Reg. 737
85.115 Amend  January 20, 2006; 30 Ill. Reg. 737
85.120 Amend  January 20, 2006; 30 Ill. Reg. 737
85.135 Amend  January 20, 2006; 30 Ill. Reg. 737
85.140 Amend  January 20, 2006; 30 Ill. Reg. 737
85.145 Amend  January 20, 2006; 30 Ill. Reg. 737

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendment will be held on Thursday, October 26, 2006 at 10:00 a.m. at the Illinois Department of Agriculture, 8th & Sangamon Avenue, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield, IL 62794-9281
217/785-5713
217/785-4505 (fax)

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 23, 2006. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.
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13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Herd owners

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

C) Types of professional skills necessary for compliance: No additional skills necessary

14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not anticipated when the January or July regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:
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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85
DISEASED ANIMALS

Section
85.5 Definitions
85.7 Incorporation by Reference
85.10 Reportable Diseases
85.12 Contagious or Infectious Diseases
85.15 Truck Cleaning and Disinfection
85.20 Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers
85.25 Sale of Livestock Quarantined Because of Disease
85.30 Identification Ear Tags for Livestock
85.35 Identification Tags Not to be Removed
85.40 Livestock for Immediate Slaughter Not to be Diverted En Route
85.45 Anthrax
85.50 Goats
85.55 Scrapie in Sheep and Goats
85.60 Bluetongue
85.65 Sheep Foot Rot (Repealed)
85.70 Cattle Scabies
85.75 Cattle Scabies – Additional Requirements on Cattle from Certain Designated Areas
85.80 Sheep and Goats
85.85 Diseased Animals
85.90 Copy of Health Certificate Shall be Furnished
85.95 Requests for Permits
85.100 Consignments to Stockyards, Auction Markets, Recognized Slaughtering Centers, or Marketing Centers
85.105 Obligation of Transportation Company and Truck Operators
85.110 Additional Requirements on Cattle From Designated States
85.115 Salmonella enteritidis serotype enteritidis
85.120 Cervidae
85.125 Ratites
85.130 Vesicular Stomatitis
85.135 Requirements for Establishing and Maintaining a Herd Under the Voluntary
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Paratuberculosis (Johne's Disease) Certification Program
85.140 Requirements for Establishing and Maintaining a Herd Under the Voluntary
Paratuberculosis (Johne's Disease) Risk Management Program
85.145 Johne's Disease Positive Animals
85.150 Importation of Animals; Permit Required


Section 85.5 Definitions

Definitions for the rules of this Part are located in the general definitions Section (8 Ill. Adm. Code 20.1) and apply to the rules of this Part. The following definitions shall also apply to the
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rules of this Part:

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture (9 CFR 160, 161 and 162; 2006-2003).

"Exposed to" means an animal that has come in contact with another animal or an environment that is capable of transmitting a contagious, infectious or reportable disease. An animal will no longer be considered as "exposed to" when it is beyond the standard incubation time for the disease and the animal has been tested negative for the specific disease or there is no evidence that the animal is contagious, except for animals exposed to Johne's disease. Animals more than two years of age originating from a herd where Johne's disease has been diagnosed will be considered no longer "exposed to" with a negative test. The negative test must have been conducted within 30 days prior to the sale or movement. No restrictions or tests are required for animals under two years of age. An exemption to the "exposed to" language will be granted to animals originating from a herd that is enrolled in the Voluntary Johne's Disease Risk Management Program. These Participating herds will no longer be restricted.

"Recognized slaughtering center" means an establishment where slaughtering is conducted under Federal or State inspection.

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

Section 85.135 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Certification Program

a) The following definitions shall be applicable to this Section:

1) "Accredited laboratory" means a laboratory operated by the Illinois Department of Agriculture, the University of Illinois College of Veterinary Medicine, or a laboratory approved by the Director (on the basis of its using USDA approved methods).

2) "Animal" means cattle, bison, buffalo, goats, llamas, or members of the cervid family.

3) "Cow-side", "pen-side" or "on-site" test means any test approved by the United States Department of Agriculture for M. avium paratuberculosis
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that can be performed in the field by an accredited veterinarian. Veterinarians must receive approval from the Department to use this test, and all results must be reported to the Department within 10 days. The test cannot be performed in a herd participating in the Voluntary Johne's Disease Certification Program.

4) "Herd " means all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, ranch), or all animals on two or more premises geographically separated, but on which animals have been interchanged or where there has been contact between the premises. Contact of animals between separated premises under common management shall be assumed to have occurred unless otherwise established by the herd owner or manager. Each separate species of animal shall be considered as a separate herd.

5) "Positive animal" means an animal infected with Mycobacterium avium paratuberculosis, only if M. avium paratuberculosis is demonstrated by an organism detection test on tissues or feces of the animal.

6) "M. avium paratuberculosis-detection test " or "organism detection test" means any test sufficiently sensitive and specific for detection of M. avium paratuberculosis in fecal samples. Definitions of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (June 1, 2006April 2002). Any test approved by the U.S. Department of Agriculture for M. avium paratuberculosis organism detection (i.e., fecal culture test for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

7) "Serum antibody test" means any test sufficiently sensitive and specific for detection of antibodies to M. avium paratuberculosis in bovine serum. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (June 1, 2006April 2002), as recommended and approved by the U.S. Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). Any test approved by the U.S. Department of Agriculture for serum antibody detection (i.e., ELISA for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.
b) Criteria for herds qualified to enter into the certification program:

1) Participation in this program is voluntary and the producer/owner is responsible for the cost of testing.

2) The herd has been in existence for at least one year or the herd was assembled with animals originating directly from paratuberculosis-certified herds only.

3) A herd assembled with animals originating directly from certified herds only shall start at the lowest certification level of the herds from which the assembled animals were acquired. A negative first-herd test will qualify the newly-assembled herd for the first certification level.

4) All animals must have an approved, permanent, unique, legible identification other than a plastic ear tag or neck chain. Acceptable types of approved, permanent, unique, legible identification include registration or association numbers accompanied by identification document, ear tattoos, USDA uniform series ear tag (metal tags), freeze branding and electronic identification (microchips) as long as a reader is supplied by the owner or is readily available.

c) Voluntary Johne's disease herd status for cattle shall be established and maintained in accordance with the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (June 1, 2006April 2002) that was approved and adopted by the U.S. Animal Health Association (P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228), with the exceptions listed in subsection (c)(1).

1) Exceptions

A) The organism detection test will be accepted for testing at any level.

B) Test eligible animals are all animals 24 months of age and older; and

C) The testing strategies using environmental sampling or pooled fecal cultures are not allowed. Only animal testing is recognized for herd certification or herd testing for the Risk Management
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Herd owners using either the Fast Track or the Standard Track certification program must sign a herd agreement prior to acceptance into the program.

d) Criteria for certifying bison, buffalo, goats, llamas or members of the cervid family herds under the Illinois Voluntary Johne's Disease Herd Certification Program.

1) The following certification levels will be awarded compliance with certification requirements:

   Level 1 – herd tested negative after one sampling.
   Level 2 – herd tested negative after two samplings.
   Level 3 – herd tested negative after three samplings.
   Level 4 – herd tested negative after four samplings.
   Level 5 – herd tested negative after five samplings.
   Level 5 Monitored – herd tested negative after six or more samplings.

2) Certification requirements:

   A) For annual certification, all animals 24 months of age and older must be tested.
   B) Certified herds must be tested every 12 months (+/- 2 months).
   C) All tests must be performed at an accredited laboratory.
   D) An organism detection test for M. avium paratuberculosis (i.e., fecal culture) must be conducted.
   E) Fecal collection must be done either by, or under the direct supervision of, an accredited veterinarian who must verify that the samples were collected from the animals identified on the test documents.
   F) The owner must certify on an agreement form prescribed by the Department:

      i) At the initial test date, the herd has been in existence for at
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least one year or was assembled only from herds enrolled in a M. avium paratuberculosis program and are at the same or higher level than the herd. Animals purchased from herds participating in M. avium paratuberculosis programs outside of Illinois must have that state's program approved by the Director prior to certification.

ii) At each test date, all animals in the herd 24 months of age or older were sampled and included in the herd test. A herd can qualify for certification through a split herd testing program. The producer must test all test-eligible animals at least once a year throughout a one year (12 month) period. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.

iii) At each test date, a list identifying all animals previously tested but no longer in the herd must be provided to the Department.

iv) At each test date, all animals added to the herd since the last herd test were natural additions to (born into) the herd, purchased from participating herds, or were tested at the time of arrival on the premises (see Section 85.135(d)(6)).

v) At each test date, with a written statement sent to the Department certifying to the best of his/her knowledge no animal that left the herd tested positive for paratuberculosis or was exhibiting clinical signs of Johne's disease.

3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's status.

4) Handling of animals exhibiting clinical signs:

A) All animals exhibiting clinical signs of M. avium paratuberculosis must be tested and isolated from the herd pending the test results. An organism detection test (i.e., fecal culture) must be used on feces from animals exhibiting clinical signs.

B) A negative result on the M. avium paratuberculosis detection test
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will allow the herd to move to the next certification level.

5) Suspension or revocation of herd certification:

A) Identification of a positive animal using the organism detection test during the certification herd test will result in the loss of certification status. The next negative test will qualify the herd for Level 1 certification.

If a positive animal is detected on any other test for Johne's disease during the current certification period other than by an organism detection test, the herd's certification will be suspended pending a confirmatory organism detection test of that animal.

B) Herds not tested within 14 months after the last sampling will lose their certification status. The next negative herd test will qualify the herd for Level 1 certification.

6) Herd Additions. Animals purchased from another herd participating in a M. avium paratuberculosis certification program may enter the herd without further testing, and will be tested along with the herd at the next annual test. Animals originating from herds that are not participating in a M. avium paratuberculosis certification program must be isolated from the other members of the herd until a negative organism detection test has been received. Isolation means that the animal can have no opportunity to share feed or water receptacles with other members of the herd, and there can be no chance of fecal contamination from the animal.

7) Protocol. If an animal sold from a certified herd is identified as positive:

A) If an animal sold from a certified negative herd is identified as positive by an organism detection test within 16 months after the date of sale, the selling certified herd may, within 120 days after being notified, be required to conduct a herd retest of all eligible animals. Determination of retesting of the herd will be made by the Director based upon, but not limited to, the level of certification of the herd, the last negative organism detection test of the herd and the status of the other animals in the purchasing herd, if known.

B) The selling certified herd will maintain its present certification status pending the results of the herd test or at the determination of
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the Director based on epidemiological evidence provided by a state or federal veterinarian.

C) If the herd retest is negative, the herd will maintain its "present" certification status. The herd owner/manager shall then have the option of maintaining his/her present test schedule or rescheduling his/her herd test date so that his/her next herd test is not due until 12 months after the retest.

D) If a positive animal is identified on this retest, the selling herd will lose its certification status. The next negative herd test will qualify the herd for Level 1 certification.

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

Section 85.140 Requirements for Establishing and Maintaining a Herd Under the Voluntary Paratuberculosis (Johne's Disease) Risk Management Program

a) The following definitions shall be applicable to this Section:

"Accredited laboratory" means a laboratory operated by the Illinois Department of Agriculture, the University of Illinois College of Veterinary Medicine, or a laboratory approved by the Director (on the basis that it is using USDA approved methods).

"Herd" shall mean all animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm, ranch), or all animals on two or more premises geographically separated, but on which animals have been interchanged or where there has been contact between the premises. Contact of animals between separated premises under common management shall be assumed to have occurred unless otherwise established by the herd owner or manager. Each separate species of animal shall be considered as a separate herd.

"M. avium paratuberculosis-detection test" or "organism detection test" means any test sufficiently sensitive and specific for detection of M. avium paratuberculosis in fecal samples. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (June 1, 2006 April 2002). Any test approved by the United States
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Department of Agriculture for M. avium paratuberculosis organism detection (i.e., fecal culture test for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

"Serum antibody test" means any test sufficiently sensitive and specific for detection of antibodies to M. avium paratuberculosis in bovine serum. Definition of "sufficiently sensitive and specific" will be on the basis of results of performance of a check test and proficiency standards set by the Uniform Program Standards for the Voluntary Bovine Johne's Disease Control Program (June 1, 2006 April 2002), approved by the U.S. Animal Health Association (P. O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228). Any test approved by the United States Department of Agriculture for serum antibody detection (i.e., ELISA for M. avium paratuberculosis) is acceptable as long as it is performed at an accredited laboratory.

b) Criteria for herds qualified to enter into the risk management program:

1) Participation in this program is voluntary and the producer/owner is responsible for the cost of testing.

2) The herd has been in existence for at least one year or the herd was assembled with animals originating directly from paratuberculosis-certified or risk managed herds only.

3) A herd assembled with animals originating directly from risk managed herds only shall start at the lowest certification level of the herds from which the assembled animals were acquired.

4) All animals must have an approved, permanent, unique, legible identification other than a plastic ear tag or neck chain. Acceptable types of approved, permanent, unique, legible identification include registration or association numbers accompanied by identification document, ear tattoos, USDA uniform series ear tag (metal tags), freeze branding and electronic identification (microchips) as long as a reader is supplied by the owner or is readily available.

c) Criteria for enrolling and maintaining cattle, buffalo or bison herds under the Illinois Voluntary Johne's Disease Risk Management Program.

1) The following certification levels will be awarded compliance with
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certification requirements:

A) Level A – 30 head or the whole herd has been tested with no positives disclosed.

B) Level B – the whole herd has been tested with less than 5% (0% to 4.99%) of the animals testing positive.

C) Level C – the whole herd has been tested with 5% to 14.99% of the animals testing positive.

D) Level D – the whole herd has been tested with 15% or greater of the animals testing positive, or 30 head were tested with one or more positive animals disclosed.

E) Potential Maximum Risk herds have had no animals tested or do not disclose any test results.

F) A level achievement year representing when the herd reached the status level will be added to the status designation (e.g., Level A since 1999).

2) Certification requirements:

A) Testing shall be done annually within 10-14 months after the initial status testing anniversary date and a herd shall remain at that level for a year, regardless of the amount of testing completed during that time. A herd can qualify through a split herd testing program. The producer must test all test-eligible animals at least once a year throughout a one year (12 month) period with the exception of any "J" punched animals in the herd. "J" punched animals do not have to be tested, but must be accounted for on the annual herd agreement. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.

B) Either a fecal culture or ELISA test may be used for certification.

C) Whole herd tests are conducted on all second and higher lactation animals and bulls two years of age and older.
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D) Tests on 30 animals must be a random sampling of second and higher lactation animals and bulls two years of age and older. The same animals should not be tested in consecutive testing years.

E) All tests must be performed at an accredited laboratory.

F) Fecal and blood collection must be done either by, or under the direct supervision of, an accredited veterinarian, who must verify that the samples were collected from the animals identified on the test documents.

3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's status.

4) Herds not tested within 14 months after the last sampling will lose their certification status. If the herd had animals testing positive on an organism detection test within the past two years, the herd will be restricted. Herds that stop testing but continue to have an annual risk assessment and herd plan completed by a certified Johne's disease veterinarian and follow the management guidelines prescribed in the herd plan will not be restricted (see Section 85.145).

d) Criteria for enrolling and maintaining cervid or goat herds under the Illinois Voluntary Johne's Disease Risk Management Program.

1) The following certification levels will be awarded compliance with certification requirements:

A) Level A – 30 head or the whole herd has been tested with no positives disclosed.

B) Level B – the whole herd has been tested with less than 5% (0% to 4.99%) of the animals testing positive.

C) Level C – the whole herd has been tested with 5% to 14.99% of the animals testing positive.

D) Level D – the whole herd has been tested with 15% or greater of the animals testing positive, or 30 head were tested with one or more positive animals disclosed.
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E) Potential Maximum Risk herds have had no animals tested or do not disclose any test results.

F) A level achievement year representing when the herd reached the status level will be added to the status designation (e.g., Level A since 2002).

2) Certification requirements:

A) Testing shall be done annually within 10-14 months after the initial status testing anniversary date and a herd shall remain at that level for a year, regardless of the amount of testing completed during that time. A herd can qualify through a split herd testing program. The producer must test all test-eligible animals at least once a year throughout a one-year (12 month) period with the exception of any "J" punched animals in the herd. "J" punched animals do not have to be tested, but must be accounted for on the annual herd agreement. The anniversary date would be the date that the herd test is completed for the year. The testing schedule for the year must be described in the annual herd agreement.

B) The fecal culture must be used for certification.

C) Whole herd tests are conducted on all second and higher lactation animals and males two years of age and older.

D) Tests on 30 animals must be a random sampling of second and higher lactation animals and males two years of age and older. The same animals should not be tested in consecutive testing years.

E) All tests must be performed at an accredited laboratory.

F) Fecal collection must be done either by, or under the direct supervision of, an accredited veterinarian, who must verify that the samples were collected from the animals identified on the test documents.

3) Upon completion of the required testing and review by the Director, the Department shall issue a certificate verifying the herd's status.

4) Herds not tested within 14 months after the last sampling will lose their
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certification status.

e) Additions to the herd. Animals purchased from another herd participating in an M. avium paratuberculosis certification program may enter the herd without further testing, and will be tested along with the herd at the next annual test. Animals originating from herds that are participating in Johne's Disease Risk Management Program and are of the same level as the purchasing herd can be added to the herd without further testing and be tested on the next annual test. If the purchased additions originate from herds that are of a lower risk management level or are from a herd that has not been tested, the purchasing herd will assume the level of the purchased additions or will lose its herd status unless the animals have had a negative test within 30 days prior to purchase, or are isolated from the other members of the herd until a negative test has been received. Isolation means that the animal can have no opportunity to share feed or water receptacles with other members of the herd, and there can be no chance of fecal contamination from the animal.

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

Section 85.145  Johne's Disease Positive Animals

Any animals found to be positive for Johne's disease on an organism detection (culture) test shall be "J" punched in the left ear within 30 days after diagnosis. The "J" punch shall be no smaller than one inch in height for cattle or bison or one-half inch for cervids or goats. Animals found to be positive on an organism detection test can only be sold for slaughter. The herd will be placed under restriction until the herd has either enrolled in the Voluntary Johne's Disease Herd Program or Johne's Disease Risk Management Program (see Section 85.140(c)(4) for exemptions). Herds restricted due to Johne's disease cannot sell any animals except to slaughter that are two years of age or older, unless the animals have been tested negative for Johne's disease within 30 days after sale or the herd is enrolled in the Johne's Disease Risk Management Program.

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

1) **Heading of the Part:** Illinois Renewable Fuels Development Program

2) **Code Citation:** 32 Ill. Adm. Code 130

3) **Section Number:** 130.30 **Proposed Action:** Amendment

4) **Statutory Authority:** Implementing and authorized by the Illinois Renewable Fuels Development Program Act [20 ILCS 689].

5) **A Complete Description of the Subjects and Issues Involved:** Currently the final rules state "subject to appropriation from the Build Illinois Bond Fund", however because there was no capital budget this fiscal year, this program for FY 07 is being funded through the Renewable Resources Trust Fund, P.A. 94-0798, Article 95 Section 130, using General Revenue Funds. In order to process grant awards the rules must be adjusted to read more generally, i.e., "Subject to appropriation the Director is authorized to award grants for projects approved pursuant to . . .". Rules must be corrected in order to proceed with grant awards.

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

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

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

9) **Do these proposed amendments contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives:** The rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805].

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

   Jolene Clarke  
   Department of Commerce and Economic Opportunity  
   620 E. Adams Street
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62701

Phone: 217/557-1820
Fax: 217-782-0038
e-mail: jolene.clarke@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses and small municipalities affected: These rules apply to both small and large company components of the ETIP program.

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping, financial management, program administration and reporting of approved grants.

C) Types of professional skills necessary for compliance: Grantees would already possess the skills necessary for compliance.

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Department did not anticipate the changes.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment found in this issue of the Illinois Register on page 15025:
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Procedures for Operation of the Non-Hazardous Solid Waste Fee System

2) **Code Citation:** 35 Ill. Adm. Code 858

3) **Section Numbers:**
   - 858.101 Amendment
   - 858.102 Amendment
   - 858.103 Amendment
   - 858.107 Amendment
   - 858.201 Amendment
   - 858.207 Amendment
   - 858.208 Amendment
   - 858.301 Amendment
   - 858.308 Amendment
   - 858.309 Amendment
   - 858.310 Amendment
   - 858.401 Amendment
   - 858.402 Amendment

4) **Statutory Authority:** Section 22.15 and Section 22.44 of the Environmental Protection Act (415 ILCS 5/22.15 and 22.44).

5) **A Complete Description of the Subjects and Issues Involved:** Part 858 has been updated to include a reference to Section 22.44 of the Act. Currently, the Section 22.44 fees are collected at the same time and in the same manner as the Section 22.15 fees and are based on the same records of waste received or disposed. Section 22.15 and Section 22.44 are identical except for the amount of fee collected. In addition, at Section 858.107 a reference to a specific fee has been removed to avoid updates whenever fee amounts change and at Section 858.402 the address for payment has been updated. Also, citations have been updated throughout and several spelling and grammar corrections were made.

6) **Were any published studies or reports used to compose this rulemaking?** No

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

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

9) **Does this rulemaking contain incorporation by reference?** No
10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This proposed rulemaking does not impact local governments.

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

   Stephanie Flowers, Assistant Counsel
   Division of Legal Counsel
   Illinois Environmental Protection Agency
   1021 N. Grand Avenue East
   P.O. Box 19276
   Springfield, Illinois 62794-9276

   217/782-5544

13) Initial Regulatory Flexibility Analysis:

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

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

   C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 858
PROCEDURES FOR OPERATION OF THE
NON-HAZARDOUS SOLID WASTE FEE SYSTEM

SUBPART A: GENERAL PROVISIONS

Section
858.101 Applicability
858.102 Definitions
858.103 Exemptions from Fee System
858.104 Retention of Records
858.105 Certification
858.106 Severability
858.107 Landfills Maintaining Records under Subparts B and C

SUBPART B: PROCEDURES FOR MAINTAINING
RECORDS WHERE THE QUANTITY OF WASTE HAS BEEN WEIGHED

Section
858.201 Applicability
858.202 Records
858.203 Daily Solid Waste Record
858.204 Quarterly Solid Waste Summary (Recodified)
858.205 Supplemental Solid Waste Record (Recodified)
858.206 Monthly Solid Waste Record
858.207 Quarterly Solid Waste Summary
858.208 Revisions to Monthly Solid Waste Record and Quarterly Solid Waste Summary

SUBPART C: PROCEDURES FOR MAINTAINING RECORDS WHERE
THE QUANTITY OF WASTE HAS NOT BEEN WEIGHED

Section
858.301 Applicability
858.302 Records
858.303 Daily Solid Waste Record
858.304 Quarterly Waste Summary (Recodified)
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858.305 Supplemental Solid Waste Record (Recodified)
858.306 Measurement (Recodified)
858.307 Monthly Solid Waste Record
858.308 Quarterly Solid Waste Summary
858.309 Revisions to Monthly Solid Waste Record and Quarterly Solid Waste Summary
858.310 Measurement

SUBPART D: PROCEDURES FOR PAYMENT OF FEES

Section
858.401 Quarterly Submission of Payment
858.402 Manner of Payment

AUTHORITY: Implementing and authorized by Section 22.15 and Section 22.44 of the Environmental Protection Act [415 ILCS 5/22.15 and 22.44].


SUBPART A: GENERAL PROVISIONS

Section 858.101 Applicability

The regulations of this Part apply to owners and operators of sanitary landfills permitted or required to be permitted by the Agency to permanently dispose of solid waste if the sanitary landfill is located off the site where such waste was produced and if such sanitary landfill is owned, controlled and operated by a person other than the generator of such waste (Section 22.15(b) and Section 22.44(b) of the Environmental Protection Act (Act) Ill. Rev. Stat. 1988 Supp. eh. 111 1/2, par 1022.15(b)).

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

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111 1/2 pars. 1001 et seq.) as amended.

b) For the purposes of this Part, these rules the following definitions apply:

1) "Motor vehicle" means every vehicle that is self-propelled and any combination of vehicles that are propelled or drawn by a vehicle which is self-propelled.

2) "Operator" means the person responsible for the overall operation of a sanitary landfill.

3) "Owner" means a person who owns a sanitary landfill or part of a sanitary landfill.

4) "Passenger car" means a motor vehicle designed for the carrying of not more than ten persons, including a multi-purpose passenger vehicle, except any motor vehicle of the Second Division as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146], and except any motorcycle or motor driven cycle.

5) "Sanitary landfill" means a sanitary landfill to which the rules of this Part are applicable.

6) "Solid waste" means "waste."

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

Section 858.103 Exemptions from Fee System

a) The fee payment provisions set forth in Subpart D shall not apply to:

1) Solid waste which is hazardous waste;

2) Any landfill which is permitted by the Agency to receive only demolition or construction debris or landscape waste; or

3) The following wastes:

   A) Pollution control waste;
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B) Wastes from recycling, reclamation or reuse processes which have been approved by the Agency as being designed to remove any contaminant from wastes so as to render such wastes reusable, provided that the process renders at least 50% of the waste reusable;

C) Non-hazardous solid waste that is received at a sanitary landfill and composted or recycled through a process permitted by the Agency; (Section 22.15(k) and Section 22.44(c) of the Act)

4) Wastes permanently disposed of at a sanitary landfill owned, controlled or operated by the person who generates such wastes;

5) Wastes permanently disposed of at a sanitary landfill which is located on the site where such wastes were produced.

b) The Agency shall grant exemptions from the fee payment provisions set forth in Subpart C in accordance with Sections 22.16, 22.16a, 22.45, and 22.46 of the Act. Claims for such exemptions must be supported by documentation substantiating that each of the statutory criteria for exemption has been met.

c) For purposes of this Section, a waste is a "pollution control waste" rather than an "industrial process waste" if it is a non-hazardous special waste resulting from operation of a pollution control device authorized or permitted pursuant to any state or federal law or any standards or regulations thereunder.

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

Section 858.107 Landfills Maintaining Records under Subparts B and C

Under Section 22.15 and Section 22.44 of the Act, for a sanitary landfill receiving less than 150,000 cubic yards per calendar year, the fees intended to be based on cubic yards of waste received instead of the quantity (weight) of waste weighed. For sanitary landfills weighing the quantity of waste received but are unsure of whether they will receive more than 150,000 cubic yards in a calendar year, the Agency advises that records be maintained in accordance with both Subparts B and C. Unless records are maintained under Subpart C, a landfill weighing the quantity of waste received will not be able to take advantage of the lower rates available for sanitary landfills receiving less than 150,000 cubic yards per calendar year. In addition, for those landfills receiving more than 150,000 cubic yards per calendar year, unless
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records are maintained under both Subparts B and C, there will be no means by which to determine which of the two rates ($0.60 per cubic yard or $1.27 per ton) yields the lower net fee.

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

SUBPART B: PROCEDURES FOR MAINTAINING RECORDS WHERE THE QUANTITY OF WASTE HAS BEEN WEIGHED

Section 858.201 Applicability

The requirements of this Subpart apply to sanitary landfills where the owner or operator weighs the quantity of solid waste received with a device for which certification has been obtained under the Weights and Measures Act [225 ILCS 470][Ill. Rev. Stat. 1989, ch. 147, pars. 101 et seq.] (Section 22.15(b)(1) and Section 22.44(b)(1) of the Act).

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

Section 858.207 Quarterly Solid Waste Summary

a) A Quarterly Solid Waste Summary shall be maintained at the site and shall include the following information:

1) The Agency designated site number, the site name and the calendar quarter for which the summary applies.

2) The total quantity of solid waste received in tons weighed:

   A) for each month of the calendar quarter;
   
   B) for the entire calendar quarter; and
   
   C) for the calendar year-to-date.

3) The quantity of solid waste permanently disposed of in tons weighed that is exempted from the fee payment provisions showing the categorical exemption that applies under Section 858.103:

   A) for each month of the calendar quarter;
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B) for the entire calendar quarter; and

C) for the calendar year-to-date.

4) The quantity of solid waste permanently disposed of in tons weighed that which is subject to the fee payment provisions:

A) for the month of the calendar quarter;

B) for the entire calendar quarter; and

C) for the calendar year-to-date.

5) The fee rate applicable under Section 22.15 and Section 22.44 of the Act.

b) The Quarterly Solid Waste Summary shall be received by the Agency on or before April 15, July 15, October 15 and January 15 of each year and shall cover the three calendar months preceding the receipt date.

c) In addition to the information set forth in subsection (a), the Quarterly Solid Waste Summary due on April 15 of each year shall include an estimate of the gateyard capacity remaining at the site under the Agency developmental permit then in effect as of April 1 of each year and an estimate of the expected lifetime for that remaining capacity. All capacity estimates shall be prepared by, or under the supervision of, a registered professional engineer. The registered professional engineer shall affix the name of the engineer, date of preparation, registration number, a statement attesting to the accuracy of the capacity estimate and a professional seal to all estimates. The remaining gateyard capacity estimate shall be submitted to the Agency on a form provided by the Agency.

AGENCY NOTE: "gateyard capacity" refers to the amount of waste as measured upon receipt that the site can accept. This term does not refer to the void space remaining in place at the disposal site.

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

Section 858.208 Revisions to Monthly Solid Waste Record and Quarterly Solid Waste Summary

When errors in the amount of waste permanently disposed of or the amount of the fee due under
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Section 22.15 or Section 22.44 are discovered in any of the records required to be kept under this Part, a revised Monthly Solid Waste Record and Quarterly Solid Waste Summary reflecting the corrections shall be completed by the site operator and submitted to the Agency. The revised Monthly Solid Waste Record and Quarterly Solid Waste Summary and any payment due the Agency shall be received by the Agency no later than the seventh day following the discovery of the error. If the revision results in a payment due the site, the site operator shall show the adjustment on the next Quarterly Solid Waste Summary.

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

SUBPART C: PROCEDURES FOR MAINTAINING RECORDS WHERE THE QUANTITY OF WASTE HAS NOT BEEN WEIGHED

Section 858.301 Applicability

The requirements of this Subpart apply to sanitary landfills where the owner or operator does not weigh the quantity of solid waste received with a device for which certification has been obtained under the Weights and Measures Act [225 ILCS 470](Ill. Rev. Stat. 1985, ch. 147, pars. 101 et seq.).

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

Section 858.308 Quarterly Solid Waste Summary

a) A Quarterly Solid Waste Summary shall be maintained at the site and shall include the following information:

1) The Agency designated site number, the site name and address and the month for which the record applies.

2) The total quantity of solid waste permanently disposed as measured in cubic yards:

   A) for each month of the calendar quarter;

   B) for the entire calendar quarter; and

   C) for the calendar year-to-date.

3) The quantity of solid waste permanently disposed of in tons weighed
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that which is exempted from the fee payment provisions showing the categorical exemption that which applies under Section 858.103:

A) for each month of the calendar quarter;

B) for the entire calendar quarter; and

C) for the calendar year-to-date.

4) The quantity of solid waste permanently disposed of in tons weighed that which is subject to the fee payment provisions:

A) for the month of the calendar quarter;

B) for the entire calendar quarter; and

C) for the calendar year-to-date.

5) The fee rate applicable under Section 22.15 and Section 22.44 of the Act.

b) The Quarterly Solid Waste Summary shall be received by the Agency on or before April 15, July 15, October 15 and January 15 of each year and shall cover the three calendar months preceding the receipt date.

c) In addition to the information set forth in subsection (a), the Quarterly Solid Waste Summary due on April 15 of each year shall include an estimate of the capacity remaining at the Site under the Agency permits then in effect and an estimate of the expected lifetime for that remaining capacity.

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

Section 858.309 Revisions to Monthly Solid Waste Record and Quarterly Solid Waste Summary

When errors in the amount of waste permanently disposed of or the amount of the fee due under Section 22.15 or Section 22.44 are discovered in any of the records required to be kept under this Part, a revised Monthly Solid Waste Record and Quarterly Solid Waste Summary reflecting the corrections shall be completed by the site operator and submitted to the Agency. The revised Monthly Solid Waste Record and Quarterly Solid Waste Summary and any payment due the Agency shall be received by the Agency no later than the seventh day following the discovery of
the error. If the revision results in a payment due the site, the site operator shall show the adjustment on the next Quarterly Solid Waste Summary.

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

Section 858.310 Measurement

a) Although solid waste is sometimes measured in other units, the site operator is responsible for accurately measuring any load of waste in cubic yards.

b) For motor vehicles with a gross vehicle weight in excess of 8,000 pounds, except passenger cars, the measurement in cubic yards for any load of waste shall be either the rated volumetric capacity of the vehicle delivering the load or, where charges for receiving solid waste at a landfill are based upon the actual volume received, the actual volume received.

c) For passenger cars, regardless of weight, and other motor vehicles with a gross vehicle weight of 8,000 pounds or less, the measurement in cubic yards for any load of waste shall be based on visual observation of the volume delivered.

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

SUBPART D: PROCEDURES FOR PAYMENT OF FEES

Section 858.401 Quarterly Submission of Payment

a) Payment of the fee due under Section 22.15 and Section 22.44 of the Act shall be made on a quarterly basis with the submission of the Quarterly Solid Waste Summary. Such payment shall be received by the Agency on or before April 15, July 15, October 15 and January 15 of each year and shall cover the three calendar months preceding the receipt date.

b) For sanitary landfills subject to Subpart B, the fee payment due shall be calculated by multiplying the quantity of solid waste received in tons weighed that which are subject to the fee payment provisions as reported on the Quarterly Solid Waste Summary times the applicable rate in Section 22.15 and Section 22.44 of the Act.

c) For sanitary landfills subject to Subpart C, the fee payment due shall be calculated as follows, unless otherwise calculated pursuant to subsection (g):
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1) For payments due on April 15, July 15 and October 15:
   A) Since the fee schedule is based on amount of cubic yards, if both tons and cubic yards are reported, the quantity of solid waste permanently disposed of in tons weighed shall be converted to cubic yards. Use the total cubic yards amount (the cubic yard quantity received plus the corrected tons) to determine the applicable fee. The solid waste measured in tons subject to Subpart B should be converted to cubic yards using either an Agency standard rate of 3.3 cubic yards-to-ton conversion ratio or the site's actual rate that best reflects the site's conversion ratio. After determining the cubic yard quantity of waste subject-to-fee, multiply the quantity of solid waste subject to the fee payment provisions as reported on the Quarterly Solid Waste Summary for the preceding three calendar months by 4.
   B) Based on subsection (c)(1)(A), determine the applicable category under Section 22.15 and Section 22.44 of the Act.
   C) Based on subsection (c)(1)(B), divide the annual fee by 4.

2) For payments due January 15:
   A) Based on the quantity permanently disposed of during the previous calendar year, determine the applicable category under Section 22.15 and Section 22.44 of the Act.
   B) Subtract the amount paid for the first, second and third quarters from the annual fee determined under (c)(1)(A).
   d) If the calculation of fees under this Section results in an overpayment, the Agency shall credit this overpayment against fees due during the subsequent calendar year.
   e) If a sanitary landfill intends to cease receipt of waste during the calendar year:
      1) The sanitary landfill shall notify the Agency by January 15 of that year. The notification shall include:
ENVIRONMENTAL PROTECTION AGENCY

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A) The date by which waste will cease to be received; and

B) A fee payment schedule to assure submission of fees in accordance with Section 22.15 and Section 22.44 of the Act.

2) The Agency shall review the fee payment schedule to determine if it will result in an underpayment or overpayment and will notify the operator within 30 days of any deficiencies or overpayments under the schedule.

f) If a sanitary landfill intends to begin the receipt of waste:

1) The sanitary landfill shall notify the Agency no less than 90 days prior to beginning the receipt of waste. The notification shall include:

A) The date by which waste will begin to be received; and

B) A fee payment schedule to assure submission of fees in accordance with Section 22.15 and Section 22.44 of the Act.

2) The Agency shall review the fee payment schedule to determine if it will result in an underpayment or overpayment and will notify the operator within 30 days of any deficiencies or overpayments under the schedule.

g) The fee payment due January 15 shall be determined, in all cases, pursuant to subsection (c)(2); however, the fee payment due on April 15, July 15 and October 15 for landfills subject to Subpart C may be calculated as follows, provided that the owner or operator has demonstrated that calculating such fee payments according to subsection (c)(1) will result in an overpayment, and provided that the owner or operator has applied in writing for Agency approval of an alternative fee payment schedule pursuant to this subsection by February 1 of each year and the application has not been denied by March 30:

1) Utilizing historical or other relevant area-specific or facility-specific data, estimate the annual volume of wastes subject to the fees imposed under this Section that will be received at the site;

2) Determine the appropriate annual fee for such estimated volume of wastes pursuant to Section 22.15 and Section 22.44 of the Act;
ENVIRONMENTAL PROTECTION AGENCY

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3) At the end of each of the first 3 quarters of the calendar year, divide the actual volume of waste received during that quarter subject to the fees imposed under this Section by the annual waste volume estimated pursuant to subsection (g)(1);

4) Multiply the result of subsection (g)(3) by the annual fee determined pursuant to subsection (g)(2): the product of this step is the appropriate fee payment for the quarter;

AGENCY NOTE: The purpose of this subsection (g) is to allow owners or operators of landfills receiving widely fluctuating cyclical quarterly waste volumes (e.g., landfills whose operations are subject to seasonal variations in waste volumes received) to prevent extreme overpayments or underpayments for the first three quarters of each year. Extreme overpayments are the greater concern, inasmuch as the Agency is empowered only to grant credits against the next year's fee obligation; refunds of excess payments are not authorized.

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

Section 858.402 Manner of Payment

Payment shall be made by check or money order payable to Illinois Environmental Protection Agency Treasurer, State of Illinois. Payment shall be mailed to the Agency at the following address:

Fiscal Services Section
Illinois Environmental Protection Agency
Division of Administration, Fiscal Services
1021 North Grand Avenue East 2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

(Source: Amended at 30 Ill. Reg. _______, effective ____________)
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Registration of Insurers

2) **Code Citation:** 50 Ill. Adm. Code 852

3) **Section Numbers:**
   - 852.10 Amendment
   - 852.20 Amendment
   - 852.30 Amendment
   - 852.40 Amendment
   - 852.ILLUSTRATION A Repealed
   - 852.ILLUSTRATION B Amendment
   - 852.ILLUSTRATION C Amendment

4) **Statutory Authority:** Implementing Article VIII ½ and authorized by Sections 131.13 and 401 of the Illinois Insurance Code [215 ILCS 5/131.13 and 401].

5) **A Complete Description of the Subjects and Issues Involved:** Section 852.30(e)(1)(b), and the companion ILLUSTRATION B of this Part permitted an exemption that is no longer applicable. In 1986 when this exemption was originally adopted, not all states had holding company registration requirements, but now they do. Because all states have these registration requirements in place, Illinois no longer needs to maintain a separate exemption standard. In addition to eliminating the exemption mentioned above, the Division has added definitions, clarified a few minor provisions and moved the existing ILLUSTRATION A contents down to ILLUSTRATION B.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** No

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

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

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

Joseph T. Clennon, Staff Attorney  Barb Smith, Rules Coordinator  
Department of Financial and  Department of Financial and  
Professional Regulation  Professional Regulation  
Division of Insurance  320 West Washington  
320 West Washington, 4th Floor or 3rd Floor  
(217) 557-1396    (217) 785-0813

13) **Initial Regulatory Flexibility Analysis:**

A) **Types of small businesses, small municipalities and not for profit corporations affected:** These amendments will not affect small businesses, small municipalities or not for profit organizations.

B) **Reporting, bookkeeping or other procedures required for compliance:** No new requirements are being proposed.

C) **Types of professional skills necessary for compliance:** Insurance and administrative

14) **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 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER k: INSURANCE HOLDING COMPANY SYSTEMS

PART 852
REGISTRATION OF INSURERS

Section 852.10 Purpose
The purpose of this Part is to set forth requirements which the Director deems necessary to carry out the provisions of Sections 131.13 through 131.19 of the Illinois Insurance Code [215 ILCS 5/131.13 through 131.19](Ill. Rev. Stat. 1983, ch. 73, pars. 743.13 through 743.18).

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

Section 852.20 Definitions
Terms found in this Part, other than those defined in this Section, are used as defined in Section 131.1 of the Insurance Code [215 ILCS 5/131.1](Ill. Rev. Stat. 1985, ch. 73, par. 743.1).
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Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Department of Financial and Professional Regulation.

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 Financial and Professional Regulation-Division of Insurance.

"Executive officer" means any individual charged with active management and control in a senior executive capacity as described by the company's by-laws (including a president, senior vice president, treasurer, secretary, controller, and any other individual regardless of title performing functions the same as those performed by the foregoing officers) of a person, whether incorporated or unincorporated.

"Foreign insurer" shall include an alien insurer except where clearly noted otherwise.

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

"Ultimate controlling person" means any controlling person within an insurance holding company system who is not controlled by any other person.

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

Section 852.30 Registration of Insurers – Form of Statement Filing

a) An insurer required to file a statement pursuant to Section 131.13 of the Illinois Insurance Code shall furnish the required information in the format and as specified in the instructions contained in Form B, which is Illustration BA to this Part. The insurer is to identify whether the filing is an initial, annual or amendment to the Form B.

b) An annual filing shall be made on or before each May 1st in the format of Form B containing current information for the preceding calendar fiscal year.

c) Amendments
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1) An amendment to Form B shall be filed within 15 days after the end of any month in which the following occurs:

A) there is a change in the control of the registrant, in which case the entire Form B shall be made current;

B) there is a material change in the information given in Item 5 or Item 6 of Form B.

2) Each amendment shall include the Form B cover page and the transactions which is the subject of the amendment. A current signature and certification shall be given in regard to the information in the amendment.

3) No amendment to the Form B need be filed with the Director for those transactions for which a filing has been made pursuant to Section 131.20a of the Illinois Insurance Code (Ill. Rev. Stat. 1985, ch. 73, par. 743.20a) and 50 Ill. Adm. Code 854.

d) Alternative and Consolidated Registration

1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under Section 131.13 of the Illinois Insurance Code. Two or more affiliated insurers required to file may file a consolidated registration statement unless required otherwise by the Director. The Director shall request separate registration statements when the consolidated registration statement does not provide adequate information regarding the domestic insurer pursuant to Section 131.14 of the Insurance Code. A registration statement may include information regarding any insurer in the insurance holding company system even if such insurer is not authorized to do business in this State. In lieu of filing a registration statement in the format designated on Form B, the authorized insurer may file a copy of the registration statement or similar report which the authorized insurer is required to file in its state of domicile provided:

A) the statement or report contains substantially similar information required to be furnished on Form B. The report or statement shall be deemed substantially similar when a Division
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analyst can reasonably make the same determinations regarding the information contained in the report or statement as the analyst does for Form B filings made by domestic insurers; and

B) the filing insurer demonstrates that the insurer is the principal insurance company in the insurance holding company system. The principal insurer shall be the insurer:

i) has the most admitted assets; or

ii) has the most insurance in force; or

iii) has the most premium volume on an annualized basis; or

iv) is the insurer that controls all other insurers.

2) The question of whether the filing insurer is the principal insurance company in the insurance holding company system as defined in Section 131.1(c) of the Illinois Insurance Code, is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall, when required by the Director, set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

3) With the prior approval of the Director, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection subparagraph (d)(1) above.

e) Exemptions

1) A foreign or alien insurer otherwise subject to this Section shall not be required to register pursuant to Section 131.13 of the Illinois Insurance Code if:

A) it is admitted in the domiciliary state of the principal insurer (as the term is defined in subsection (d)(2) of this Section) and in that State is subject to disclosure requirements and standards adopted by statute or regulation that are substantially similar to those contained in Sections 131.13 through 131.19 of the Illinois Insurance Code, The, provided that the Director may require a copy of the registration statement or other information filed with the domiciliary
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state; and

B) it has filed, as an attachment to its Annual Statement filed with the Illinois Department of Insurance, an affidavit setting forth, in the format designated by the affidavit form which is Illustration B of this Part, that it filed on its behalf a registration statement substantially similar to the statement required under Sections 131.13 through 131.19 of the Illinois Insurance Code.

2) The state of entry of an alien insurer shall be deemed to be its domiciliary state for the purpose of this Part.

f) Disclaimers and Termination of Registration

1) A disclaimer or a request for termination of registration, claiming that a person does not or will not, upon the taking of some proposed action, control any other person (i.e., hereinafter referred to as the "subject") shall contain the following information:

A) the number of authorized, issued and outstanding voting securities of the subject;

B) with respect to the person whose control is denied and all affiliates of that person:

i) the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of such shares with respect to which there is a right to acquire, directly or indirectly;

ii) information as to all transactions in any voting securities of the subject which were effected during the past six months by that person such persons.

C) all relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of that person.

D) a statement explaining why the person whose control is
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denied would not be considered to control the subject.

2) A request for termination of registration shall be deemed to have been granted unless the Director, within 30 days after receiving the request, notifies the registrant otherwise. The request will be granted if provided that the request is in compliance with the requirements of Article VIII½ of the Insurance Code and this Part regulation.

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

Section 852.40 Summary of Changes to Registration Statement

An insurer required to file a statement pursuant to Section 131.13 of the Illinois Insurance Code shall also file a summary of changes to the registration statement in the format and as specified in Form C, which is Illustration C of this Part. A Summary of Changes to the Registration Statement must be filed simultaneously with the annual registration statement filed pursuant to 50 Ill. Adm. Code 852.30(c).

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
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Section 852. ILLUSTRATION A  Insurance Holding Company System Registration
Statement – Initial, Annual or Amendment (Repealed)

FORM B
GENERAL INSTRUCTIONS

A. Use of Form B
Form B shall be used by an insurer required to file a Statement with the Director pursuant to Sections 131.14 and 131.16 of the Illinois Insurance Code. Subsequent amendments also shall be filed on Form B, but shall include on the top of the cover sheet "Amendments No.______ to" and shall indicate the date of the amendment and not the date of the original filing.

1) Two complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Director. If a consolidated filing is made to amend the individual registration statement of more than one insurer, a complete copy of such an amendment shall be filed for each insurer.

2) Each statement filed with the Director shall be manually signed in the manner prescribed by this form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

B. Requirements as to Printing and Language

1) All filed statements, papers or documents shall be clear, readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated in a manner other than color so as to be distinguishable on photocopies.

2) Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with a statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency. Monetary conversions made in financial statements shall be made as of the date of financial statements. Other required conversions shall be made as of the date of the Form B cover page.
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C. Preparation of Statement
This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the statement.

The statement shall contain the numbers and captions of all items but the text of the items may be omitted provided the answers thereto are so prepared as to indicate to the reader the coverage of the items without the necessity of his referring to the text of the items or instructions thereof. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise within this Part, if any item is inapplicable or the answer thereto is in the negative, a statement to that effect shall be made.

D. Additional Information
In addition to the information expressly required to be included in the statement, there may, at the option of the acquiring party, be added such further material information, if any, as may be necessary to make the information contained therein not misleading.

E. Information Unknown or Not Available
Information required need be given only insofar as it is known or reasonably available to the Registrant. If any required information is unknown and not reasonably available to the Registrant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the Registrant, the information may be omitted, subject to the following conditions:

1) The Registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense including by not limited to impossibility or the loss or destruction of documents, together with the source thereof.

2) The Registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

F. Incorporation by Reference

1) Matters required by any item of this statement, may be incorporated by reference in answer or partial answer to any other item.
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2) Information contained in a statement filed pursuant to the Federal Securities Act of 1933, the Federal Securities and Exchange Act of 1934 or a state law requiring registration or disclosure and information contained in any financial statement, annual report, proxy statement or any other document may be incorporated by reference in any answer or partial answer to any item or items of this statement, provided such information meets the requirements of this statement. A copy of such incorporated documents shall be included on an exhibit to Form A.

3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at that particular place in the statement where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement incomplete, unclear or confusing.

G. Summaries or Outlines of Documents
Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the most important provisions of the document. In addition to such statement, the summary or outline may incorporate by reference particular parts of any exhibit and may be qualified in its entirety by such reference.

H. Extension of Time for Furnishing Information
If it is impractical to furnish any required information, document or report at the time it is required to be filed, the Registrant may file with the Director as a separate document an application (1) identifying the information, document or report in question (2) stating why the filing thereof at the time required is impractical, and (3) requesting an extension of time for filing the information, document or report to a specified date. The application shall be deemed granted unless the Director, within thirty (30) days after receipt thereof, shall enter an order denying the application.

Information required need to be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions:
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1) The registrant shall given such information on the subject as it possesses or can acquire without reasonable effort or expense including but not limited to impossibility or the loss or destruction of documents, together with the sources thereof.

2) The registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

I. Additional Exhibits
The Registrant may file such exhibits as it may desire, in addition to those expressly required by the statement. Such exhibits shall be so marked as to indicate clearly the subject matters to which they refer.

J. Omission of Substantially Identical Documents
In any case where two or more documents required to be filed as exhibits are substantially identical in all material aspects except as to the parties thereto, the dates of execution, or other details, the registrant need file a copy of only one of such documents, with a schedule identifying the omitted documents and setting forth the material details in which such documents differ from the documents a copy of which is filed. The Director may at any time in his discretion require the filing of copies of any omitted documents in order to verify that the omitted documents are substantially identical to documents on file. For purposes of this Instruction, documents will be deemed substantially similar in all material aspects when a Department analyst, upon examining the documents independently, could reasonably make the same determinations and decisions regarding the documents.

K. Financial Statements
The financial statements shall include the annual financial statements of each ultimate controlling person in the insurance holding company system as of the end of the person’s latest fiscal year. If at the time of the initial registration the annual financial statements for the previous fiscal year are not available, annual statements for the previous fiscal year shall, unless previously filed by amendment, be filed and similar financial information consisting of balance sheet, operational statement and a statement of source and application of funds shall be filed for any subsequent period to the extent such information is available. The financial statements are to be audited by an independent certified public.
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accountant in accordance with generally accepted auditing standards and are to contain financial information presented in accordance with generally accepted accounting principles. If the ultimate controlling person is an insurer which has been actively engaged in the business of insurance for the previous 10 years, the financial statements need not be audited, provided they are based on the Annual Statement of such insurer filed with the insurance department of the insurer's domiciliary State and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under law and regulations of such state.

L. Shareholder Reports and Proxy Material
Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and any proxy material used by the ultimate controlling person during the preceding year.

M. Signature and Certification
For purpose of filing the Form B and Form C, the signatures and certifications required by this Part shall be signed by an executive officer of the registrant.

N. Filing Fee
Pursuant to Section 408 of the Illinois Insurance Code (Ill. Rev. Stat. 1985, ch. 73, par. 1020), the Director shall collect a fee for the filing of a registration statement. The filing of the registration statement shall not be deemed complete until the Director has received the appropriate filing fee as required by Section 408.

FORM B

INSTRUCTIONS FOR COMPLETION

Filed with the Insurance Department of the State of Illinois.

BY

(Name of Registrant)

On Behalf of the Following Insurance Companies

__________________________________________

__________________________________________

__________________________________________
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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Date: __________________, 19___

Name, Title and Address of Officer to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

ITEM 1. Identity and Control of Registrant

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"); the address and principal executive offices of each; the date on which each Registrant became a part of the insurance holding company system; and the method(s) by which control of each Registrant was acquired and is maintained.

ITEM 2. Organization Chart

Furnish a chart or listing presenting the identities of and interrelationships among all affiliated persons with the insurance holding company system. No affiliate need be shown if its total assets are equal to less than ½ of 1 percent of the total assets of each ultimate controlling person within the insurance holding company system. The chart or listing shall show the percentage of voting securities of each affiliate which is owned, directly or indirectly by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g.—corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. Each Ultimate Controlling Person

As to each ultimate controlling person, furnish the following information:

a) Name.

b) Address.
e) Principal executive office.

d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.

e) The principal business of the person.

f) The name and address of any person who holds or owns 10% or more of any voting security, the number of shares held of record or known to be beneficially owned, and the percentage of all shares so held or owned.

g) If court proceedings looking toward a reorganization or liquidation are pending, indicate the title of the court, the nature of proceedings and the date when commenced.

ITEM 4. Biographical Information

Furnish the following information for the directors and executive officers of each ultimate controlling person: the individual’s name and address, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes, other than minor traffic violations, during the past ten years.

ITEM 5. Transactions, Relationships and Agreements

a) Briefly describe the following agreements in force, relationships subsisting, and transactions currently outstanding or which have occurred during the last calendar year between the Registrant and its affiliates:

1) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;

2) purchases, sales or exchanges or assets;

3) transactions not in the ordinary course of business;

4) guarantees or undertakings for the benefit of an affiliate which result in a contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course.
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of the Registrant's business;

5) all management agreements, service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles;

6) reinsurance agreements;

7) any pledge of the company's own securities or securities of any subsidiary or affiliate, to secure a loan made to any member of the insurance holding company system;

8) consolidated tax allocation agreements; and

9) dividends and other distributions to shareholders.

No information need be disclosed if such information is not material. Sales, purchases, exchanges, guarantees or loans or extensions of credit or investments involving one-half of 1% or less of the Registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material. All other amounts shall be deemed material.

b) The description shall be in a manner as to permit the proper evaluation thereof by the Director, and shall include at least the following: the nature and purpose of the transaction; the nature and amounts of any payments or transfers of assets between the parties and the identity of all parties to such transaction; and relationship of the affiliated parties to the Registrant.

ITEM 6. Litigation or Administrative Proceedings

A brief description of any litigation or administrative proceedings of the following types; either then pending or concluded within the preceding fiscal year, to which each ultimate controlling person or any of its directors or executive officers was a part or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which such litigation or proceeding is or was pending:

a) Criminal prosecutions or administrative proceedings by any government agency or authority other than minor traffic violations; and
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b) Proceedings which may have a material effect upon the solvency or capital structure of each ultimate controlling company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations. For purposes of this instruction, an effect upon the solvency or capital structure of each ultimate controlling company shall be deemed material if it is likely that a reasonable corporate officer would attach importance to the effect that a proceeding or litigation would have on the corporation.

ITEM 7. Financial Statements and Exhibits

Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

ITEM 8. Signature and Certification

Signature and certification shall be in the following form: SIGNATURE

Pursuant to the requirements of Section 131.14 of the Illinois Insurance Code and 50 Ill. Adm. Code 852 the registrant has caused this registration statement to be duly signed on its behalf in the City of _____________ and State of ___________ on the ______ day of ____________, '19 ___ .

____________________________
(Name of Registrant)

BY

____________________________
(Name) (Title)

Attest:

____________________________
(Signature of Officer)

____________________________
(Title)

CERTIFICATION

The undersigned deposes and says that he has duly executed the attached registration statement.
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dated ___________, 19_____, for and on behalf of ___________ (Name of Company) ___________; that he is the ___________ (Title of Officer) ___________ of such company, and that he has authority to execute and file such instrument. Deponent further say that he is familiar with such instrument and that the facts therein set forth are true to the best of his knowledge, information and behalf.

Signature

(Type or Print Name Beneath) __________________________________________________________________

(Source: Repealed at 30 Ill. Reg. ______, effective ____________)
FORM B
GENERAL INSTRUCTIONS

A. Use of Form B
Form B shall be used by an insurer required to file a Statement with the Director pursuant to Sections 131.14 and 131.16 of the Code. Subsequent amendments also shall be filed on Form B, but shall include on the top of the cover sheet "Amendment No.______ to" and shall indicate the date of the amendment and not the date of the original filing.

1) One complete copy of each statement, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the Director.

2) The statement filed with the Director shall be manually signed in the manner prescribed by this form. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

B. Requirements as to Printing and Language

1) All filed statements, papers or documents shall be clear, readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated in a manner other than color so as to be distinguishable on photocopies.

2) Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with a statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency. Monetary conversions made in financial statements shall be made as of the date of the financial statements. Other required conversions shall be made as of the date of the Form B cover page.

C. Preparation of Statement
This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the statement.

The statement shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers indicate to the reader the coverage of the items without the necessity of referring to the text of the items or instructions. All instructions, whether appearing under the items of the form or elsewhere in the form, are to be omitted. Unless expressly provided otherwise within this Part, if any item is inapplicable or the answer to the item is in the negative, a statement to that effect shall be made.

D. Additional Information
In addition to the information expressly required to be included in the statement, there may be added further material information, if any, as may be necessary to make the information contained in the statement not misleading.

E. Information Unknown or Not Available
Information required need be given only insofar as it is known or reasonably available to the Registrant. If any required information is unknown and not reasonably available to the Registrant, either because obtaining it would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the Registrant, the information may be omitted, subject to the following conditions:

1) The Registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, including, but not limited to, impossibility or the loss or destruction of documents, together with the source of the information.

2) The Registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

F. Incorporation by Reference

1) Matters required by any item of this statement may be incorporated by reference in any answer or partial answer to any other item.
2) Information contained in a statement filed pursuant to the Federal Securities Act of 1933, the Federal Securities and Exchange Act of 1934 or a state law requiring registration or disclosure, and information contained in any financial statement, annual report, proxy statement or any other document, may be incorporated by reference in any answer or partial answer to any item or items of this statement, provided the information meets the requirements of this statement. A copy of incorporated documents shall be included on an exhibit to Form B.

3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at that particular place in the statement where the information is required. Matter shall not be incorporated by reference in any case in which the incorporation would render the statement incomplete, unclear or confusing.

G. Summaries or Outlines of Documents
When an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the most important provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit and may be qualified in its entirety by the reference.

H. Extension of Time for Furnishing Information
If it is impractical to furnish any required information, document or report at the time it is required to be filed, the Registrant may file with the Director as a separate document an application (1) identifying the information, document or report in question; (2) stating why filing at the time required is impractical; and (3) requesting an extension to a specified date for filing the information, document or report. The application shall be deemed granted unless the Director, within 30 days after receipt of the application, shall enter an order denying the application.

Information required needs to be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either because obtaining it would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions:
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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1) The registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, including, but not limited to, impossibility or the loss or destruction of documents, together with the sources of the documents.

2) The registrant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to that person for the information.

I. Additional Exhibits
The Registrant may file such exhibits as it may desire, in addition to those expressly required by the statement. The additional exhibits shall be marked to indicate clearly the subject matters to which they refer.

J. Omission of Substantially Identical Documents
In any case where two or more documents required to be filed as exhibits are substantially identical in all material aspects except as to the parties to the document, the dates of execution, or other details, the registrant need file a copy of only one of the documents, with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents filed. The Director may at any time in his or her discretion require the filing of copies of any omitted documents in order to verify that the omitted documents are substantially identical to documents on file. For purposes of this instruction, documents will be deemed substantially similar in all material aspects when a Division analyst, upon examining the documents independently, could reasonably make the same determinations and decisions regarding the documents.

K. Financial Statements
The financial statements shall include the annual financial statements of each ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year. If, at the time of the initial registration, the annual financial statements for the previous fiscal year are not available, annual statements for the previous fiscal year shall, unless previously filed by amendment, be filed and similar financial information consisting of balance sheet, operational statement and a statement of source and application of funds shall be filed for any subsequent period to the extent that information is available. The financial statements are to be audited by an independent certified public accountant in accordance with generally accepted auditing standards and are to contain financial information presented in accordance with generally accepted
accounting principles. If the ultimate controlling person is an insurer that has been actively engaged in the business of insurance for the previous 10 years, the financial statements need not be audited, provided they are based on the Annual Statement of the insurer filed with the insurance department of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under laws and regulations of that state.

L. Shareholder Reports and Proxy Material
Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and any proxy material used by the ultimate controlling person during the preceding year.

M. Signature and Certification
For purpose of filing Form B and Form C, the signatures and certifications required by this Part shall be signed by an executive officer of the registrant.

N. Filing Fee
Pursuant to Section 408 of the Code [215 ILCS 5/408], the Director shall collect a fee for the filing of a registration statement. The filing of the registration statement shall not be deemed complete until the Director has received the appropriate filing fee as required by Section 408.

FORM B

INSTRUCTIONS FOR COMPLETION

Filed with the Department of Financial and Professional Regulation-
Division of Insurance of the State of Illinois.

BY

________________________________________
(Name of Registrant)

On Behalf of the Following Insurance Companies

________________________________________
________________________________________
________________________________________

________________________________________
ITEM 1. Identity and Control of Registrant

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"); the address and principal executive offices of each; the date on which each Registrant became a part of the insurance holding company system; and the methods by which control of each Registrant was acquired and is maintained.

ITEM 2. Organization Chart

Furnish a chart or listing presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. No affiliate need be shown if its total assets are equal to less than ½ of 1% of the total assets of each ultimate controlling person within the insurance holding company system. The chart or listing shall show the percentage of voting securities of each affiliate that is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of the control. As to each person specified in the chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. Each Ultimate Controlling Person

As to each ultimate controlling person, furnish the following information:

a) Name;

b) Address;
c) Principal executive office;

d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.;

e) The principal business of the person;

f) The name and address of any person who holds or owns 10% or more of any voting security, the number of shares held of record or known to be beneficially owned, and the percentage of all shares so held or owned;

g) If court proceedings looking toward a reorganization or liquidation are pending, indicate the title of the court, the nature of proceedings and the date when commenced.

ITEM 4. Biographical Information

Furnish the following information for the directors and executive officers of each ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes, other than minor traffic violations, during the past 10 years.

ITEM 5. Transactions, Relationships and Agreements

a) Briefly describe the following agreements in force, relationships subsisting, and transactions currently outstanding or that have occurred during the last calendar year between the Registrant and its affiliates:

1) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;

2) purchases, sales or exchanges or assets;

3) transactions not in the ordinary course of business;

4) guarantees or undertakings for the benefit of an affiliate that result in a contingent exposure of the Registrant's assets to liability, other
NOTICE OF PROPOSED AMENDMENTS

than insurance contracts entered into in the ordinary course of the Registrant's business;

5) all management agreements, service contracts and all cost-sharing arrangements, any other contracts providing for the rendering of services on a regular systematic basis, and contracts on a "pooled" fund basis or service company management basis, where the costs to the individual member companies are on an actually incurred or closely estimated basis;

6) reinsurance agreements;

7) any pledge of the company's own securities, or securities of any subsidiary or affiliate, to secure a loan made to any member of the insurance holding company system;

8) consolidated tax allocation agreements; and

9) dividends and other distributions to shareholders.

No information need be disclosed if that information is not material. Sales, purchases, exchanges, guarantees or loans or extensions of credit or investments involving ½ of 1% or less of the Registrant's admitted assets as of the December 31 next preceding shall not be deemed material. All other amounts shall be deemed material.

b) The description shall be in a manner permitting proper evaluation by the Director and shall include at least the following: the nature and purpose of the transaction; the nature and amounts of any payments or transfers of assets between the parties and the identity of all parties to the transaction; and relationship of the affiliated parties to the Registrant.

ITEM 6. Litigation or Administrative Proceedings

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which each ultimate controlling person or any of its directors or executive officers was a part or of which the property of any such person is or was the subject. Give the names of the parties and the court or agency in which the litigation or proceeding is or was pending.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

a) Criminal prosecutions or administrative proceedings by any government agency or authority other than minor traffic violations.

b) Proceedings that may have a material effect upon the solvency or capital structure of each ultimate controlling company, including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations. For purposes of this instruction, an effect upon the solvency or capital structure of each ultimate controlling company shall be deemed material if it is likely that a reasonable corporate officer would attach importance to the effect that a proceeding or litigation would have on the corporation.

ITEM 7. Financial Statements and Exhibits

Financial statements and exhibits shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits attached.

ITEM 8. Signature and Certification

Signature and certification shall be in the following form:

SIGNATURE

Pursuant to the requirements of Section 131.14 of the Code and 50 Ill. Adm. Code 852, the registrant has caused this registration statement to be duly signed on its behalf in the city of ____________ and state of ____________ on the ____________ day of ____________, 20__.  

________________________________________
(Name of Registrant)

BY

________________________________________
(Name) (Title)

Attest:
CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached registration statement dated _______________, 20__, for and on behalf of __________________________ (Name of Company) that (s)he is the __________________________ (Title of Officer) of such company, and that (s)he has authority to execute and file the instrument. Deponent further says that (s)he is familiar with the instrument and that the facts set forth in the instrument are true to the best of his or her knowledge, information and belief.

________________________________________
Signature

________________________________________
(Type or Print Name)

Affidavit Instructions

A. Use of Affidavit

The designated form of affidavit shall be used by a foreign insurer, doing business in Illinois, when that insurer is a member of a holding company system.

B. Time of Filing

One typed and signed copy of the affidavit shall be filed with and attached to the front cover of the insurer's Annual Statement, filed with the Illinois Department of Insurance.

AFFIDAVIT OF FOREIGN COMPANY REGARDING HOLDING COMPANY SYSTEM

State of ____________

)SS

County of ____________

(Certificate Officer) ____________, being duly sworn, deposes and says:
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1. That he is the (Title) of the (Name of Company), a corporation, organized and existing under and by virtue of the laws of the State of (Name of State); and in whose behalf he makes this Affidavit.

2. That the said Insurance Company is a member of a holding company system.

3. That the said Insurance Company (has) (has not) for the immediately preceding calendar year had filed on its behalf with the Department of Insurance of its domiciliary state a Registration Statement substantially similar to the statement required under Section 131.13-19 of the Illinois Insurance Code.

(Here officer may state any additional information necessary to explain the nature of any unusual filing situation).

(Affiant's Signature)

Subscribed and sworn to before me this _____ day of ______________, 19_____

__________________________
Notary Public in and for the County of
__________________________ State of ______________

(Source: Amended at 30 Ill. Reg. _______, effective ___________)
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 852. ILLUSTRATION C  Form C – Summary of Registration Statement

FORM C

SUMMARY OF CHANGES TO REGISTRATION STATEMENT

Filed with the Department of Financial and Professional Regulation - Division of Insurance Department of the State of Illinois

By

Name of Registrant

On Behalf of the Following Insurance Companies

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<th>Name</th>
<th>Address</th>
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Date: ______________________, 2019

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Summary Should Be Addressed:

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Furnish a brief description of all items in the current annual registration statement that represent changes from the prior year's annual registration statement. The description shall include specific references to item numbers in the annual registration statement and to the terms contained therein. Changes occurring under Item 2, insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included if the changes are ones that result in ownership or holdings of 10% or more of voting securities, or loss or transfer of control, but nothing need be reported if the change is an amount less than ½ of 1% of the total assets of the ultimate controlling person in the holding company system. Changes occurring under Item 4 of the annual
NOTICE OF PROPOSED AMENDMENTS

registration statement need only be included if an individual is, for the first time, made a director or executive officer of the ultimate controlling person; or a director or executive officer terminates his or her responsibilities with the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been amended, the nature of the amendment shall be included. If a transaction disclosed on the prior year's annual registration statement has been completed, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish statements that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts, disclosure and the review that might otherwise occur pursuant to Section 131.20a of the Code.

SIGNATURE

Signature and certification of the form as follows:

Pursuant to 50 Ill. Adm. Code 852.40, the Registrant has caused this summary of registration statement to be duly signed on its behalf in the City of State of on the day of , 2019.

(Name of Registrant)

Attest:

(Signature of Officer)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated , 2019, for and on behalf of
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

_________________________________________; that (s)he is the ___________________________

(Name of Company) (Title of Officer)

of such company, and that (s)he has authority to execute and file the instrument. Deponent further says that (s)he is familiar with the instrument and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

_________________________________________

(Signature)

_________________________________________

(Type or Print Name Beneath)

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

1) **Heading of the Part:** Medical Assistance Programs

2) **Code Citation:** 89 Ill. Adm. Code 120

3) **Section Number:** 120.500  
   **Proposed Action:** Amend

4) **Statutory Authority:** 305 ILCS 5/5-2 (12) and 305 ILCS 5/12-13

5) **Complete Description of the Subjects and Issues Involved:** These amendments expand eligibility for medical assistance for persons having breast or cervical cancer to include individuals referred by any medical provider to an entity under contract with the Illinois Breast and Cervical Cancer Program.

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

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives:** This rulemaking does not affect units of local government.

12) **Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking:** Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

    Tamara Tanzillo Hoffman  
    Chief of Administration and Rules  
    Illinois Department of Healthcare and Family Services  
    201 South Grand Avenue East, 3rd Floor  
    Springfield IL  62763-0002  
    217/557-7157
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this Rulemaking was Summarized: January 2006

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the Illinois Register on page 15029:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

1) **Heading of the Part:** Veterans Health Insurance Program

2) **Code Citation:** 89 Ill. Adm. Code 128

3) **Section Numbers:**

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<th>Section Numbers</th>
<th>Proposed Action</th>
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4) **Statutory Authority:** The Veterans' Health Insurance Program Act [330 ILCS 125]

5) **Complete Description of the Subjects and Issues Involved:** These rules implement the Veterans' Health Insurance Program Act under which eligible veterans of the U.S. Military who lack health insurance may be, by paying affordable co-payments and premiums, covered by affordable health insurance and prescription drug coverage.

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

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives:** This rulemaking does not affect units of local government.
12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Tamara Tanzillo Hoffman  
Chief of Administration and Rules  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3rd Floor  
Springfield IL  62763-0002  
217/557-7157

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].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medical Practitioners

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because this
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED RULES

rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Rules is identical to the text of the Emergency Rules that appears in this issue of the Illinois Register on page 15044:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Special White-Tailed Deer Season for Disease Control

2) **Code Citation**: 17 Ill. Adm. Code 675

3) **Section Numbers**: Proposed Action:
   - 675.10 Amendment
   - 675.20 Amendment
   - 675.30 Amendment
   - 675.60 Amendment
   - 675.70 Amendment

4) **Statutory Authority**: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

5) **A Complete Description of the Subjects and Issues Involved**: This Part is being amended to: update season dates, add a provision for listing new counties in which Chronic Wasting Disease is found; add language regarding the sale of permits (antlerless-only) over-the-counter at license vendors; and to add information indicating that a drawing will be held at the site if more hunters show up than can be accommodated.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objective**: This rulemaking does not affect units of local government.

12) **Time, Place and Manner in which interested persons may comment on this rulemaking**: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

    Jack Price, Legal Counsel
    Department of Natural Resources
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

One Natural Resources Way
Springfield IL  62702-1271

217/782-1809

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance:  None

14) Regulatory Agenda on which this rulemaking was summarized:  This rulemaking was not included on either of the 2 most recent agendas because:  The Department missed the filing deadline for the July 2006 Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:
Section 675.10  CWD Season

a) Season: One-half hour before sunrise on Friday, January 12, 2006, to sunset on Sunday, January 14, 2006. Shooting hours are ½ hour before sunrise to sunset. Hunting prior to ½ hour before sunrise or after ½ hour after sunset is a Class A misdemeanor with a minimum $500 fine and a maximum $5,000 fine in addition to other statutory penalties (see 520 ILCS 5/2.33(y)). Hunting after sunset is a Class B misdemeanor (see 520 ILCS 5/2.24).

b) Open counties: Boone, McHenry, Ogle, Winnebago, and the portion of DeKalb County north of U.S. Highway 88 (East-West Tollway). Additional counties in which deer with CWD are identified subsequent to adoption of this Part shall be opened via public announcement (e.g., press release, site posting and publication in Outdoor Illinois).

c) Hunting outside the set season dates or without a valid permit for the area hunted is a Class B misdemeanor (see 520 ILCS 5/2.24).
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

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

Section 675.20  CWD Deer Permit Requirements

a) Hunters must have an unfilled 2006 firearm or muzzleloader deer permit valid for one of the open counties (Boone, McHenry, DeKalb, Ogle or Winnebago); an unfilled 2006 archery deer permit; or a valid Chronic Wasting Disease (CWD) Season Deer Permit. Unfilled firearm or muzzleloader deer permits that were originally issued for special hunt areas are not valid during the CWD Season unless the hunter's name is redrawn at the daily site lottery to hunt the same special hunt area during the CWD Season. A CWD Season Deer Permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. Unfilled 2006 firearm or muzzleloader deer permits are valid only for the county or special hunt area for which they were originally issued, except that unfilled 2006 landowner property-only hunting firearm deer permits are valid only for the farmlands the person to whom it was issued owns, leases, or rents within the open counties/portions of counties. Unfilled 2006 archery deer permits are valid throughout all counties/portions of counties open to this special season, except that unfilled 2006 landowner property-only hunting archery deer permits are valid only for the farmlands the person to whom it was issued owns, leases, or rents within the open counties/portions of counties. For permit applications and other information write to:

Department of Natural Resources
(CWD Deer Season)
Deer Permit Office
Post Office Box 19227
Springfield IL 62794-9227

b) CWD Season Deer Permits are available over-the-counter (OTC) from participating license vendors for a fee of $5. These permits shall be antlerless-only. Applications shall be accepted as soon as they are available through the tenth weekday in November for the CWD Deer Season in the following January. Applications received after the tenth weekday in November shall not be included in the drawing. Permits shall be allocated in a random drawing. Permits not correctly filled out shall be rejected from the random drawing. Permits issued in this drawing shall be antlerless-only.
c) Hunters purchasing CWD Season Deer Permits must supply all necessary applicant information to the license vendor in order to properly complete the permit. It shall be unlawful to apply for more than one permit for the CWD Deer Hunting Season during this drawing period.

d) In-person and mail-in applications shall receive equal treatment in the drawings.

e) Each applicant must apply using the official agency CWD Deer Season Permit Application, and must complete all portions of the form. No more than 6 individuals may submit applications in the same envelope, and each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications for other deer seasons to the Deer Permit Office.

f) Each applicant must enclose a separate $5 check or money order payable to the Department of Natural Resources (Department or DNR), or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.

g) Applications will be accepted at the counter window of the permit office; however, permits will be mailed.

dh) Permits are not transferable. Refunds will not be granted unless the Department has erroneously issued the permit after the quota has been depleted or if the applicant was unsuccessful in obtaining a permit.

ei) A $3 service fee will be charged for replacement permits issued by the Department, except that, when permits are lost in the mail, there will be no charge. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.

ff) Recipients of the CWD Season Deer Hunting Permit shall record their signature on the permit and must carry it on their person while hunting.

gk) Successful hunters checking in their deer at the CWD Deer Season check station who provide tissue samples to the Department for CWD testing (or who attempt to do so, in situations where deer are unsuitable for testing) are eligible to receive an additional permit (either-sex) at no charge each time they check in a deer and submit samples. These permits, which are valid for the remainder of the season, will be issued at the time of check-in by check station personnel.
Hunting without a valid permit is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 675.30 Weapon Requirements for CWD Deer Hunting Season

a) The only legal weapons to take, or attempt to take, deer are shotguns, muzzleloading rifles, and handguns and their respective ammunitions as prescribed by 17 Ill. Adm. Code 650.30(a), (b) and (c); and bows and arrows as prescribed by 17 Ill. Adm. Code 670.30.

b) Hunters with valid, unused permits from the 2006 firearm, muzzleloader, or archery seasons may use only the weapons allowed by that permit in those respective seasons. Hunters with a valid CWD Season Deer Permit may use any of the weapons described in subsection (a).

c) It shall be unlawful to use or possess any firearm, ammunition, or bow and arrow other than allowed by subsection (a) in the field while hunting white-tailed deer during the CWD Deer Hunting Season. However, the lawful possession of firearms to take furbearing mammals and game mammals other than deer by persons other than deer hunters shall not be prohibited during the CWD Deer Hunting Season as set in Section 675.10. Violation is a Class B misdemeanor (see 520 ILCS 5/2.24).

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

Section 675.60 Rejection of Application/Revocation of Permits

a) In the event that the purchaser of a CWD Season Deer Permit an applicant is in violation of either subsection one of subsections (a)(1) or (a)(2), the permit will be revoked in addition to any other penalties. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530 through (a)(4), the application will be held, and the application fees will be deposited, pending a determination by the permit office of whether the violation was knowing. If the permit office determines the violation was knowing, the application will be rejected and the fee will be retained by the Department. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. Should the permit office determine that the violation was without the knowledge of the
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

applicant, the permit office will process only the number of applications allowed by administrative rule with additional applications rejected and fees returned.

1) Providing false and/or deceptive information on the deer permit form, which is a Class A misdemeanor (see 520 ILCS 5/2.38). Submitting more applications in the same name or by the same person for a CWD Deer Hunting Permit than the number of legally authorized permits. Violation is a Class B misdemeanor (see 520 ILCS 5/2.24).

2) Providing false and/or deceptive information on the deer permit application form. Violation is a Class A misdemeanor (see 520 ILCS 5/2.38).

23) Purchasing a CWD Season Deer Permit Submitting an application when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code, which [520 ILCS 5/3.36]. Violation is a Class A misdemeanor (see 520 ILCS 5/3.36).

4) Submitting an incomplete or incorrect application.

b) Any violation of the Wildlife Code or administrative rules of the Department, in addition to other penalties, may result in revocation of hunting licenses and permits as described in 17 Ill. Adm. Code 2530.

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

Section 675.70 Regulations at Various Department-Owned or -Managed Sites

Sites will be opened to the CWD Deer Hunting Season only if the site is announced as being open via a public announcement. A drawing will be held at 5:00 a.m. at the site if more hunters show up than can be accommodated at sites announced as having a daily hunter quota (e.g., press release, site posting and publication in Outdoor Illinois). Violation of a site specific regulation is a Class B misdemeanor (see 520 ILCS 5/2.24).

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Hospital Licensing Requirements

2) **Code Citation:** 77 Ill. Adm. Code 250

3) **Proposed Action:**
   - 250.435 Amendment

4) **Statutory Authority:** [210 ILCS 85]

5) **A Complete Description of the Subjects and Issues Involved:**
   Section 250.435 (Health Care Worker Background Check) is being amended to replace existing text with a requirement that facilities comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

   When the Health Care Worker Background Check Act (the Act) was enacted in 1996, requirements for compliance with the Act were added to the rules governing licensure of each "health care employer" defined in the Act. Hospitals are included as health care employers. Since that time, the Act has been amended several times and has increased in length. Amending each set of licensing rules (15 in all) each time the Act is amended was a time-consuming process. The rules were reviewed by seven different advisory or licensing boards. Since the boards meet at different times throughout the year, changes to the rules were not able to be promulgated all at the same time. In October 2004, the Department adopted the Health Care Worker Background Check Code, which placed the rules in one Part for a more efficient use of the Department's resources.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice of the Illinois Register.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** No
10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

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

217/782-2043
e-mail: rules@idph.state.il.us

13) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Hospitals

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

C) Types of professional skills necessary for compliance: None

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

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NOTICE OF PROPOSED AMENDMENT

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CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

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AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

Section 250.435 Health Care Worker Background Check

A hospital shall comply with the Health Care Worker Background Check Act [225 ILCS 46] and the Health Care Worker Background Check Code (77 Ill. Adm. Code 955).

a) The hospital shall not knowingly hire any individual in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));


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15) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));


22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414e, 414f and 414g));
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26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or


b) The hospital shall not knowingly employ or retain any individual in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee, or employer obtains a waiver pursuant to this Section. (Section 25(a) of the Health Care Worker Background Check Act)

c) A hospital shall not hire, employ, or retain any individual in a position with duties involving direct care of patients if the hospital becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a hospital has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)

d) For the purpose of this Section:
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1) "Applicant" means an individual seeking employment with a hospital who has received a bona fide conditional offer of employment.

2) "Conditional offer of employment" means a bona fide offer of employment by a hospital to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

3) "Direct Care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

e) For purposes of the Health Care Worker Background Check Act, the hospital shall establish a policy defining which employees provide direct care. In making this determination the hospital shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with patients, with the exception of infrequent or unusual occasions; and

3) Whether the employee's responsibilities include physical contact with patients, for example to provide therapy or to draw blood.

f) Beginning January 1, 1996, when the hospital makes a conditional offer of employment to an applicant who is not exempt under subsection (w) of this Section, for a position with duties that involve direct care for patients, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.
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\( g) \) The hospital shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

\( h) \) The hospital may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

\( i) \) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the hospital shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report from the hospital, challenge the accuracy and completeness of the report, and request a waiver in accordance with this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based
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records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A hospital may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the hospital or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A hospital having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The hospital may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection (a), (b), or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and

2) A certified check, money order or hospital check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

n) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)
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An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age of the individual at which the crime was committed;

2) The circumstances surrounding the crime;

3) The length of time since the conviction;

4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients, which may include, but is not limited to the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states;
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or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b)
of the Health Care Worker Background Check Act)

q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:

1) Single disqualifying misdemeanor conviction — waiver consideration no earlier than one year after the conviction date;

2) Two to three disqualifying misdemeanor convictions — waiver consideration no earlier than three years after the most recent conviction date;

3) More than three disqualifying misdemeanor convictions — waiver consideration no earlier than five years after the most recent conviction date;

4) Single disqualifying felony convictions — waiver consideration no earlier than three years after the conviction date;

5) Two to three disqualifying felony convictions — waiver consideration no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions — waiver consideration no earlier than ten years after the most recent conviction date.

r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:

1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);

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3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);

4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);

5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);

6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);

7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);

8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);

9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);


11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and

12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).

The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)
t) An individual shall not be employed in a direct care position from the time that
the employer receives the results of a non-fingerprint check containing
disqualifying conditions until the time that the individual receives a waiver from
the Department. If the individual challenges the results of the non-fingerprint
check, the employer may continue to employ the individual in a direct care
position if the individual presents convincing evidence to the employer that the
non-fingerprint check is invalid. If the individual challenges the results of the
non-fingerprint check, his or her identity shall be validated by a fingerprint-based
records check in accordance with subsection (k) of this Section. (Section 40(d) of
the Health Care Worker Background Check Act)

u) A hospital is not obligated to employ or offer permanent employment to an
applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the
Health Care Worker Background Check Act)

v) A hospital may retain the individual in a direct care position if the individual
presents clear and convincing evidence to the hospital that the non-fingerprint-
based criminal records report is invalid and if there is a good faith belief on the
part of the employer that the individual did not commit an offense listed in
subsections (a)(1) to (27) of this Section, pending positive verification through a
fingerprint-based criminal records check. Such evidence may include, but not be
limited to:

1) certified court records;

2) written verification from the State's Attorney's office that prosecuted the
conviction at issue;

3) written verification of employment during the time period during which
the crime was committed or during the incarceration period stated in the
report;

4) a signed affidavit from the individual concerning the validity of the report;
or

5) documentation from a local law enforcement agency that the individual
was not convicted of a disqualifying crime.

w) This Section shall not apply to:
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1) an individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or

2) an individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

3) a student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for patients. (Section 20 of the Health Care Worker Background Check Act)

x) An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)

y) The hospital shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The hospital shall include the individual's Social Security number on the criminal history record check results.

z) The hospital shall retain on file for a period of 5 years records of criminal records requests for all employees. The hospital shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of $500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

aa) The hospital shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)}
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1) **Heading of the Part**: Skilled Nursing and Intermediate Care Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 300

3) **Section Number**: 300.640  
**Proposed Action**: Amendment

4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **A Complete Description of the Subjects and Issues Involved**: The Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300) regulates nursing home licensure. Section 300.640 (Residents' Advisory Council) specifies the requirements to which facilities must adhere regarding residents' advisory councils and maintaining relationships with the local community, including the establishment of family councils. The proposed amendments require facilities to provide information regarding family councils to all prospective residents and their families, and to ensure that family councils have a place to meet.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives**: This rulemaking will not create or expand a State Mandate.

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking**: 
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Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

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

217/782-2043  
e-mail: rules@idph.state.il.us

13) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Skilled nursing and intermediate care facilities

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because: the need for the rulemaking was not known when the Regulatory Agenda was drafted.

The full text of the Proposed Amendment begins on the next page:
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NOTICE OF PROPOSED AMENDMENT

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**

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART C: POLICIES

Section 300.640 Residents' Advisory Council

a) Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. The administrator shall designate another member of the facility staff other than the administrator to coordinate the establishment of, and render assistance to, the council. (Section 2-203 of the Act)
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b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives, etc. on the resident advisory council;

2) the establishment of a separate community advisory group with persons of the residents' choosing; or

3) finding a church or civic group to "adopt" the facility; or

4) the establishment of a family council made up of families and friends of residents who live in the community.

c) The resident members shall be elected to the council by vote of their fellow residents and the nonresident members shall be elected to the council by vote of the resident members of the council.

d) In facilities of 50 or fewer beds or less, the resident advisory council may consist of all of the residents of the facility, if the residents choose to operate this way.

e) All resident advisory councils shall elect at least a Chairperson or President and a Vice Chairperson or Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance.

f) Some facilities may wish to establish mini-resident advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in subsection (a) of this Section.

g) All residents' advisory council meetings shall be open to participation by all residents and by their representatives.

h) No employee or affiliate of any facility shall be a member of any council. Such persons may attend to discuss interests or functions of the non-members when invited by a majority of the officers of the residents' advisory council. (Section 2-
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203(a) of the Act

i) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the administrator, and the staff. (Section 2-203(b) of the Act)

j) Records of the council meetings shall be maintained in the office of the administrator. (Section 2-203(c) of the Act)

k) The residents' advisory council may communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing resident rights and facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they effect residents' rights and facility responsibilities. (Section 2-203(d) of the Act)

l) The council shall be a forum for:

1) Obtaining and disseminating information;

2) Soliciting and adopting recommendations for facility programming and improvements;

3) Early identification of problems;

4) Recommending orderly resolution of problems. (Section 2-203(e) of the Act)

m) The council may present complaints on behalf of a resident to the Department, or to any other person it considers appropriate. (Section 2-203(f) of the Act)

n) Families and friends of residents who live in the community retain the right to form family councils.

1) If there is a family council in the facility, or one is formed at the request of the family members or ombudsman, a facility shall make available information about family councils, provided by the family council, prospective members or the ombudsman, to all current and prospective residents, their families and their representatives.
2) If a family council is formed, facilities shall provide a place for the family council to meet.

(Source: Amended at 30 Ill. Reg. ______, effective _____________.)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Sheltered Care Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 330

3) **Section Number:** 330.740
   **Proposed Action:** Amendment

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A Complete Description of the Subjects and Issues Involved:** The Sheltered Care Facilities Code (77 Ill. Adm. Code 330) regulates sheltered care facility licensure. Section 330.740 (Residents' Advisory Council) specifies the requirements to which facilities must adhere regarding residents' advisory councils and maintaining relationships with the local community, including the establishment of family councils. The proposed amendments require facilities to provide information regarding family councils to all prospective residents and their families, and to ensure that family councils have a place to meet.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives:** This rulemaking will not create or expand a State Mandate.

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:**
Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

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

217/782-2043  
e-mail: rules@idph.state.il.us

13) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Sheltered care facilities

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because the need for the rulemaking was not known when the Regulatory Agenda was drafted.

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART C: POLICIES

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a) Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. The Administrator shall designate another member of the facility staff (other than the administrator) to coordinate the establishment of, and render assistance to, the council. (Section 2-203 of the Act)

b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives on the resident advisory council;

2) the establishment of a separate community advisory group with persons of the residents' choosing; or

3) finding a church or civic group to "adopt" the facility; or

4) the establishment of a family council made up of families and friends of residents who live in the community.

c) The resident members shall be elected to the council by vote of their fellow residents and the nonresident members shall be elected to the council by vote of the resident members of the council.

d) In facilities of 50 or fewer beds or less, the resident advisory council may consist of all of the residents of the facility, if the residents choose to operate this way.
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e) All resident advisory councils shall elect at least a Chairperson or President and a Vice Chairperson or Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance.

f) Some facilities may wish to establish mini resident advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in Section 330.740(a).

g) All residents' advisory council meetings shall be open to participation by all residents and by their representatives.

h) No employee or affiliate of any facility shall be a member of any council. Such persons may attend to discuss interests or functions of the nonmembers when invited by a majority of the officers of the residents' advisory council. (Section 2-203(a) of the Act)

i) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the Administrator, and the staff. (Section 2-203(b) of the Act)

j) Records of the council meetings will be maintained in the office of the Administrator. (Section 2-203(c) of the Act)

k) The council shall be a forum for:
   1) Obtaining and disseminating information;
   2) Soliciting and adopting recommendations for facility programming and improvements;
   3) Early identification of problems;
   4) Recommending orderly resolution of problems. (Section 2-203(e) of the Act)

l) The council may present complaints on behalf of a resident to the Department, or
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to any other person it considers appropriate. (Section 2-203(f) of the Act)

m) Families and friends of residents who live in the community retain the right to form family councils.

1) If there is a family council in the facility, or one is formed at the request of the family members or ombudsman, a facility shall make available information about family councils, provided by the family council, prospective members or the ombudsman, to all current and prospective residents, their families and their representatives.

2) If a family council is formed, facilities shall provide a place for the family council to meet.

(Source: Amended at 30 Ill. Reg. ______, effective __________)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Illinois Veterans' Homes Code

2) **Code Citation:** 77 Ill. Adm. Code 340

3) **Section Number:** 340.1430
   **Proposed Action:** Amendment

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **A Complete Description of the Subjects and Issues Involved:** The Illinois Veterans Home Code (77 Ill. Adm. Code 340) regulates veterans' home licensure. Section 340.1430 (Residents' Advisory Council) specifies the requirements to which facilities must adhere regarding residents' advisory councils and maintaining relationships with the local community, including the establishment of family councils. The proposed amendments require facilities to provide information regarding family councils to all prospective residents and their families, and to ensure that family councils have a place to meet.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives:** This rulemaking will not create or expand a State Mandate.

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:**
Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

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

217/782-2043  
e-mail: rules@idph.state.il.us

13) **Initial Regulatory Flexibility Analysis:**

A) **Type of small businesses, small municipalities and not-for-profit corporations affected:** Veterans' homes

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

C) **Types of professional skills necessary for compliance:** None

14) **Regulatory Agenda on which this rulemaking was summarized:** This rule was not included on either of the two most recent Regulatory Agendas because the need for the rulemaking was not known when the regulatory agenda was drafted.

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

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340.TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT


SUBPART C: RESIDENT RIGHTS

Section 340.1430 Residents' Advisory Council

a) Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. The administrator shall designate a member of the facility staff to coordinate the establishment of, and render assistance to, the council. (Section 2-203 of the Act)

b) The resident members shall be elected to the council by vote of their fellow residents, and the nonresident members shall be elected to the council by vote of the resident members of the council.

c) All residents' advisory council meetings shall be open to participation by all residents and by their representatives.

d) No employee or affiliate of a facility shall be a member of any council. Such persons may attend to discuss interests or functions of the non-members when invited by members of the residents' advisory council. (Section 2-203(a) of the Act)

e) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the administrator, and the staff. (Section 2-203(b) of the Act)

f) Records of the council meetings shall be maintained in the office of the administrator. (Section 2-203(c) of the Act)

g) The residents' advisory council may communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for
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implementing resident rights and facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities. (Section 2-203(d) of the Act)

h) The council shall be a forum for:

1) Obtaining and disseminating information;

2) Soliciting and adopting recommendations for facility programming and improvements;

3) Early identification of problems;

4) Recommending orderly resolution of problems. (Section 2-203(e) of the Act)

i) The council may present complaints on behalf of a resident to the Department, the Long-Term Care Facility Advisory Board created by Section 2-204 of the Act, or to any other person it considers appropriate. (Section 2-203(f) of the Act)

j) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives, etc. on the resident advisory council;

2) the establishment of a separate community advisory group with persons of the residents' choosing; or

3) finding a church or civic group to "adopt" the facility; or,

4) the establishment of a family council made up of families and friends of residents who live in the community.

k) Families and friends of residents who live in the community retain the right to form family councils.
1) If there is a family council in the facility, or one is formed at the request of the family members or ombudsman, a facility shall make available information about family councils, provided by the family council, prospective members or the ombudsman, to all current and prospective residents, their families and their representatives.

2) If a family council is formed, facilities shall provide a place for the family council to meet.

(Source: Amended at 30 Ill. Reg. ______, effective ____________ )
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 350

3) Section Number: Proposed Action:
   350.650 Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: The Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350) regulates licensure of developmentally disabled facilities. Section 350.650 (Residents' Advisory Council) specifies the requirements to which facilities must adhere regarding residents’ advisory councils and maintaining relationships with the local community, including the establishment of family councils. The proposed amendments require facilities to provide information regarding family councils to all prospective residents and their families, and to ensure that family councils have a place to meet.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the Illinois Register.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State Mandate.

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

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Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the Illinois Register to:

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

217/782-2043
e-mail:  rules@idph.state.il.us

13)  Initial Regulatory Flexibility Analysis:

A)  Type of small businesses, small municipalities and not-for-profit corporations affected: Intermediate care for the developmentally disabled facilities

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

C)  Types of professional skills necessary for compliance:  None

14)  Regulatory Agenda on which this rulemaking was summarized:  This rulemaking was not included on either of the two most recent regulatory agendas because:  The need for the rulemaking was not known at the time the Regulatory Agenda was drafted.

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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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350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Meal Planning
350.1860 Therapeutic Diets (Repealed)
350.1870 Scheduling Meals
350.1880 Menus and Food Records
350.1890 Food Preparation and Service
350.1900 Food Handling Sanitation
350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section
350.2010 Maintenance
350.2020 Housekeeping
350.2030 Laundry Services
DEPARTMENT OF PUBLIC HEALTH

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SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
350.2210 Furnishings
350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
350.2410 Codes
350.2420 Water Supply
350.2430 Sewage Disposal
350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2610 Applicability of These Standards
350.2620 Codes and Standards
350.2630 Preparation of Drawings and Specifications
350.2640 Site
350.2650 Administration and Public Areas
350.2660 Nursing Unit
350.2670 Dining, Living, Activities Rooms
350.2680 Therapy and Personal Care
350.2690 Service Departments
350.2700 General Building Requirements
350.2710 Structural
350.2720 Mechanical Systems
350.2730 Plumbing Systems
350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section
350.2910 Applicability
350.2920 Codes and Standards
350.2930 Preparation of Drawings and Specifications
DEPARTMENT OF PUBLIC HEALTH

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350.2940 Site
350.2950 Administration and Public Areas
350.2960 Nursing Unit
350.2970 Living, Dining, Activities Rooms
350.2980 Treatment and Personal Care
350.2990 Service Department
350.3000 General Building Requirements
350.3010 Structural
350.3020 Mechanical Systems
350.3030 Plumbing Systems
350.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
350.3210 General
350.3220 Medical and Personal Care Program
350.3230 Restraints (Repealed)
350.3240 Abuse and Neglect
350.3250 Communication and Visitation
350.3260 Resident's Funds
350.3270 Residents' Advisory Council
350.3280 Contract With Facility
350.3290 Private Right of Action
350.3300 Transfer or Discharge
350.3310 Complaint Procedures
350.3320 Confidentiality
350.3330 Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section
350.3710 Applicability of Other Provisions of this Part
350.3720 Administration
350.3730 Admission and Discharge Policies
350.3740 Personnel
350.3750 Consultation Services and Nursing Services
350.3760 Medication Policies
350.3770 Food Services
DEPARTMENT OF PUBLIC HEALTH

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350.3780 Codes and Standards
350.3790 Administration and Public Areas
350.3800 Bedrooms
350.3810 Nurses Station
350.3820 Bath and Toilet Rooms
350.3830 Utility Rooms
350.3840 Living, Dining, Activity Rooms
350.3850 Therapy and Personal Care
350.3860 Kitchen
350.3870 Laundry Room
350.3880 General Building Requirements
350.3890 Corridors
350.3900 Special Care Room
350.3910 Exit Facilities and Subdivision of Floor Areas
350.3920 Stairways, Vertical Openings and Doorways
350.3930 Hazardous Areas and Combustible Storage
350.3940 Mechanical Systems
350.3950 Heating, Cooling, and Ventilating Systems
350.3960 Plumbing Systems
350.3970 Electrical Systems
350.3980 Fire Alarm and Detection System
350.3990 Emergency Electrical System
350.4000 Fire Protection
350.4010 Construction Types
350.4020 Equivalencies
350.4030 New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Section
350.4210 Day Care in Long-Term Care Facilities

350.APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
350.APPENDIX B Federal Requirements Regarding Residents' Rights (Repealed)
350.APPENDIX C Seismic Zone Map
350.APPENDIX D Forms For Day Care in Long-Term Care Facilities
350.APPENDIX E Guidelines for the Use of Various Drugs
350.TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
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350.TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled

350.TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled


350.TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less

350.TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

DEPARTMENT OF PUBLIC HEALTH

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SUBPART C: POLICIES

Section 350.650 Residents' Advisory Council

a) Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the
DEPARTMENT OF PUBLIC HEALTH

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required number of residents. The administrator shall designate another member of the facility staff (other than the administrator) to coordinate the establishment of, and render assistance to, the council. (Section 2-203 of the Act)

b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives on the resident advisory council;

2) the establishment of a separate community advisory group with persons of the residents' choosing; or

3) finding a church or civic group to "adopt" the facility; or,

4) the establishment of a family council made up of families and friends of residents who live in the community.

c) The resident members shall be elected to the council by vote of their fellow residents and the non-resident members shall be elected to the council by vote of the resident members of the council.

d) In facilities of 50 or fewer beds or less, the residents' advisory council may consist of all of the residents of the facility, if the residents choose to operate this way.

e) All residents' resident advisory councils shall elect at least a Chairperson or President and a Vice Chairperson or Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance.

f) Some facilities may wish to establish mini-residents' resident advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in subsection (a) of this Section.

g) All residents' advisory council meetings shall be open to participation by all residents and by their representatives.
h) No employee or affiliate of any facility shall be a member of any council. Such persons may attend to discuss interests or functions of the non-members when invited by a majority of the officers of the residents' advisory council. (Section 2-203(a) of the Act)

i) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the administrator, and the staff. (Section 2-203(b) of the Act)

j) Records of the council meetings shall be maintained in the office of the administrator. (Section 2-203(c) of the Act)

k) The residents' advisory council may communicate to the administrator the opinions and concerns of the residents. The council shall review procedures for implementing resident rights and facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities. (Section 2-203(d) of the Act)

l) The council shall be a forum for:

1) Obtaining and disseminating information;

2) Soliciting and adopting recommendations for facility programming and improvements;

3) Early identification of problems;

4) Recommending orderly resolution of problems. (Section 2-203(e) of the Act)

m) The council may present complaints on behalf of a resident to the Department, or to any other person it considers appropriate. (Section 2-203(f) of the Act)

n) Families and friends of residents who live in the community retain the right to form family councils.

1) If there is a family council in the facility, or one is formed at the request of
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the family members or ombudsman, a facility shall make available information about family councils, provided by the family council, prospective members or the ombudsman, to all current and prospective residents, their families and their representatives.

2) If a family council is formed, facilities shall provide a place for the family council to meet.

(Source: Amended at 30 Ill. Reg. ______, effective ____________ )
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part**: Long-Term Care for Under Age 22 Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 390

3) **Section Number**: Proposed Action:
   - 390.650 Amendment

4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **A Complete Description of the Subjects and Issues Involved**: The Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) regulates licensure of skilled nursing facilities for residents under age 22. Section 390.650 (Residents' Advisory Council) specifies the requirements to which facilities must adhere regarding residents' advisory councils and maintaining relationships with the local community, including the establishment of family councils. The proposed amendments require facilities to provide information regarding family councils to all prospective residents and their families, and to ensure that family councils have a place to meet.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

9) **Does this rulemaking contain incorporations by reference?** No

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

11) **Statement of Statewide Policy Objectives**: This rulemaking will not create or expand a State Mandate.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

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

217/782-2043  
e-mail: rules@idph.state.il.us

13) **Initial Regulatory Flexibility Analysis:**

A) **Type of small businesses, small municipalities and not-for-profit corporations affected:** Skilled nursing facilities for residents under age 22

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

C) **Types of professional skills necessary for compliance:** None

14) **Regulatory Agenda on which this rulemaking was summarized:** This rule was not included on either of the two most recent Regulatory Agendas because the need for the rulemaking was unknown at the time the regulatory agenda was drafted.

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

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

SUBPART A: GENERAL PROVISIONS

Section 390.110 General Requirements
390.120 Application for License
390.130 Licensee
390.140 Issuance of an Initial License for a New Facility
390.150 Issuance of an Initial License Due to a Change of Ownership
390.160 Issuance of a Renewal License
390.165 Criteria for Adverse Licensure Actions
390.170 Denial of Initial License
390.175 Denial of Renewal of License
390.180 Revocation of License
390.190 Experimental Program Conflicting With Requirements
390.200 Inspections, Surveys, Evaluations and Consultation
390.210 Filing an Annual Attested Financial Statement
390.220 Information to be Made Available to the Public by the Department
390.230 Information to Be Made Available to the Public By the Licensee
390.240 Municipal Licensing
390.250 Ownership Disclosure
390.260 Issuance of Conditional Licenses
390.270 Monitor and Receivership
390.271 Presentation of Findings
390.272 Determination to Issue a Notice of Violation or Administrative Warning
390.274 Determination of the Level of a Violation
390.276 Notice of Violation
390.277 Administrative Warning
390.278 Plans of Correction
390.280 Reports of Correction
390.282 Conditions for Assessment of Penalties
390.284 Calculation of Penalties
390.286 Determination to Assess Penalties
390.288 Reduction or Waiver of Penalties
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

390.290 Quarterly List of Violators (Repealed)
390.300 Alcoholism Treatment Programs in Long-Term Care Facilities
390.310 Department May Survey Facilities Formerly Licensed
390.315 Supported Congregate Living Arrangement Demonstration
390.320 Waivers
390.330 Definitions
390.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section
390.500 Administrator

SUBPART C: POLICIES

Section
390.610 Management Policies
390.620 Resident Care Policies
390.625 Pre-admission Assessment and Request for Criminal History Record Information
390.630 Admission, Retention and Discharge Policies
390.635 Identified Offenders
390.636 Discharge Planning for Identified Offenders
390.637 Transfer of an Identified Offender
390.640 Contract Between Resident and Facility
390.650 Residents' Advisory Council
390.660 General Policies
390.670 Personnel Policies
390.675 Initial Health Evaluation for Employees
390.680 Child Care/Habilitation Aides
390.681 Health Care Worker Background Check
390.682 Resident Attendants
390.683 Registry of Child Care/Habilitation Aides
390.685 Student Interns
390.690 Disaster Preparedness
390.700 Serious Incidents and Accidents
390.750 Contacting Local Law Enforcement
390.760 Infection Control

SUBPART D: PERSONNEL
DEPARTMENT OF PUBLIC HEALTH

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Section
390.810  General
390.820  Categories of Personnel
390.830  Consultation Services

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

Section
390.1010  Service Programs
390.1020  Medical Services
390.1025  Life-Sustaining Treatments
390.1030  Physician Services
390.1035  Tuberculin Skin Test Procedures
390.1040  Nursing Services
390.1050  Dental Care Services
390.1060  Physical and Occupational Therapy Services
390.1070  Psychological Services
390.1080  Social Services
390.1090  Speech Pathology and Audiology Services
390.1100  Recreational and Activity Services
390.1110  Educational Services
390.1120  Work Activity and Prevocational Training Services
390.1130  Communicable Disease Policies
390.1140  Vaccinations
390.1150  Language Assistance Services

SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

Section
390.1310  Restraints
390.1312  Nonemergency Use of Physical Restraints
390.1314  Emergency Use of Physical Restraints
390.1316  Unnecessary, Psychotropic, and Antipsychotic Drugs
390.1320  Behavior Management
390.1330  Behavior Emergencies (Repealed)

SUBPART G: MEDICATIONS

Section
390.1410  Medication Policies and Procedures
DEPARTMENT OF PUBLIC HEALTH

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390.1420 Compliance with Licensed Prescriber's Orders
390.1430 Administration of Medication
390.1440 Labeling and Storage of Medications
390.1450 Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section
390.1610 Resident Record Requirements
390.1620 Content of Medical Records
390.1630 Confidentiality of Resident's Records
390.1640 Records Pertaining to Residents' Property
390.1650 Retention and Transfer of Resident Records
390.1660 Other Resident Record Requirements
390.1670 Staff Responsibility for Medical Records
390.1680 Retention of Facility Records
390.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section
390.1810 Director of Food Services
390.1820 Dietary Staff in Addition to Director of Food Services
390.1830 Hygiene of Dietary Staff
390.1840 Diet Orders
390.1850 Meal Planning
390.1860 Infant and Therapeutic Diets
390.1870 Scheduling Meals
390.1880 Menus and Food Records
390.1890 Food Preparation and Service
390.1900 Preparation of Infant Formula
390.1910 Food Handling Sanitation
390.1920 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section
390.2010 Maintenance
390.2020 Housekeeping
390.2030 Laundry Services
DEPARTMENT OF PUBLIC HEALTH

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SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section
390.2210 Furnishings
390.2220 Equipment and Supplies
390.2230 Sterilization of Supplies and Equipment

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section
390.2410 Codes
390.2420 Water Supply
390.2430 Sewage Disposal
390.2440 Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section
390.2610 Applicability of these Standards
390.2620 Codes and Standards
390.2630 Preparation of Drawings and Specifications
390.2640 Site
390.2650 Administration and Public Areas
390.2660 Nursing Unit
390.2670 Dining, Play, Activity/Program Rooms
390.2680 Therapy and Personal Care
390.2690 Service Departments
390.2700 General Building Requirements
390.2710 Structural
390.2720 Mechanical Systems
390.2730 Plumbing Systems
390.2740 Electrical Systems

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING FACILITIES

Section
390.2910 Applicability
390.2920 Codes and Standards
390.2930 Preparation of Drawings and Specifications
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

390.2940 Site
390.2950 Administration and Public Areas
390.2960 Nursing Unit
390.2970 Play, Dining, Activity/Program Rooms
390.2980 Treatment and Personal Care
390.2990 Service Department
390.3000 General Building Requirements
390.3010 Structural
390.3020 Mechanical Systems
390.3030 Plumbing Systems
390.3040 Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section
390.3210 General
390.3220 Medical and Personal Care Program
390.3230 Restraints (Repealed)
390.3240 Abuse and Neglect
390.3250 Communication and Visitation
390.3260 Resident's Funds
390.3270 Residents' Advisory Council
390.3280 Contract With Facility
390.3290 Private Right of Action
390.3300 Transfer or Discharge
390.3310 Complaint Procedures
390.3320 Confidentiality
390.3330 Facility Implementation

SUBPART P: DAY CARE PROGRAMS

Section
390.3510 Day Care in Long-Term Care Facilities

390.APPENDIX A Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
390.APPENDIX B Forms for Day Care in Long-Term Care Facilities
390.APPENDIX C Guidelines for the Use of Various Drugs
390.TABLE A Infant Feeding
390.TABLE B Daily Nutritional Requirements By Age Group
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

390.TABLE C Sound Transmissions Limitations
390.TABLE D Pressure Relationships and Ventilation Rates of Certain Areas for New
Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
390.TABLE E Sprinkler Requirements
390.TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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Department of Public Health

Notice of Proposed Amendment


Subpart C: Policies

Section 390.650 Residents' Advisory Council

a) Each facility shall establish a residents' advisory council consisting of at least five resident members. If there are not five residents capable of functioning on the residents' advisory council, as determined by the Interdisciplinary Team, residents' representatives shall take the place of the required number of residents. The administrator shall designate another member of the facility staff (other than the administrator) to coordinate the establishment of, and render assistance to, the council. (Section 2-203 of the Act)

b) Each facility shall develop and implement a plan for assuring a liaison with concerned individuals and groups in the local community. Ways in which this requirement can be met include, but are not limited to, the following:

1) the inclusion of community members such as volunteers, family members, residents' friends, residents' advocates, or community representatives on the resident advisory council;

2) the establishment of a separate community advisory group with persons of the residents' choosing; or
DEPARTMENT OF PUBLIC HEALTH

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3) finding a church or civic group to "adopt" the facility; or,

4) the establishment of a family council made up of families and friends of residents who live in the community.

c) The resident members shall be elected to the council by vote of their fellow residents, found capable of voting. If a resident is not capable of voting, the resident's parent or guardian shall vote to elect members of the council. If there are not five residents capable of or willing to serve on the council, then nonresident representatives shall be recruited to meet this requirement.

d) In facilities of 50 or fewer beds or less, the residents' advisory council may consist of all of the residents (or their parents or guardians) of the facility, if the residents (or their parents or guardians) choose to operate this way.

e) All residents' advisory councils shall elect at least a Chairperson or President and a Vice Chairperson or Vice President from among the members of the council. These persons shall preside at the meetings of the council, assisted by the facility staff person designated by the administrator to provide such assistance.

f) Some facilities may wish to establish mini-residents' advisory councils for various smaller units within the facility. If this is done, each such unit shall be represented on an overall facility residents' advisory council with the composition described in subsection (a) of this Section.

g) All residents' advisory council meetings shall be open to participation by all residents and their representatives.

h) No employee or affiliate of any facility shall be a member of any council. Such persons may attend to discuss interests or functions of the non-members when invited by a majority of the officers of the residents' advisory council. (Section 2-203(a) of the Act)

i) The council shall meet at least once each month with the staff coordinator who shall provide assistance to the council in preparing and disseminating a report of each meeting to all residents, the administrator, and the staff. (Section 2-203(b) of the Act)

j) Records of the council meetings shall be maintained in the office of the
DEPARTMENT OF PUBLIC HEALTH

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administrator. (Section 2-203(c) of the Act)

k) The residents' advisory council may communicate to the administrator the opinions and concerns of the resident. The council shall review procedures for implementing resident rights and facility responsibilities and make recommendations for changes or additions which will strengthen the facility's policies and procedures as they affect residents' rights and facility responsibilities. (Section 2-203(d) of the Act)

l) The council shall be a forum for:

1) Obtaining and disseminating information;

2) Soliciting and adopting recommendations for facility programming and improvements;

3) Early identification of problems.

4) Recommending orderly resolution of problems. (Section 2-203(e) of the Act)

m) The council may present complaints on behalf of a resident to the Department, or to any other person it considers appropriate. (Section 2-203(f) of the Act)

n) Families and friends of residents who live in the community retain the right to form family councils.

1) If there is a family council in the facility, or one is formed at the request of the family members or ombudsman, a facility shall make available information about family councils, provided by the family council, prospective members or the ombudsman, to all current and prospective residents, their families and their representatives.

2) If a family council is formed, facilities shall provide a place for the family council to meet.

(Source: Amended at 30 Ill. Reg. __________, effective ______________________)
DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Rights and Privileges

2) **Code Citation:** 20 Ill. Adm. Code 525

3) **Section Numbers:**
   - 525.110 Amend
   - 525.230 Amend

4) **The specific statutory citation upon which the Part is based and authorized:**
   Implementing Sections 3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9] and Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] and authorized by Sections 3-2-2 and 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-1]. Subpart A is also implementing a Consent Decree (Tillman vs. Rowe, #77 C 1008, N.D. Ill., 1977). Subpart C is also implementing a Court Agreement (Ryan vs. Walker, #04 C 4635, N.D. Ill., 2006)

5) **Effective Date of Rulemaking:** September 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:** 30 Ill. Reg. 9389; May 26, 2006

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** The only changes made were to correct style differences between use of numerals and words in referencing numbers of ten and under.

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 rulemaking is being amended to update the entities in the definitions for mail and to comply with a settlement agreement that requires the Department to notify publishers who directly mail publications to offenders when a specific publication has been deemed to contain unacceptable material and requires the written notice to indicate that the publisher has 21 days from the date of the notice to file an objection and submit written supportive documentation.

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

Beth Kiel  
Department of Corrections  
1301 Concordia Court  
P. O. Box 19277  
Springfield, Illinois  62794-9277  
217/522-2666, extension 6511

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT
CHAPTER I: DEPARTMENT OF CORRECTIONS
SUBCHAPTER e: OPERATIONS

PART 525
RIGHTS AND PRIVILEGES

SUBPART A: VISITATION

Section
525.10 Applicability
525.12 Definitions
525.15 Responsibilities
525.20 Visiting Privileges
525.30 Clergy Visitation
525.40 Attorney Visitation – Adult Division
525.50 Attorney Visitation – Juvenile Division (Court Agreement)
525.60 Restriction of Visitors

SUBPART B: MAIL AND TELEPHONE CALLS

Section
525.100 Applicability
525.110 Definitions
525.115 Responsibilities
525.120 Processing of Mail
525.130 Outgoing Mail
525.140 Incoming Mail
525.150 Telephone Privileges

SUBPART C: PUBLICATIONS

Section
525.200 Applicability
525.202 Definitions
525.205 Responsibilities
525.210 General Guidelines
525.220 Publication Review Officer
525.230 Procedure for Review of Publications
DEPARTMENT OF CORRECTIONS

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: MARRIAGE OF OFFENDERS

Section
525.300   Applicability
525.302   Definitions
525.305   Responsibilities
525.310   Request for Permission to Marry

AUTHORITY: Implementing Sections 3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-7-1, 3-7-2, 3-8-7, 3-8-8, 3-10-8, and 3-10-9] and Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] and authorized by Sections 3-2-2 and 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-1]. Subpart A is also implementing a Consent Decree (Tillman vs. Rowe, #77 C 1008, N.D. Ill., 1977). Subpart C is also implementing a Court Agreement (Ryan vs. Walker, #04 C 4635, N.D. Ill., 2006).


SUBPART B: MAIL AND TELEPHONE CALLS

Section 525.110   Definitions

a) "Assistant Associate Director" means the second highest ranking official of the Department.

b) "Chief" or "Deputy Director" means the highest ranking official of a bureau, district, or division within the Department.

c) "Chief Administrative Officer" means the highest ranking official of a
DEPARTMENT OF CORRECTIONS

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correctional facility.

d) "Department" means the Department of Corrections.

e) "Director" means the Director of the Department.

f) "Incoming privileged mail" means mail from the following:

1) The Director;

2) Assistant and Deputy Directors, Deputy Chiefs and Assistant Deputy Directors of the Department;

3) Department attorneys and State's Attorneys;

4) Members of the Administrative Review Board;

5) Members of the Prisoner Review Board;

6) The Governor of Illinois;

7) Federal or Illinois legislators;

8) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;

9) Illinois Inspector General;

10) John Howard Association; and

11) Legal mail.

g) "Outgoing privileged mail" means mail to the following:

1) The Director;

2) Assistant and Deputy Directors, Deputy Chiefs,
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3) Department attorneys and State's Attorneys;

4) Members of the Administrative Review Board;

5) Members of the Prisoner Review Board;

6) The Governor of Illinois;

7) Federal or Illinois legislators;

8) Chief Executive Officers of the Federal Bureau of Investigation, the Drug Enforcement Administration, the Criminal Division of the Department of Justice, the United States Customs Service, the Secret Service, the Illinois State Police, and Sheriff's Offices and Police Departments in the State of Illinois;

9) Illinois Inspector General;

10) John Howard Association;

11) Clerks of courts or of the Illinois Court of Claims; and

12) Legal mail.

h) "Legal mail" means mail to and from the following:

1) Registered Attorneys, except Department attorneys and State's Attorneys;

2) The Illinois Attorney General;

3) Judges or magistrates of any court or the Illinois Court of Claims Judges; and

4) Any organization that provides direct legal representation to offenders, but not including organizations that provide referrals to attorneys, such as bar associations.

i) "Offender" means a person committed to the Department or to the custody of the
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Department.

(Source: Amended at 30 Ill. Reg. 14843, effective September 1, 2006)

SUBPART C: PUBLICATIONS

Section 525.230 Procedure for Review of Publications

a) A Publication Review Officer, hereafter referred to as Officer, shall review publications to determine whether to recommend prohibiting acceptance of any publications that he or she finds to contain material determined to be:

1) Obscene;

2) Detrimental to security, good order, rehabilitation, or discipline or if it might facilitate criminal activity, or be detrimental to mental health needs of an offender as determined by a mental health professional.

b) A publication may not be rejected solely because its content is religious, philosophical, political, social, or sexual or because its contents are unpopular or repugnant. A publication that may be rejected includes, but is not limited to, a publication or portion thereof that meets one of the following criteria:

1) It is obscene;

2) It is written in code or facilitates communication between offenders;

3) It depicts, describes, or encourages activities that may lead to the use of physical violence or group disruption or it facilitates organizational activity without approval of the Chief Administrative Officer;

4) It advocates or encourages violence, hatred, or group disruption or it poses an intolerable risk of violence or disruption;

5) It encourages or instructs in the commission of criminal activity;

6) It includes sexually explicit material that by its nature or content poses a threat to security, good order, or discipline or it facilitates criminal activity;
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7) It is otherwise detrimental to security, good order, rehabilitation, or discipline or it might facilitate criminal activity or be detrimental to mental health.

c) If a review is initiated, the offender shall be notified in writing that the publication is under review and the notice shall include an explanation why the publication is deemed to contain unacceptable material in accordance with the standards set forth in this Section. If the publication was mailed directly from the publisher, a copy of the notice shall be sent to the publisher. The written notice shall be sent to the offender and the publisher, if applicable, no later than 30 days from the date the correctional facility receives the publication. The written notice shall indicate that:

1) The offender or she may submit a written supportive statement or other documentation within seven days after the date of the notice that the publication is under review. An extension will be granted if in the opinion of the Officer there is a legitimate reason why relevant information could not be submitted timely.

2) The publisher shall be allowed 21 days from the date of the notice to file an objection and to submit a written supportive statement or other documentation.

3) The offender or she may request to appear before the Officer. The appearance will be allowed if the Officer determines that such appearance is necessary for an appropriate review.

4) The offender or she may ask for assistance or information regarding the publication review procedure.

5) If the publication is approved, it will be forwarded to the offender upon completion of the review. If the publication is not provided to the offender within 60 days after the date of the written notice, the publication shall be deemed disapproved and the offender may file a grievance in accordance with 20 Ill. Adm. Code 504: Subpart F.

d) Any recommendation for denial shall be forwarded to the Chief Administrative Officer with an explanation. If the Chief Administrative Officer concurs with the recommendation to deny the publication, the publication shall be disapproved.
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e) The Publication Review Officer shall maintain copies of decisions in a designated area for at least three years.

f) If after six consecutive issues of a publication have been denied and it is determined unlikely that future issues of the publication will be approved, the publication may be banned.

g) If the characteristic content of a banned publication significantly changes to no longer warrant denial of the publication in accordance with this Section, an offender may request another review of the publication by the Publication Review Officer. A previously banned publication shall be subject to review no more frequently than every four months. If a review is to be initiated, the offender shall be advised to arrange for one or more issues of the publication to be submitted to the Publication Review Officer at the offender's expense.

1) The review shall be conducted in the same manner as the initial review of the publication.

2) If an issue of a previously banned publication is approved, an offender may request subsequent issues to be reviewed notwithstanding the four month review period.

3) The Publication Review Officer may recommend that a previously banned publication be approved.

h) The Director may establish a Central Publication Review Committee to periodically review and make recommendations regarding facility determinations or recommendations to the Director who may approve or disapprove the recommendations based on the standards set forth in this Section. If a Committee is appointed:

1) Committee members shall consist of at least one representative each from administrative and operational staff.

2) Reviews need only be conducted by one member of the Committee.

3) The facility and the offender shall be notified of any decision made by the Director.

(Source: Amended at 30 Ill. Reg. 14843, effective September 1, 2006)
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1) **Heading of the Part:** Illinois Health Facilities Planning Procedural Rules

2) **Code Citation:** 77 Ill. Adm. Code 1130

3) **Section Numbers:** **Adopted Action:**
   - 1130.110  Amendment
   - 1130.120  Amendment
   - 1130.130  Amendment
   - 1130.140  Amendment
   - 1130.150  Amendment
   - 1130.210  Amendment
   - 1130.220  Amendment
   - 1130.230  New Section
   - 1130.240  New Section
   - 1130.310  Amendment
   - 1130.410  Amendment
   - 1130.500  New Section
   - 1130.510  Amendment
   - 1130.520  Amendment
   - 1130.531  Amendment
   - 1130.540  Amendment
   - 1130.541  Amendment
   - 1130.542  Repealed
   - 1130.544  Amendment
   - 1130.550  Amendment
   - 1130.560  Amendment
   - 1130.570  Amendment
   - 1130.610  Amendment
   - 1130.620  Amendment
   - 1130.630  Amendment
   - 1130.635  New Section
   - 1130.640  Amendment
   - 1130.650  Amendment
   - 1130.655  New Section
   - 1130.660  Amendment
   - 1130.670  Amendment
   - 1130.680  Amendment
   - 1130.710  Amendment
   - 1130.720  Amendment
   - 1130.730  Amendment
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1130.740 Amendment
1130.750 Amendment
1130.760 Amendment
1130.770 Amendment
1130.780 Amendment
1130.790 Amendment
1130.810 Amendment
1130.910 New Section
1130.920 New Section
1130.930 New Section
1130.940 New Section
1130.950 New Section
1130.960 New Section
1130.970 New Section
1130.980 New Section
1130.990 New Section
1130.995 New Section
1130.1010 New Section
1130.1020 New Section
1130.1030 New Section
1130.1040 New Section
1130.1050 New Section
1130.1060 New Section
1130.1070 New Section
1130.1080 New Section
1130.1090 New Section
1130.1100 New Section
1130.1110 New Section
1130.1120 New Section
1130.1130 New Section
1130.1140 New Section
1130.1150 New Section
1130.1160 New Section
1130.1170 New Section
1130.1180 New Section
1130.1190 New Section
1130.1200 New Section
1130.1210 New Section
1130.APPENDIX A Repealed
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4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) Effective Date of Rulemaking: September 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 amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Amendments Published in Illinois Register: 29 Ill. Reg. 16173; October 28, 2005

10) Has JCAR issued a Statement of Objection to this rulemaking? Yes

   A) Statement of Objection: July 28, 2006; 30 Ill. Reg. 13028

   B) Agency Response: September 15, 2006; 30 Ill. Reg. 15056

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 1130.140, the following was added to the definition of "Adverse Action":

      a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified Healthcare facility in the State of Illinois. These actions include, but are not limited to all Type "A" violations. As defined in Section 1-129.A of the Nursing Home Care Act, a Type "A" violation means a violation of this 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. [210 ILCS 45/1-129.A]

   2. In Section 1130.140, "Applicant", language was added for clarification:

      "Applicant" means one or more persons, who apply for a permit or exemption to construct or modify a health care facility or to acquire major medical equipment.
3. In Section 1130.140, the definition for "Capital Expenditure" was restored to the existing text:

"Capital Expenditure" means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part and which exceeds the capital expenditure minimum. For purposes of this definition, the cost of any studies, surveys, designs, plans, working drawings specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]

4. In Section 1130.140, "Capital Expenditure Minimum", language was added for clarification:

"Capital Expenditure Minimum" means the dollar amount or Value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation per Section 1130.310.

5. In Section 1130.140, "Charity Care", the definition was revised according to changes in the Illinois Health Facilities Planning Act:

"Charity Care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third party payer. [20 ILCS 3960/3]

6. In Section 1130.140, "Construction or Modification" was restored to the original text:
"Construction or Modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditures made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act shall be excluded from any obligations under the Act. [20 ILCS 3960/3]

7. In Section 1130.140, the definition of "Major Construction Project" was restored to original text:

"Major Construction Project" means:

Projects for the construction of new buildings;

Additions to existing facilities [20 ILCS 3960/3]; and

Modernization projects whose cost is in excess of $1,000,000 or ten percent of the facility's operating revenue, whichever is less. [20 ILCS 3960/5]

8. In Section 1130.140, the definition of "Major Medical Equipment" was restored to the original text:

"Major Medical Equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of Section 1861 (S) of such Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included. [20 ILCS 3906/3]
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9. In Section 1130.140, the definition for "Non-clinical Service Area" was restored to the original text:

"Non-clinical Service Area" means an area for the benefit of the patients, visitors, staff or employees of a health care facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers. [20 ILCS 3960/3]

10. In Section 1130.140, the definition for "Out-of-state Facility" was restored to the original text:

"Out-of-state Facility" means a person that is both licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of Illinois licensed health care shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility or its parent, Illinois physicians licensed to practice medicine in all its branches, shall not be considered out of state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act. [20 ILCS 3960/3]

11. In Section 1130.140, the definition of "Person" was restored to the original text:

means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]
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12. In Section 1130.140, the definition of "Related Person" was restored to the original text:

"Related Person" means any person that:

- is at least 50 percent owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50 percent of the health care facility; or
- owns, directly or indirectly, at least 50 percent of the health care facility; or
- is otherwise controlled or managed by one or more health care facilities or person that controls or manages the health care facility; or
- otherwise controls or manages the health care facility; or
- is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

13. In Section 1130.240, subsection (b) was revised to read:

"b) Annual Reports
Such reports will be on an annual or other basis."

14. In Section 1130.410, the following subsection was restored:

"d) the combination of two or more existing health care facilities into a single licensed health care facility, when:

1) the existing facilities are located on the same site or on sites adjacent to one another;

2) the licensed person for the existing facilities is the same;

3) the combination is for the sole purpose of operating the existing facilities under a single license;

4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity."
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15. In Section 1130.500, subsection (a) was revised to read:

"a) Letter of Intent

1) Prior to submission of an application for exemption, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 30 days prior to receipt of an application for exemption."

16. In Section 1130.510, the following was restored:

"b) Completion requirements

A project that has received an exemption for acquisition of major medical equipment must be complete in accordance with the applicable provisions of Section 1130.57 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption."

17. In Section 1130.541, the following subsection was restored:

"A person proposing to combine two or more existing health care facilities into a single licensed health care facility must submit an application for exemption to HFPB, submit the required processing fee, and receive approval from HFPB.

a) Application for Exemption

The application for exemption shall be subject to approval pursuant to Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:

1) documentation that the requirements of Section 1130.410 pertaining to the transaction will be met;

2) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facilities are located. The notice shall provide the name and address of the applicant and the facilities to be combined, a description of the transaction addressing the applicable requirements of Section 1130.410, and the name, title, address and phone number of an individual from
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whom interested parties may obtain information on the proposed transaction;

3) certification that the transaction has not yet been entered into or executed.

b) Completion Requirements

A project that has received an exemption for combining facility licenses must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption."

18. In Section 1130.570, the language was revised for clarification and to provide a longer period of time for exemption holder submission of information to HFPB:

"c) The exemption holder shall provide written notice and related documentation to HFPB of the following information and documentation, as applicable:

1) Each exemption holder must notify HFPB of project completion within 30 days of the project completion date; and the project completion date.

2) Where required under other Sections of this Part, a final cost Report and all other required documentation shall be submitted to HFPB the State Board no later than 60 90 days following the project completion date."

19. In Section 1130.620, the timeframe for submission of a letter of intent was revised:

"b) Letter of Intent

1) Prior to submission of an application for permit, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 60 90 days prior to receipt of an application for permit."
20. In Section 1130.720, the language was revised for clarification:

g) Permits for projects that have a cost as stated in this Section and that have not been obligated prior to the expiration date of the permit; shall be considered expired and the project abandoned. Failure to obligate as stated, shall subject the permit holder to fines pursuant to Section 1130.790 d) 1).

21. In Section 1130.730, the language was revised to extend the time period for project obligation, and for clarification:

"a) HFPB the State Board may grant the permit holder a single extension of time to obligate the project. An extension shall be for a period of up to one year and shall commence on the previously defined obligation expiration date, of the permit. Permits not obligated within the approved time frames will expire."

22. In Section 1130.740, language was revised for clarification:

A permit holder may request a change in an approved project completion date by an application for renewal of a permit. A project must proceed with due diligence and must be concluded and have a completion date (see Section 1130.140) that is no later than the completion date specified in the application for permit or two years from the date of obligation, whichever is later, be completed within the timeframes specified in the application for permit unless a new project completion date has been approved and permit renewed by HFPB.

"g) Permit holders who have not submitted permit renewal requests at least 45 days prior to the expiration date of the completion period may also be subject to the Act's sanctions or penalties should a project not be completed and the permit completion period expires prior to HFPB approval of a renewal request. Sanctions and penalties include the denial of permit and other sanctions as stated in Section 1130.790."

23. In Section 1130.750, language was revised for clarification:

a) Allowable Alterations Proposed or incurred alterations that require HFPB action notice and approval from the State Board are:
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4) any decrease in square footage greater than 5% of the project for projects (other than projects approved pursuant to a master design permit approved prior to March 1, 1995) an increase in the cost of the project that exceeds 10% of the original approved permit amount;

7) any increase in the project cost components (i.e., line item amounts) if the increase is not in compliance with the 77 Ill. Adm. Code 1120 77 Ill. Adm. Code 1120 review criteria; or

8) any substantive change in the project's design, that substantially changes the scope or changes the functional operation of the project, as defined in 1130.140.

c) Allowable Alterations Requiring Notice Only to HFPB
For any allowable change to the project that does not require an action of HFPB, notification must occur within 30 days after the alteration.

d) Allowable Alterations
All alterations must be reported. Some "require Board action" (those that require Board approval, and those that are clearly listed as "Not Allowed"). There is no specific list of allowable alterations cited, since the number of possible allowable alterations is infinite.

Allowable alterations consist of:

- those alterations that must be reported and approved by the Board;
- those that are not included in the listing of "Not Allowed Alterations"; and
- those that need only to be reported.

In Section 1130.770, time frames were provided and language was revised for clarification:

Each permit holder shall notify HFPB the State of project completion within 30 days of after the project's completion date and provide the following supporting documentation within 90 days of the completion date: Agency regarding completion of the project.
c) For a project with a cost above the capital expenditure minimum \textit{in place at the time of project approval}, the permit holder must submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

1) itemization of all project costs;

2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX;

3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;

4) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative of the permit holder; and

5) the final Application and Certification of Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.

6) for permits with a project cost equal to or greater than three times the capital expenditure minimum \textit{in place at the time of permit approval}, an audited financial report of all project costs and sources of funds;

The following changes were made in response to comments and suggestions of JCAR:

1. Section 1130.150, subsection (b) was added as follows:

"b) Incorporations by Reference
The following materials are incorporated by reference in this Part. All incorporations are as of the date specified and no later editions or amendments are included."
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American Institute of Architects
1735 New York Avenue, N.W.
Washington, D.C. 20006


2. In Section 1130.720, the language was revised for clarification:
   a) Projects for construction, establishment or modification must be obligated (pursuant to Section 1130.140) no later than:
      1) prior to the expiration date of the permit within the time frames specified in the Act;
      2) 18 months for major construction projects; or
      3) 12 months for all other projects that do not include major construction; or
      3) the HFPB completion date of the permit, if it occurs before the above-stated deadlines.

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The subject rules are comprised of all the procedural rules for Certificate of Need, including those pertaining to: General Requirements, Projects or Transactions Subject to the Act, Projects or Transactions Eligible for Exemption from Permit Requirements, General Requirements for Exemptions, Review and Processing of Application for Permit, Permit Validity, Reporting Requirements and Revocation, Declaratory Rulings, Public Hearing and Comment, and Administrative Hearings.
The adopted amendments are revisions to the procedural rules, as mandated by the Illinois Health Facilities Planning Act, which requires updating, reorganization, and simplification of the existing rules. As such, Parts 1130, 1140, 1180 and 1190 were consolidated onto one Part that combines all procedural rules concerning Certificate of Need.

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

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5th Floor  
Springfield, Illinois 62761  
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 II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1130
HEALTH FACILITIES PLANNING PROCEDURAL RULES

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section
1130.110 Statutory Authority/Applicability
1130.120 Introduction/Public Hearings
1130.130 Purpose
1130.140 Definitions
1130.150 Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section
1130.210 Persons and Facilities Subject to the Act
1130.220 Necessary Parties to the Application for Permit or Exemption
1130.230 Fees
1130.240 Reporting and Notification Requirements

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT REVIEW

Section
1130.310 Projects or Transactions Subject to the Act Review

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS: EXEMPT FROM REVIEW

Section
1130.410 Projects or Transactions Exempt from Permit Requirements Review

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section
1130.500 General Requirements for Exemptions
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1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment
1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility
1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds
1130.539 Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)
1130.540 Requirements for Exemptions Involving Discontinuation
1130.541 Requirements for Exemptions for Combined Facility Licensure
1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)
1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)
1130.544 Requirements for Exemption for the Addition of Dialysis Stations
1130.550 Agency Processing of an Application for Exemption
1130.560 State Board Action
1130.570 Validity of an Exemption and Reporting Requirements

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section
1130.610 Duration of the Review Period and Time Frames
1130.620 Technical Assistance, Letter of Intent Consultation, Classification, Completeness Review, and Review Procedures
1130.630 Agency Actions During the Review Period
1130.635 Additional Information Provided During the Review Period Prior to Initial State Board Action
1130.650 Modification of an Application
1130.655 HFPB Consideration and Action
1130.660 Approval of an Application
1130.670 Intent to Deny Notice of Intent to Deny an Application
1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section
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1130.710 Validity of Permits
1130.720 Obligation
1130.730 Extension of the Obligation Period
1130.740 Renewal of a Permit
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AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].


SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS
Section 1130.110 Statutory Authority/Applicability

a) This Part is promulgated by authority granted to the Illinois Health Facilities Planning Board (State Board) under Public Act 78-1156, the Illinois Health Facilities Planning Act (the Act) [20 ILCS 3960].

b) After September 1, 2006, all applications in the review process and all projects for which permits or exemptions have been issued but which have not been completed shall be subject to the provisions of this Part.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.120 Introduction/Public Hearings

Part 1130 establishes the procedures and requirements for processing and review of applications for permit, applications for exemptions, and other matters that are subject to the Act and to determinations by the Illinois Health Facilities Planning Board (HFPB). This Part pertains to, but is not limited to: persons and transactions subject to the Act; the requirements for submission of applications for permit or exemption; the IDPH and HFPB review process, public hearing procedures for applications and proposed rules; requirements for maintaining valid permits; declaratory rulings; and administrative hearings. Public hearings on this Part were held in accordance with the provisions of Section 12 of the Act. Copies of the public hearing records are available for inspection at the headquarters of the State Board at 525 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.130 Purpose

a) The purpose of the Health Facilities Planning Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction of health care facilities. This program is established to improve the financial ability of the public to obtain necessary health services, and to establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public [20 ILCS 3960/2]. Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the State. The burden of proof on all issues pertaining to an application shall be on the applicant.
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b) The health facilities planning program shall be administered with the goal of maximizing the efficiency of containing capital investment and the objectives of:

1) Promoting development of more effective methods of delivering health care;

2) Improving distribution of health care facilities and services and ensuring access to needed health care services for the general public, the medically indigent and similar underserved populations;

3) Controlling the increase of health care costs;

4) Promoting planning for health care services at the facility, regional and State levels;

5) Maximizing the use of existing health care facilities and services that represent the least costly and most appropriate levels of care; and

6) Minimizing the unnecessary duplication of health care facilities and services.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.140 Definitions

Definitions pertaining to program components can be found in the Act and in 77 Ill. Adm. Code 1100 and 1110. Definitions which will assist in the understanding of this Part are presented below.

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart J of this Part and pursuant to the Act.

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" violations. As defined in Section 1-129 of the Nursing Home Act, "Type 'A' violation" means a violation of the Nursing Home Act or of the rules promulgated thereunder which
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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. [210 ILCS 45/1-129]

"Agency" or "IDPH" means the Illinois Department of Public Health.

"Alteration" means any revision or change to a project as detailed in the application that occurs after HFPB State Board issuance of the permit. The site of the proposed project or the persons who are the permit holder cannot be altered.


"Applicant" means one or more persons, as defined in the Illinois Health Facilities Planning Act [20 ILCS 3960/3], who applies for a permit or exemption to construct or modify a health care facility or to acquire major medical equipment. See Section 1130.220 to determine what parties are necessary for an application.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any two of its officers or members of its board of directors; in the case of a limited liability company, any two of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, any two of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, any two of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual who is the proprietor.

"Capital Expenditure" means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part and which exceeds the capital expenditure minimum. For purposes of this definition, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds
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the capital expenditure minimum. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]

"Capital Expenditure Minimum" means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation per Section 1130.310.

"CMMS" means the federal Centers for Medicare and Medicaid Services.

"Certified" or "Certification" means approval for a facility to receive reimbursement under Title XVIII and/or XIX of the Social Security Act (42 USCA 1395x).

"Chairman" means the presiding officer of HFPB.

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control. [20 ILCS 3960/3] Examples of change of ownership include:

- a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or
- the issuance of a license by IDPH to a person different from the current licensee; or
- for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or
- a change in the membership or sponsorship of a not-for-profit corporation;

Examples of change of ownership include:

- a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or
- the issuance of a license by IDPH to a person different from the current licensee; or
- for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or
- a change in the membership or sponsorship of a not-for-profit corporation;
or

a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12 month period, that controls a health care facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or

any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets, including leases.

"Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit.

"Charity Care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third party payer. [20 ILCS 3960/3]

"Clinical Service Area" means a department and/or service that is directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility [20 ILCS 3960/3]. A clinical service area's physical space shall include those components required under the facility's licensure or Medicare and/or Medicaid Certification, and/or as outlined by documentation from the facility as to the physical space required for appropriate clinical practice.

"Combined Service Area Project" means a project that consists of both clinical service areas and non-clinical service areas.

"Completion" or "Project Completion" means that the project has been brought to a conclusion as evidenced by one or more of the following events concerning, and that the State Board has determined that the finished project is or is not in accordance with what the State Board authorized, and that a project completion date has been established by the State Board (see Section 1130.770 for further
For projects that have documented compliance with the provisions of the permit as authorized by the State Board, the date of project completion is:

- for projects with no cost that are limited to total discontinuation of a facility or of a category of service, when the date the last patient is discharged or the date the permit for discontinuation is issued, whichever comes later; or

- for projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date IDPH issues a revised license; or

- for projects with no cost that are limited to a substantial change in beds in licensed hospitals or in State-operated facilities, the date the first patient is treated; or the Agency receives a revised physical plant survey or the date of permit issuance which ever is later; or

- for projects limited to the establishment of a category of service, the date the first patient is treated, or the date the Agency receives a report of final realized cost, whichever is later; or

- for projects limited to the establishment of a health care facility, the date the health care facility is licensed or, if licensure is not required, the date the Agency receives Medicare/Medicaid certification, a report of final realized cost, whichever is later; or

- for projects limited to the acquisition of major medical equipment, the date IDPH receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later; or

- for projects limited to the addition of end-stage renal dialysis stations and for projects, with a cost, that are limited to the addition of beds, the date the first patient is treated, or the date IDPH receives a report of final realized cost, whichever is later; or

- for all other projects including modernization of existing facilities, project completion occurs when all components of the project are fulfilled as stated in the application for permit or exemption; or, the date the Agency
receives a report of final realized costs; or

if the permit was issued with conditions, project completion occurs when HFPB deems the conditions have been met for projects that the State Board has found not in compliance with the provisions of the permit as authorized by the State Board, including projects with cost overruns, the date of project completion is the date established by the State Board.

"Completion Date" or "Project Completion Date" means the date established by HFPB for the completion of the project in the approval of the permit or subsequent renewal.

"Consolidation" means the combination of two or more existing health care facilities into a new health care facility terminating the existence of the existing or original facilities (A + B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensure or the loss of certification for facilities not subject to licensure. In example, consolidation becomes reviewable only when a new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.

"Construction" or "Modification" means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditures made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act shall be excluded from any obligations under the Act. [20 ILCS 3960/3]

"Contested Case" is defined in Section 1-30 of the IAPA [5 ILCS 100/1-30].

"Control" means a person possesses any of the following discretionary and non-ministerial rights or powers:
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In the case of an entity, the ability to direct the management and policies of the entity, whether through the voting of securities, corporate membership, contract, or otherwise. Examples of such control include, without limitation:

- holding 50% or more of the outstanding voting securities of an issue;
- in the case of an entity that has no outstanding voting securities, having the right to 50% or more of the profits or, in the event of dissolution, the right to 50% or more of the assets of the entity;
- having the power to appoint or remove 50% or more of the governing board members of an entity;
- having the power to require or approve the use of funds or assets of the entity; or
- the power to approve, amend or modify the entity's bylaws or other governance documents.

In the case of capital assets or real property, the power to direct or cause the direction of the personal property, real property or capital assets that are components of the project (i.e., fixed equipment, mobile equipment, buildings and portions of buildings). Examples of such control include, without limitation:

- ownership of 50% or more in the property or asset;
- serving as lessee or sublessee.
- the right or power to approve and to remove without cause a controlling portion of the governing body of another person; or
- the right or power to require or approve the use of funds or assets of another person for any purpose; or
- the right or power to approve, amend, or modify the health care facility's by-laws or other rules of governance.
A person may control one or more other persons. For the purpose of this definition, "governing body" means:

with respect to a corporation having stock, such corporation's board of directors and the owners, directly or indirectly, of more than 50% of the securities (as defined in Section b(a)(1) of the Securities Act of 1933 (15 USC 77b(a)(1)) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporation's directors (both of which groups shall be considered a governing body);

with respect to a not for profit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the corporation's members do not have such discretion; and

with respect to any other entity, its governing board or body.

For the purposes of this definition, all references to directors and members shall be deemed to include all persons or entities performing the function of directors or members, however denominated.

A controlling person or entity indirectly controls all persons or entities controlled, or owned directly or indirectly, by any person or entity controlled by such controlling person or entity.

"Conversion" means a change in the control of an existing health care facility's physical plant, assets, or operations by such methods as, but not limited to, a change in ownership, acquisition, merger, consolidation, lease, stock transfer, or change in sponsorship. Types of conversion include:

change of ownership;

consolidation by combining two or more existing health care facilities into a new health care facility, terminating the existence of the existing or original facilities (A + B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensing or the loss of certification for facilities not subject to licensing;
merger by the absorption of one or more existing health care facilities into another existing health care facility. The result of the absorption is that only one facility survives \((A + B = B)\). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Director" means the Director of the Department of Public Health.

"Discontinuation" means to cease operation of an entire health care facility or category of service on a voluntary or involuntary basis. A permit or exemption is required prior to discontinuation. A facility or category of service that has ceased operation or has interrupted service on a temporary basis due to unanticipated or unforeseen circumstances (such as the lack of appropriate staff, or a natural or unnatural disaster) may be determined to not have discontinued, provided that the facility has exercised appropriate efforts to maintain operation and has provided documentation of the circumstances and anticipated date of restoration to HFPB within 30 days after the temporary interruption of the service. Discontinuation also includes a determination by HFPB or the State Board that:

a category of service has not been utilized for its intended purpose for a period of twelve months or more; or

an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100 (Narrative and Planning Policies), for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to IDPH pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or
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limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

BOARD NOTE: HFPB may determine that discontinuation has not occurred when a facility has complied with the requirements of this definition. Failure to obtain a permit prior to discontinuation may result in the imposition of sanctions or penalties as provided by the Act.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been issued with that diligence and foresight that persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause cannot be avoided by the exercise of due diligence in the meaning of this rule is a cause reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Entity" means any corporation, company, partnership, joint venture, association, trust, foundation, fund or other legally recognized organization, public body or municipality.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed buildings or structures as a health care facility, the replacement of an existing health care facility on another site, or the development, licensing, or certification (if licensing is not applicable) of a category of service.

"Estimated Project Cost" or "Project Costs" means the sum of all costs, including the fair market value of any equipment or other real property (whether acquired by lease, donation, or gift) necessary to complete a project, including:

- preplanning costs;
- site survey and soil investigation fees;
- site preparation costs;
- off-site work;
construction contracts and contingencies (including demolition);
capital equipment included in construction contracts;
arrestural and engineering fees;
consultants and other professional fees that are related to the project;
capital equipment not in construction contracts;
bond issuance expenses;
net interest expense during construction; and
all other costs that are to be capitalized.

"Executive Secretary" means the chief executive officer of HFPB, responsible to
the chairman and, through the Chairman, responsible to HFPB for the execution
of its policies and procedures.

"Existing Health Care Facility" means any health care facility or any person or
organization that owns or operates a health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12
months, unless the failure to provide such service is the result of pending
license revocation procedures, and has not surrendered or abandoned its
license or had its license revoked or voided or otherwise deemed invalid
by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act (42 USC
1395); or

is a facility operated by the State of Illinois.

BOARD NOTE: Projects approved by HFPB for establishment of a health
care facility that have not been deemed complete in accordance with the
provisions of this Part for which permits have been issued but that are not
complete as defined in this Section shall not be considered existing facilities,
but the approved number of beds or services shall be recorded in the Inventory
of Health Care Facilities maintained by IDPH and shall be counted against any
applicable need estimate.

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition. *Fair market value* is documented as follows:

- For equipment that is to be leased, statements from the manufacturers as to the purchase price of the equipment;
- For equipment or other real property that will be a gift or donated, a statement from the donor attesting to the dollar value reported to the Internal Revenue Service pursuant to IRS Document 170;
- For existing property (other than equipment) that is to be leased or otherwise acquired, copies of an appraisal performed by a certified appraiser or copies of financial statements detailing actual construction costs if the property is less than three years old; or
- For property (other than equipment) that is being or will be constructed and then leased, a statement from the lessor as to the anticipated costs of construction.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

- The decision by HFPB the State Board to approve or deny an application for permit. Action taken by HFPB the State Board to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or
- The decision by HFPB the State Board on all matters other than the issuance of a permit:

**BOARD NOTE:** The decision is final at the close of business of the HFPB State Board meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under generally accepted accounting principles that have been incurred to complete a project for which a permit or exemption was issued. These costs include all
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expenditures and the dollar or fair market value of any component of the project, whether acquired through lease, donation or gift.

"HFPB" or "the State Board" means the Illinois Health Facilities Planning Board.

"Hearing Officer" means the person with authority to conduct public hearings and to take all necessary steps to assure the proper completion of public hearings and assure compliance with requirements of the Act. Responsibilities include: determining the order and time allotment for public testimonies; maintaining order; setting and announcing new hearing dates, times and places, as necessary; determining the conclusion of the hearing and that all documents, exhibits and other written materials presented or requested at the hearing are in the hearing officer's custody; and preparing a report to IDPH for submittal to HFPB.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Impending" means, with respect to an application for permit or exemption, that a letter of intent to file an application has been received in accordance with Sections 1130.500 and 1130.620 of this Part.

"Major Construction Project" means:

- Projects for the construction of new buildings;

- Additions to existing facilities; and

- Modernization projects whose cost is in excess of $1,000,000 or 10% of the facility's operating revenue, whichever is less. [20 ILCS 3960/5]

"Major Medical Equipment" means medical equipment used for the provision of medical and other health services and which costs in excess of the capital expenditure minimum, except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of section 1861(S) of the social security Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working
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drawings, specifications, and other activities essential to the acquisition of

such equipment shall be included. [20 ILCS 3906/3]

"Merger" means the absorption of one or more existing health care facility into
another existing health care facility. The result of the absorption is that only one
facility survives (A + B = B). Merger results in the modification (e.g., expansion
of beds or services) of the survivor facility and the discontinuation of the facility
being absorbed.

"Medicaid Certified" or "Medicare Certified" or "Medicaid Certification" or
"Medicare Certification" means approval for a facility to receive reimbursement
under Title XVIII (Medicare) and/or XIX (Medicaid) of the Social Security Act
(42 USC 1395).

"Modification of an Application" or "Modification" means any change to an
application a proposed project during the review period (i.e., prior to a final
HFPB State Board action). Such changes include, but are not limited to: which
results in changing the proposed project's physical size or gross square feet, the
site within a planning area, the operating entity when the operating entity is not
the applicant, the number of proposed beds, the categories of service to be
provided, the cost, the method of financing, proposed project completion date, the
configuration of space within the building, or any change in the person who is the
applicant, including the addition or deletion of one or more persons as co-
applicants.

BOARD NOTE: A change of site to a site outside the planning area originally
identified in the application is not considered a modification and invalidates
the application.

"Newspaper of General Circulation" means newspapers other than those intended
to serve a particular, defined population, such as the publications of professional
and trade associations.

"Newspaper of Limited Circulation" is defined in Section 8.5 of the Act.

"Non-clinical Service Area" means an area for the benefit of the patients, visitors,
staff or employees of a health care facility and not directly related to the
diagnosis, treatment, or rehabilitation of persons receiving services from the
health care facility. "Non-clinical service areas" include, but are not limited to,
chapels; gift shops; news stands; computer systems; tunnels, walkways, and
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elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers. [20 ILCS 3960/3]

"Notification of State Board Action" means the transmittal of State Board decisions to the applicant or permit or exemption holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Obligation" means the commitment of at least 33% of total funds assigned to cover total project cost, that occurs by: the project has been initiated on a given date; the financial resources to fund the project are available or committed; and the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in accord with what the State Board has approved.

The actual expenditure of 33% or more of the total project cost; and/or

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means.

"Operational" means that a permit holder is providing the services(s) approved by HFPB and, for a new health care facility or a new category of service, licensure or Medicare and/or Medicaid certification has been obtained and residents/patients are utilizing the facility or equipment or are receiving service.

"Out-of-state Facility" means a person that is both licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility or its parent, or Illinois physicians licensed to practice medicine in
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"Permit" means authorization to execute and complete a project related to a health care facility, as reviewed and approved by HFPB and as specified in the Act.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]

"Project Obligation Date" means the date on which the permit holder expended or committed to expend by contract or other legal means at least 33% or more of the total project cost initiated or commenced the project as attested to in the notarized certification submitted to the Executive Secretary as evidence of project obligation.

"Proposal" or "Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that:

- is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or

- owns, directly or indirectly, at least 50% of the health care facility; or

- is otherwise controlled or managed by one or more health care facilities or a person that controls or manages the health care facility; or

- otherwise controls or manages the health care facility; or

- is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

"Review Period" means the time from the date an application for permit or
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exemption is deemed complete until the State Board renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by HFPB. Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments and/or services. It consists of the entirety of space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet (BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

"Substantially Changes the Bed Count of a Health Care Facility" means construction or modification, including acquisition of equipment, which changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 10 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a two year period. (Section 5 of the Act) The two year period begins on the date when additional beds added to the facility inventory become operational. When a permit is issued that will result in a change in bed capacity, the applicant facility may not add any more beds in those services affected by the permit for two years from the date that such beds become operational without obtaining an additional permit from the State Board. The facility may add beds (as long as the number added does not exceed 10 beds or 10% of the total facility capacity, whichever is less, over the two year period) in the other services not affected by the permit. Each facility will be contacted annually to verify bed inventory. If there is found, through this verification process, an increase in the calculated bed capacity of the facility, IDPH shall determine the date the two year period begins. The date shall be published in the next available compilation of the Inventory of Health Care Facility and Need Determinations by Planning Area.

BOARD NOTE: The discontinuation (reduction) of beds requires notice to IDPH. The effective date of the bed reduction can be no earlier than the date of IDPH's receipt of the bed reduction notice. It should also be noted that all proposed capital expenditures (including those which do not substantially change the bed capacity) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction.
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However, proposals for less than the capital expenditure minimum, including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's bed capacity.

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

- the addition or discontinuation of a category of service as defined in HFPB rules at 77 Ill. Adm. Code 1100.220;
- discontinuation as defined in this PartSection 1130.140;
- a change of a material representation made by the applicant in an application for permit or exemption the "Application for Permit" subsequent to receipt of a permit that which is relied upon by HFPB the State Board in making its decision. Material representations are those that which provide a factual basis for issuance of a permit or exemption and include:
  - withdrawal or non-participation in the Medicare and/or Medicaid programs;
  - charge information;
  - requirements of variances pursuant to 77 Ill. Adm. Code 1110;
  - other representations made to HFPB the State Board as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter;
  - the addition of a surgical specialty not previously approved by HFPB the State Board for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by HFPB the State Board in accordance with the provisions of 77 Ill. Adm. Code 1110.1540;
  - an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is issued for additional stations or for the establishment of an additional facility/service, the
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A facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit; or

BOARD NOTE: Section 1130.310 details the review requirements (or grandfathering) for kidney dialysis treatment center projects that were undertaken prior to March 1, 1995.

the acquisition, construction, or leasing of space, buildings, or structures for the purpose of providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedures room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

BOARD NOTE: All proposed capital expenditures (including those which do not substantially change the scope) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, it should also be noted that proposals from the capital expenditure minimum or less including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's scope or functional operation.

"Supplemental Permit" means an approved application for permit that augments or enhances an existing permit. The initial permit must be obligated, but not yet completed. Applications for permits intended to be supplemental permits shall include the basic details of the existing permit, including its status, and shall explain the inter-relationship between the two projects. The application for a supplemental permit is a distinct application for permit that is to be reviewed and considered based upon its conformance with this Part. A permit holder may need to request an alteration to an existing permit if an alteration is needed to accommodate the supplemental project. The completion date of the permit being supplemented will be extended as needed, based upon approval of the supplemental application. Failure for a supplemental permit application to be approved will not affect the validity of the underlying existing permit.
"Technical Assistance" means help provided by an employee of HFPB or IDPH to a person, health care facility or HFPB, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical Assistance may be provided to any person regarding pre-application conferences, the filing of a letter of intent, impending or pending application, or other request to HFPB provided that the communication is not intended to influence any decision on the application. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided. [20 ILCS 3960/4.2] Technical Assistance may be provided for the benefit of HFPB to clarify issues relevant to an application or other business of HFPB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. All communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.

"Temporary Suspension of Facility or Category of Service" means a facility that has ceased operation or that has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) may file notice to HFPB of a temporary suspension of service. See Section 1130.240(d).

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

**Section 1130.150 Referenced and Incorporated Materials**

a) The following regulations, standards and statutes are incorporated or referenced in this Part:

1) Federal Guidelines, Statutes and Regulations:


2) State of Illinois Statutes:

   A) Illinois Health Facilities Planning Act [20 ILCS 3960];

   B) Hospital Licensing Act [210 ILCS 85];
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C 3) Ambulatory Surgical Treatment Center Act [210 ILCS 5];

D 4) Nursing Home Care Act [210 ILCS 45];

E 5) Illinois Administrative Procedure Act [5 ILCS 100];

F 6) The Alternative Health Care Delivery Act [210 ILCS 3];

G) End Stage Renal Disease Facility Act [210 ILCS 62];

H) Administrative Review Law [735 ILCS 5/Art. III];

I) Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420];

J) Code of Civil Procedure [735 ILCS 5].

3e) State of Illinois Rules Regulations:

1) Permit Application Fees (77 Ill. Adm. Code 1190);

A 2) Narrative and Planning Policies (77 Ill. Adm. Code 1100) (See Section 1100.220);

3) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 1180);

4) Public Notice of Opportunity for Public Hearing and Public Hearing Procedures (77 Ill. Adm. Code 1140);

B 5) Financial and Economic Feasibility Review (77 Ill. Adm. Code 1120);

C 6) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110);


d) All incorporations by reference of federal regulations and the standards of
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nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

4) Other referenced materials:

A) Executive Order 1979-4;

B) Rules of the Illinois Supreme Court.

b) Incorporations by Reference

The following materials are incorporated by reference in this Part. All Incorporations are as of the date specified and no later editions or amendments are included.

American Institute of Architects
1735 New York Avenue, N.W.
Washington D.C. 20006


(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

SUBPART B: GENERAL REQUIREMENTS

WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section 1130.210 Persons and Facilities Subject to the Act

Any person who proposes to establish, construct, or modify a health care facility, and any person who proposes to acquire major medical equipment, is subject to the Act. In addition, health care facilities are subject to certain provisions of the Act, such as, but not limited to, submission of an annual report of capital expenditures and providing information, reports, and data necessary to carry out the purposes of the Act. The Act applies to private and public (including State operated) hospitals, ambulatory surgical treatment centers, long-term care facilities, end stage renal disease facilities, and facilities used for outpatient surgical procedures that are leased, owned, or operated by or on behalf of an out-of-state facility. The following persons are subject to the Act:

a) Hospitals licensed pursuant to the Hospital Licensing Act [210 ILCS 85];
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b) Ambulatory surgical treatment centers required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5];

c) Long-term care facilities licensed pursuant to the Nursing Home Care Act [210 ILCS 45];

d) Kidney disease treatment centers, including free standing hemodialysis units;

e) Any of the above types of facilities operated by the State or any department or agency thereof; and

f) Any person proposing to establish, construct or modify any of the above types of facilities or proposing to acquire major medical equipment; and

g) An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.220 Necessary Parties to the Application for Permit or Exemption

A permit or exemption shall be obtained prior to the acquisition of major medical equipment or to the construction or modification of a health care facility [20 ILCS 3960/5]. The following person(s) must be the applicant(s) for permit or exemption, as applicable:

a) For construction or modification projects (excluding projects to establish or change the ownership of health care facilities and including projects to acquire major medical equipment by or on behalf of health care facilities) of one or more existing or proposed health care facilities:

1) the person who will hold and who currently (as applicable) holds the license (or Medicare and/or Medicaid certification if licensing is not applicable) for each facility; and

2) the person who has final control of the person who will hold or who currently holds (as applicable) the license (or Medicare and/or Medicaid certification if applicable) for each facility; and
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3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and

4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.

b) For projects to establish new health care facilities or to change the ownership of one or more existing health care facility(ies), the applicant(s) must be:

1) the person who will hold the license (or certification if licensing is not applicable) for each facility; and

2) the person who has final control of the person who will hold the license (or certification if applicable) for each facility; and

3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and

4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.

be) For projects to acquire major medical equipment that is not located in a health care facility and that is not being acquired by or on behalf of a health care facility, the applicant must be:

1) the person who is acquiring the equipment; and

2) the person who will be responsible for operation of the proposed equipment; and

3) the person(s) who has final control of the person(s) who is acquiring the equipment or the person who will be responsible for operation of the equipment; and
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4) any other person who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, buildings or portions of buildings, structures such as parking garages, etc.

BOARDAGENCY NOTE: A person or entity that participates in the management of a health care facility or category of service is not an applicant unless that person or entity possesses the rights or powers specified in the definition of "control" contained in Section 1130.140 this Part.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.230 Fees

a) IDPH shall charge and collect an amount determined by HFPB to be reasonable application fees for the processing of the applications by HFPB, IDPH and appropriate recognized areawide health planning organizations. HFPB shall set amounts by rule. All fees and fines collected under the Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering the Act. [20 ILCS 3960/12.2]

b) A fee shall be assessed on all matters requiring an application processing fee (as detailed in other Sections of this Part), except for the following:

1) projects classified as emergency; or

2) projects that are not subject to a fee in accordance with the provisions of Subpart E.

c) Fee payment shall be by check or money order made payable to the Illinois Department of Public Health.

d) Any matter requiring an application processing fee shall be declared null and void if payment of the total fee has not been received by IDPH within 30 days after notice of the amount due has been received by an applicant or person requesting action from HFPB.

e) No action shall be taken by HFPB on any matter requiring an application processing fee for which the total required fee has not been received.
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f) Fee payments are not refundable and may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.

g) Appeal on any required fee amount is to HFPB, pursuant to Section 1130.810.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.240 Reporting and Notification Requirements

HFPB shall require health care facilities to provide periodic reports, data, and information as needed to carry out the purposes and provisions of the Act [20 ILCS 3960/13]. Information required to be submitted to HFPB includes, but is not limited to, reports on capital expenditures, facility and service utilization data, facility bed capacity information, staffing levels, notices of hospital reductions in services, and any temporary suspension of service.

a) Annual Report of Capital Expenditures

HFPB shall require each health care facility to submit an annual report of capital expenditures in accordance with the provisions of the Act. (See Section 5.3 of the Act.)

b) Health Planning Information

HFPB, in conjunction with IDPH, shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the planning responsibilities specified in the Act. (See Section 13 of the Act.) Such reports may be on an annual or other basis.

c) Notice of Hospital Reduction of 50% or More in Health Care Services

Each hospital is required to notify HFPB, IDPH, and the State Senator and 2 State Representatives representing the legislative district in which the hospital is located of a reduction in services of 50% or more, within 30 days after that reduction [20 ILCS 3960/12.4]. Reporting shall include the identification of the service, reasons for reduction and anticipated duration (permanent or temporary). Reduction of 50% or more is determined by the following:

1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds reported in the Annual Hospital Questionnaire;
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2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced by 50% or more, or the number of clinical staff and/or hours of operation is reduced by 50% or more.

A) If reduction does not reduce the number of procedures by 50% or more, then the notification is only required to HFPB, certifying that the reduction will not reduce the number of procedures performed by 50% or more.

B) If the reduction is temporary for the purpose of maintenance or equipment repair, then notification is required to HFPB only, with a timetable to restore the service.

d) Temporary Suspension of Facility or Category of Service
A facility that has ceased operation or that has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) may file notice to HFPB of a temporary suspension of service. The notice shall be filed within 30 days after the suspension of the service, and must include a detailed explanation of efforts being made to correct the circumstance and a timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services are reopened.

e) Failure to Provide Required Information
Health care facilities and persons that fail to comply with the notice and information requirements of HFPB are subject to the sanctions and penalties provided by the Act. (See 20 ILCS 3960/13 and 14.1.)

f) Changes in a Health Care Facility's Bed Capacity
A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, must notify HFPB and IDPH of that change. Such a change is limited to once every two years and that two year period begins on the date when the additional beds become operational. If the facility has already changed its bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date that those beds established by permit become operational without obtaining an additional permit from HFPB.
SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT REVIEW

Section 1130.310 Projects or Transactions Subject to the Act Review

a) Projects or Transactions that Require a Permit
A permit shall be obtained prior to the establishment, construction or modification of a health care facility and prior to the acquisition of major medical equipment unless an exemption from the requirement of obtaining a permit has been issued in accordance with the provisions of Subpart D and Subpart E. A project or transaction that is not exempt from review is subject to review and requires a permit if the project or transaction:

1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means), that which under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums (Section 1130.140) shall be annually adjusted upon the date established by the Act to reflect the increase in construction costs due to inflation. The basis for such adjustment for major medical equipment shall be the latest annual inflation rate as reflected in the Producer's Price Index as calculated in the DRI/McGraw-Hill Health Care Cost Review section on Special Machinery and Equipment (DRI/McGraw-Hill, 1200 G Street, N.W., Suite 1000, Washington, D.C. 20005). The basis for the adjustment to capital expenditures other than major medical equipment shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data (R.S. Means Company Inc., 100 Construction Plaza, P.O. Box 800, Kingston MA 02364-0800). The revised minimums shall be published on HFPB’s internet site as an appendix to this Part; or

2) substantially changes the scope or changes the functional operation of the facility as defined in Section 1130.140; or

3) results in the establishment of a health care facility as defined in Section 1130.140; or
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4) changes the bed capacity of a health care facility as specified in the Act by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than ten beds or more than ten percent of total bed capacity as defined by the State Board, whichever is less, over a two year period (pursuant to Section 1130.140); or

5) involves a change of ownership, as defined in Section 1130.140 unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E Section 1130.520; or

6) results in the discontinuation of an entire health care facility or category of service (see Section 1130.140); or-

7) involves the acquisition of major medical equipment, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E.

b) A permit must be obtained prior to the acquisition of major medical equipment unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E.

c) In determining the elements of a transaction or a project subject to the Actreview, the following factors apply:

1) Components of construction or modification that are interdependent must be grouped together into one permit application. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken.

2) Components that are to be undertaken by means of a single construction contract or are to be financed through the issuance of a single debt instrument, such as, but not limited to, a mortgage, bonds, or lease, must be grouped together into an application for permit.
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3) Projects involving acquisition of equipment that are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components. Computer software, for example, cannot be separated from the equipment needed to run the program.

4) Components under an application for permit must be for a single health care facility unless the components are interdependent among multiple facilities.

c) Prohibition on Splitting or Separating Components of a Project or Transaction

12) No health care facility or other person proposing a project or transaction that is subject to the Act required to obtain a permit shall split what should properly be considered a single capital expenditure into discrete components undertaken during a fiscal year period to evade the capital expenditure review threshold.

23) No health care facility or other person proposing a project or transaction that is subject to the Act required to obtain a permit shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or HFPB rules.

d) Examples of Projects or Transactions Subject to the Act
Examples of projects that constitute construction or modification of a health care facility subject to the Act and require a permit include:

1) Projects located within a licensed or certified health care facility;

2) Projects that result in a health care facility:

A) Billing for services provided by the proposed project,

B) Capitalizing any portion of the proposed project,

C) Receiving reimbursement for services provided by the proposed project, or
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D) Receiving recognition as the provider of the proposed service by third party payors;

3) Projects that are staffed or operated by the health care facility;

4) Projects that are otherwise of, by, through or on behalf of a health care facility;

5) Projects that provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

e) Existing kidney disease treatment centers (ESRD facilities) that have undertaken projects to add additional ESRD stations prior to March 1, 1995 are not required to obtain a permit for the addition of these stations provided that documentation has been submitted to the State Board that verifies that the project had been committed prior to March 1, 1995. Project commitment means that the facility had executed a binding lease or contract to acquire additional space for the project and that financing of the project had been secured and that an application for certification of the additional stations was submitted to IDPH prior to January 1, 1995.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS EXEMPT FROM REVIEW

Section 1130.410 Projects or Transactions Exempt from Permit Requirement Review

The following proposed projects and transactions are not subject to the requirements of obtaining a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart and Subpart E and an exemption is issued by HFPB the State Board:

a) the acquisition of major medical equipment which will not be owned by, operated on behalf of, or located in a health care facility or be used to provide services to an inpatient of a health care facility.

b) the change of ownership of an existing health care facility.

c) the discontinuation of an existing health care facility or of a category of service
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when that discontinuation is the result of:

1) revocation of or denial of license renewal by a State or local regulatory agency;

2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;

3) discontinuation action taken by the Health Facilities Planning Board;

4) the voluntary surrender of a suspended license.

d) the combination of two or more existing health care facilities into a single licensed health care facility, when:

1) the existing facilities are located on the same site or on sites adjacent to one another;

2) the licensed person for the existing facilities is the same;

3) the combination is for the sole purpose of operating the existing facilities under a single license;

4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.

e) the temporary use of beds within existing health care facilities for purposes other than categories of service as defined in 77 Ill. Adm. Code 1100, provided the following are met:

1) the beds will be utilized to provide services as part of a demonstration program authorized by State or federal law, such as, but not limited to, the supportive living facility demonstration project established under Section 5-5.01a of the Illinois Public Aid Code; and

2) the beds will continue to be inventoried according to their presently approved use; and

3) the temporary use of such beds shall cease upon withdrawal from or completion of the demonstration program; and
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4) that if such beds are to be permanently used for purposes other than those inventoried, a permit will be obtained from the State Board; and

5) that the temporary use of such beds will not be for demonstration models established pursuant to the Alternative Health Care Delivery Act [210 ILCS 3].

f) the proposed acquisition or replacement of equipment by or on behalf of a health care facility that does not substantially change the bed count or the scope or functional operation of a health care facility and that does not exceed the lesser of $4 million or 10% of the facility's operating revenues derived from patient/resident care (based upon the latest available audited financial statements of the facility or of the person who controls the facility).

eg) a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations provided that the number of stations to be added does not exceed the planning area's need for additional stations as calculated in the Inventory and also provided that the number of stations to be added does not exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

fh) proposed projects or transactions (such as name changes or corporate restructuring) that HFPB [the State Board] has determined pursuant to Section 1130.810 to be ministerial or non-material and do not warrant review.

gi) a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section 1130.500 General Requirements for Exemptions

Only those projects specified in Section 1130.410 are eligible for exemption from permit requirements. Persons that have initiated or completed such projects without obtaining an exemption are in violation of the provisions of the Act and are subject to the penalties and sanctions of the Act.
a) Letter of Intent

1) Prior to submission of an application for exemption, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 30 days prior to receipt of an application for exemption.

2) A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.

3) A letter of intent must contain the following information:

A) the name of the applicant;

B) the name and location of the facility;

C) the type of exemption that is being sought (e.g., change of ownership, the addition of dialysis stations);

D) a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, and the date the project or transaction is to be initiated;

b) Application for Exemption

Any persons proposing a project for an exemption to permit requirements must submit to HFPB (no sooner than 30 days following receipt of a letter of intent) an application for exemption containing the information required by this Subpart, submit an application fee (if a fee is required), and receive approval from HFPB.

c) General Information Requirements

The application for exemption shall include the following information and any additional information specified in this Subpart:

1) the name and address of the applicant (see Section 1130.220);

2) the name and address of the health care facility or, if the proposed project is for the acquisition of major medical equipment, the address of the premises where the equipment will be installed or used;
3) a description of the project, e.g., change of ownership, increase in dialysis stations;

4) documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;

5) a description of the applicant's organization structure, including a listing of controlling or subsidiary persons;

6) the estimated project cost, including the fair market value of any component and the sources and uses of funds;

7) the anticipated project obligation date and the anticipated project completion date;

8) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFPB; and

9) application processing fee.

BOARD NOTE: Projects are eligible for exemptions to a full permit process providing that they can meet all of the requirements delineated in this Subpart. If a person or project cannot meet the requirements of exemption, then an application for permit may be filed.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment

a) Submission of Application for Exemption
Prior to any person acquiring major medical equipment which will not be owned by or located in a health care facility, the person must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.

b) Application for Exemption
The application for exemption is subject to approval under Section 1130.560 and
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shall include the information required by Section 1130.500 and the following information:

1) The name and address of the applicant proposing to acquire the equipment (see Section 1130.220);

2) Name and address of any person related to the applicant;

3) Identification of the equipment to be acquired, including model number, manufacturer and equipment specifications;

4) The address of the premises where the equipment will be installed or used and a description of the premises, which includes a gross square footage space allocation for the equipment and for any other functions contained in the space therein, such as, but not limited to, diagnostic or treatment areas, administrative space, doctors offices, waiting rooms, etc., and whether any common space is shared or utilized by persons other than the applicant;

5) Copies of any existing or proposed lease or purchase agreements or a proof of ownership regarding the premises where the equipment will be installed;

6) Name and address of the person who owns the premises and whether that person is related to a health care facility or to the applicant;

7) Verification that the equipment will not be used to provide services to inpatients of any health care facility;

8) Verification that use of the proposed equipment will not result in the inpatient admission of patients to a health care facility following outpatient treatment except in emergency conditions;

9) Verification that there is or will be a description of each component of an existing or proposed quality assurance plan for the proposed equipment addressing the following:

   A) how regular objective evaluation of all audits and medical care will be performed;
B) how patient interviews and complaint evaluation will be performed;

C) infection control measures;

D) incident reporting;

E) allied health professional credentialing;

F) evaluation of external surveys affecting quality of care;

G) safety committee concerns;

H) problem resolution; and

I) confidentiality concerns;

10) The cost or fair market value of the equipment plus all capital costs associated with the acquisition, installation, or operation of the equipment, including the construction costs or fair market value of the premises where the equipment will be installed; and

7.44) Verification Certification that failure to complete the project in accordance with the applicable provisions of Section 1130.570 no later than 12 months from the date of exemption approval (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence) will comply with the completion requirements of this Section will invalidate the exemption.

be) Completion Requirements
A project that has received an exemption for acquisition of major medical equipment must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

c) Application Processing Fee
The application processing fee shall be .1% of the total estimated project cost (see Section 1130.230).

BOARD NOTE: A permit is required for the acquisition of major medical equipment
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that which will be owned by, located in, or utilized to serve inpatients of a health care facility. Equipment acquired by exemption cannot be used to treat patients who are directly admitted into an inpatient unit of a health care facility except in the case of a medical emergency that which threatens the life of the patient. A physician licensed to practice medicine in all of its branches must verify that such inpatient admission was caused by a medical emergency.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility

Projects for the acquisition of an existing health care facility are exempt from the requirement of obtaining a permit if the requirements of this Section and Subpart are met:

a) Submission of Application for Exemption
Prior to any person acquiring or entering into a contract to acquire an existing health care facility, the person must submit an application for exemption to HFPB the State Board, submit the required application processing fee and receive approval from HFPB the State Board.

b) Application for Exemption
The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information shall contain the following:

1) the name and address of the person proposing to acquire the facility;

2) the name and location of the existing health care facility to be acquired;

3) verification certification that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by IDPH will not substantially change (per definition in Section 1130.140) for at least 12 months following the project's completion date;

4) documents, such as letters of intent, options to purchase, or lease or sale agreements, that have been signed by both the applicant and the existing owner that contain a provision that execution is subject to HFPB issuance of an exemption and that contain the documents that detail conditions and terms of the change of ownership any lease or purchase arrangement;
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3) proof that the applicant is fit, willing, and able and has the qualifications, background and character to adequately provide a proper standard of health service for the community [20 ILCS 3960/6] by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application;

4) proof that the applicant has sufficient the anticipated acquisition price and the fair market value of the facility to be acquired (determination of fair market value is stipulated by 77 Ill. Adm. Code 1190.40(b)) and the sources of funds to finance the acquisition and to operate the facility for a period of 36 months by providing evidence of a bond rating of "A" or better (that must be less than two years old) from Fitch's, Moody's, or Standard and Poor's rating agencies or evidence of compliance with HFPB financial viability review criteria applicable to the type of facility to be acquired as specified in 77 Ill. Adm. Code 1120;

5) verification that the applicant intends to maintain ownership and control of the facility for a minimum of three years;

6) proof of publication of the required legal notice of the change of ownership (as required by subsection (c) of this Section);

7) documentation from the Illinois Secretary of State that the legal entity that is the exemption applicant is registered to conduct business in Illinois and is in good standing;

8) certification that the acquisition or purchase agreement has not yet been entered into or executed, or if the acquisition or purchase agreement has been executed it contains a clause stating the transaction is contingent upon receiving approval from the Illinois Health Facilities Planning Board;

9) verification that any projects for which permits have been issued have been completed or will be completed or altered in accordance with the provisions of this Section;
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7) If the ownership change is for a hospital, that the facility will not adopt a more restrictive charity care policy than the policy that was in effect one year prior to the transaction. The hospital must provide certification that the compliant charity care policy will remain in effect for a two-year period, following the change of ownership transaction; and

10) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, a copy of the applicant's latest audited financial statements;

11) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, a certified copy of the transcript of the public hearing and copies of all exhibits, documents and other written materials presented at the hearing;

12) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, copies of the bylaws for the existing facility and for the applicant; and

13) if the change of ownership is for a governmental or not-for-profit facility, or for a proprietary hospital, a written response addressing the review criteria of 77 Ill. Adm. Code 1110.240. The response shall be made available for public inspection on the premises of the health care facility at least 10 days prior to the public hearing required by this Section;

4) verification that failure to complete the project in accordance with the applicable provisions of Section 1130.570 no later than 12 months from the date of exemption approval (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of this Section will invalidate the exemption.

c) Opportunity for Public Hearing

Legal Notice Requirements

Upon a finding by the Department of Public Health that an application for a change of ownership is complete, the Department shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the
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newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on HFPB’s web site and sent to the State Representative and State Senator of the district in which the health care facility is located. [20 ILCS 3960] This legal notice must provide the following:

Any person requesting an exemption for a change of ownership must publish a legal notice in a newspaper of general circulation in the community in which the facility is located. This legal notice must provide the following:

1) the name and address of the facility for which the exemption is sought;

2) the name and address of the applicant entity requesting the exemption;

3) the nature of the transaction (e.g., the purchase, lease, or transfer of stock of the licensed entity);

4) when the entity that will be assuming ownership of the facility is a wholly owned subsidiary of another corporation, the name and address of the parent firm; and

5) a certification that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by IDPH will not substantially change (per the definition in Section 1130.140) for at least 12 months following the exemption's completion date;

6) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, an announcement of a public hearing containing the information requirements of this Section; and

7) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

d) Public Hearing Requirements for Proprietary Hospital and Governmental or Not-For-Profit Facility Changes of Ownership

Any person requesting an exemption for a change of ownership of a governmental or not-for-profit facility or for a proprietary hospital must conduct a public hearing in the community in which the facility is located. The hearing shall be held in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. The applicant shall include in the
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If a public hearing is requested in accordance with the requirements of the Act, the applicant shall be notified by IDPH of the hearing and the applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing [20 ILCS 3960/8.5]. The summary shall contain at least the following:

1) a statement as to the anticipated benefits of the proposed changes in ownership to the community;

2) the anticipated or potential cost savings, if any, that will result for the community and the facility as a result of the change in ownership;

3) a description of the mechanism that will be utilized to assure quality control;

4) a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;

5) a description of the selection process that the acquiring entity will utilize in selecting the facility's board of directors;

6) a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the response is available for public review on the premises of the health care facility; and

7) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition, the location, time, and date of the hearing, which must be no later than 10 days nor more than 30 days after the date of publication of the legal notice; and

8) a statement that the hearing is an open public meeting at which time an opportunity will be afforded to all persons wishing to present written or oral comments.

e) Application Processing Fee

The application processing fee is $2,500.
f) Completion of Projects with Outstanding Permits
A permit or exemption cannot be transferred.

1) For purposes of a change of ownership exemptions, outstanding permits will not be considered transferred if the following conditions are met:
   - a permit will not be considered transferred for any project that does not establish a health care facility or that does not involve a substantial change in scope (as defined in Section 1130.140), provided that the project has been obligated in accordance with the provisions of Section 1130.140 and has proceeded with due diligence.

   A) the existing permit is not for the establishment or discontinuation of a new facility or category of service;

   B) the existing permit is not a substantial change in scope as defined in Section 1130;

   C) the existing permit has been obligated and is being carried out with due diligence.

2) Permits for the establishment of a new facility or for substantial change in scope will not be considered transferred under the following circumstances:

   A) for projects involving the establishment of a new facility, the facility must be licensed (or certified if licensing is not applicable) and also be operational as defined in Section 1130.140; and

   B) for projects involving a substantial change in scope, the change must be completed (as defined in Section 1130.140) (e.g., a new service initiated and operational, discontinuation of a service completed, a new surgical specialty commenced).

23) If the requirements of this subsection (f) are not met, any outstanding permit change of ownership will be considered a transfer of the permit and results in the permit being null and void.

4) In the event of a change of ownership of a health care facility prior to the completion of an approved project that does not meet the requirements of
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this subsection, it is the responsibility of the permit holder to seek State Board approval to alter the permit to reflect only that construction or modification that will be completed at the time ownership of the facility transfers to another person. Failure to obtain an alteration approval will result in the totality of the permit being considered abandoned. Any person requesting an exemption for a change of ownership of a health care facility for which an outstanding permit exists must in the case where a permit has been altered to avoid abandonment, submit documentation in accordance with the provisions of Section 1130.750 to detail as to the scope and costs associated with completing the project as originally proposed. IDPH shall advise the applicant for exemption if a permit is required under Section 1130.310. A permit is required if the remainder of the project meets the review conditions specified in Section 1130.310.

g) Material Change and Completion Requirements

1) Material Change Requirements

A) A material change to a project for a proposed change of ownership requires prior notice to and approval from the State Board. For purposes of this Section, "material change" means an increase or decrease of more than 5% and less than 10% of the proposed acquisition or transaction cost for a change of ownership of a proprietary hospital and for any governmental or not-for-profit facility and an increase of more than 10% for all other facility changes of ownership.

B) The notice to the State Board shall consist of a request for material change and proof of publication of a legal notice in a newspaper of general circulation that contains the following information:

i) name and address of the exemption holder;

ii) description of the proposed project or transaction, including facility name and location;

iii) a statement that the project received exemption approval from the State Board and the date of such approval;

iv) description of the proposed change;
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v) name, title, address, phone number and e-mail address, if applicable, of the individual from whom interested parties may obtain information on the proposed project.

C) The notice must be received by IDPH at least 45 days prior to the next scheduled State Board meeting. The Chairman shall review and take action on the material change request in accordance with the provisions of Section 1130.560.

D) In the care of a change of ownership of a proprietary hospital or of a governmental or not-for-profit facility, an increase of 10% or more in the project cost and a decrease of 5% or more in the project cost is not allowable and invalidates the exemption.

2) Completion
   A project that has received an exemption for a change of ownership must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds

A project to establish or expand a neonatal intensive care category of service (NICU) and add beds is not subject to review and to the requirements of obtaining a permit, provided a application for exemption is submitted in accordance with the requirements of this Section and an exemption is issued by the State Board. The application for exemption shall be subject to review and action by the State Board pursuant to Section 1130.560.

a) Application for Exemption
   The application for exemption is subject to approval under Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information shall contain the following:

1) the name and address of the person proposing the project;

2) the name and location of the existing facility where the project will occur;
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2) a description of the project that identifies the location of the neonatal intensive care unit and the number of neonatal intensive care beds proposed;

4) the total estimated project cost and the sources and uses of funds;

5) the anticipated date of project obligation and project completion;

6) a copy of a signed letter of support for the proposed project from the Regionalized Perinatal Advisory Committee (77 Ill. Adm. Code 640);

7) a verification that a final cost report will be submitted to the Agency no later than 60 days following the anticipated project completion date;

8) a verification that failure to complete the project by the anticipated project completion date or no later than 12 months from the date of exemption approval, whichever is later (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence), comply with the material change and completion requirements of this Section will invalidate the exemption.

b) Application Processing Fee
The application processing fee shall be the greater of $1,000 or .1% of the total estimated project cost with a maximum application processing fee of $20,000 for projects with $20,000,000 or more estimated project cost.

e) Material Change and Completion Requirements

1) Material Change Requirements
A material change to a project for establishment or expansion of an NICU requires prior notice to and approval from the State Board. For purposes of this Section, "material change" means an increase or decrease in the number of neonatal intensive care beds being established or added. An exemption holder proposing to change the number of neonatal intensive care beds must provide notice to the State Board of the revised number of beds, any change in project costs, and a signed letter of support from the Regionalized Perinatal Advisory Committee regarding the proposed change. The notice must be received by IDPH at least 45 days prior to the
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next scheduled State Board meeting. The State Board shall review and take action on the material change request in accordance with the provisions of Section 1130.560.

2) Completion
A project that has received an exemption to establish a neonatal intensive care category of service must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.540 Requirements for Exemptions Involving Discontinuation

Discontinuation of a facility or category of service as specified in Section 1130.410 is exempt from the requirement of obtaining a permit. No letter of intent, exemption application, or fee is required for discontinuation. Facilities that have discontinued as defined in Section 1130.410 in accordance with the provisions of Subpart D are not required to submit an application for exemption or fee. The State Board shall take action to confirm the discontinuation and determine the date of discontinuation and adjust the Inventory of Health Care Facilities and Services and Need Determinations accordingly.

BOARD NOTE: A permit is required for all discontinuation that is not exempt pursuant to the provisions of Section 1130.410. Discontinuation that has occurred without a permit is in violation of the Act and will be subject to the imposition of sanctions.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.541 Requirements for Exemptions for Combined Facility Licensure

A person proposing to combine two or more existing health care facilities into a single licensed health care facility must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board.

a) Application for Exemption
The application for exemption shall consist of a written notice, notarized and attested to by an authorized representative of the applicant, that contains the
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following:

1) the name and address of the applicant proposing the combination;

2) documentation that the requirements of Section 1130.410 pertaining to the transaction will be met;

3) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facilities are located. The notice shall provide the name and address of the applicant and the facilities to be combined, a description of the transaction addressing the applicable requirements of Section 1130.410, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction;

4) certification that the transaction has not yet been entered into or executed.

b) Completion Requirements

A project that has received an exemption for combining facility licenses must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)

A person proposing the temporary use of existing beds for purposes other than categories of service currently approved must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.

a) Application for Exemption

The application for exemption shall consist of a written notice, notarized and attested to by an officer of the person who is the applicant, that contains the following:

1) certification that the applicant will adhere to and comply with the applicable provisions of Section 1130.410;
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2) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located. The notice shall provide the name and address of the applicant and of the facility that proposes to participate in the demonstration program, a description of the demonstration program, the number of beds proposed to participate in the demonstration program, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

b) Completion Requirements
A project that has received an exemption for the temporary use of beds for demonstration programs must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Repealed at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.544 Requirements for Exemption for the Addition of Dialysis Stations

A person proposing a project to add dialysis stations to an existing facility that is located in a planning area where the Inventory of Health Care Facilities and Services and Need Determinations (Inventory) indicates a need for additional stations must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board. The number of stations to be added cannot exceed the planning area's need for additional stations as calculated in the Inventory and also cannot exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

a) Application for Exemption
The application for exemption shall be subject to approval pursuant to Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:

1) the name and address of the person proposing the project;

2) the name and location of the existing facility where the additional dialysis stations will be added;

3) the number of dialysis stations to be added and the cost associated with the
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addition and the sources and uses of funds;

4) the anticipated project schedule, including the anticipated date of project obligation and project completion;

25) documentation that, for the most recent twelve month period, the existing facility has operated at or in excess of the minimum utilization rate specified at 77 Ill. Adm. Code 1100.630;

36) a certification that a final cost report will be submitted to IIDPH the Agency no later than 60 days following the project completion date;

7) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located;

48) confirmatory evidence certification that the project has not yet been entered into or executed; and

59) confirmation certification that failure to comply with the material change and completion requirements of this Section will invalidate the exemption.

BOARD NOTE: Certification of compliance with the exemption information requirements of this Section must be in the form of a notarized statement signed by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

b) Legal Notice Requirements

Any person requesting an exemption for a proposed addition of dialysis stations must publish a legal notice in a newspaper of general circulation (professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation) in the community in which the facility is located that provides the following:

1) the name and address of the facility for which the exemption is sought;

2) the number of dialysis stations to be added and the proposed project costs;

3) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.
c) Application Processing Fee
The application processing fee shall be the greater of $1,000 or .01% of the total estimated project cost (see Section 1130.230) assessed in accordance with the fee assessment provisions for Applications for Exemption of Major Medical Equipment (see Section 1130.510) specified at 77 Ill. Adm. Code 1190.90.

d) Material Change and Completion Requirements

1) Material Change Requirements
A material change to a project to add dialysis stations requires prior notice to and approval from the State Board. For purposes of this Section, "material change" means an increase or decrease in the number of dialysis stations that are proposed. An exemption holder proposing to change the number of dialysis stations must provide notice to the State Board of the revised number of stations, any change in project costs, and document continued compliance with the Application for Exemption requirements of this Section. The notice must be received by IDPH at least 45 days prior to the next scheduled State Board meeting. The State Board shall review and take action on the material change request in accordance with the provisions of Section 1130.560.

2) Completion
A project that has received an exemption to add dialysis must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.550 Agency Processing of an Application for Exemption

a) Application for Exemption Form
Requests for exemptions must be made on an application for exemption form that may be obtained from IDPH and are to be submitted to HFPB. No application for exemption shall be received by HFPB before a required letter of intent pertaining to the project has been received and has been on file for at least the minimum number of days specified in this Subpart.

b) Completeness
IDPH shall review an application for exemption to determine whether
all required information and the required application processing fee have been submitted. The Agency shall notify the applicant by certified mail no later than 30 days after receipt of the application whether the application is complete or incomplete. Applications that do not contain the required information, documentation, or fee shall be deemed incomplete. If IDPH deems the application incomplete, it shall notify the applicant of the specific deficiencies within 30 days after receipt. The required information or fee must be received by IDPH within 30 days after receipt of notification. Failure to submit the requested additional information shall result in the application for exemption being voided with the loss of all fees paid.

BOARD NOTE: Persons who have initiated or completed projects eligible for exemption without obtaining an exemption are in violation of the Act and are subject to the penalties and sanctions of the Act.

c) Submission to Chairman or HFPB
IDPH The Agency shall forward all complete applications for review and action to the Chairman or HFPB, as applicable.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.560 State Board Action

a) Action by Chairman
The Chairman, acting on behalf of HFPB, shall review all applications for exemption and any proposed change to a project that has received an exemption as provided by the applicable Sections of this Subpart and approve, deny, or refer the applications or material change to HFPB for State Board review and action. An exemption application for a change of ownership of a health care facility between related persons shall be acted upon by the Chairman no later than 60 days after being declared complete by IDPH or 60 days after receipt of all public hearing comments and transcripts, whichever is later.

b) Action by HFPB
HFPB The State Board shall evaluate each application for exemption and any proposed material change to a project that has received an exemption that requires State Board action pursuant to the applicable Sections of this Subpart and any application for exemption and any proposed material change to a project that has received an exemption referred by the Chairman and either issue an exemption or advise the applicant or exemption holder in writing that the application or change
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is denied and is not in conformance with exemption requirements. The minimum review period for an application that requires action by the State Board is 30 days after being deemed complete by the Agency. The number of affirmative votes for approval of an application for exemption or for a proposed material change requiring action by or referred to the State Board is specified in the Act requires eight affirmative votes. HFPB shall approve an application for exemption or a proposed material change that it determines to be in compliance with the requirements. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.570 Validity of an Exemption and Reporting Requirements

a) A project that has received an exemption must be completed within the time frames specified in the applicable Sections of this Subpart. An exemption shall be valid through completion provided the requirements of this Section are met.

b) For purposes of this Section, "completion" occurs on the date that means:

1) for major medical equipment, the equipment is in operation;

2) for change of ownership of a health care facility, a new license has been issued (or, if licensing is not applicable, Medicare and/or Medicaid certification has been obtained), or a stock transfer has been accomplished, or a majority change in voting membership or sponsorship of a not-for-profit corporation has been accomplished, or the transfer of assets has occurred, or the merger or consolidation has been accomplished, whichever is applicable;

3) for demonstration programs, the facility has received all required approvals to participate in the demonstration program; or

4) for all other projects, construction has been completed and patients or residents are receiving service the requisite licensure or certification has been obtained.

c) The exemption holder shall provide written notice and related documentation to HFPB of the following information and documentation, as applicable:
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1) Each exemption holder must notify HFPB of project completion no later than 30 days following the project completion date; and

A prior written notice submitted to the State Board of any proposed alteration that constitutes a material change to a project or transaction in accordance with the provisions of the applicable section of this Subpart; and

2) Where required under other Sections of this Part, a final cost report and all other required documentation shall be submitted to HFPB the State Board no later than 60 days following the project completion date.

d) An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility as defined in Section 1130.140.

e) An exemption is not transferable or assignable and cannot be bought or sold on its own or as part of any other transaction. However, an exemption for a project that has been initiated and is in compliance with the provisions of this Section will not be considered transferred in the case of an existing health care facility change of ownership that has met the exemption requirements of this Part.

f) Failure to comply with the requirements of this Section within the specified timeframes shall subject the exemption holder to the sanctions and penalties provided by the Act and this Part as for permits.

BOARD NOTE: See Section 1130.520 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.610 Duration of the Review Period and Time Frames

a) Emergency Applications

Initial application for emergency projects (as defined in 77 Ill. Adm. Code 1110.40) may be made orally or in writing or by electronic means to the Executive Secretary IDPH. The Executive Secretary IDPH, upon receiving the concurrence of the Chairman (or in the absence of the Chairman the Vice-
Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 1110.40, is authorized to give oral approval. Any such communications shall be followed by a written application and written approval. This procedure is exempt from the public hearing requirements of the Act [20 ILCS 3960/12] and any and all letter of intent requirements. The written application must identify the applicant and must summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.

b) Substantive and Non-substantive Applications

The review period for IDPH shall be a minimum of 30 days following the application's completeness date and shall not exceed 60 days for nonsubstantive projects and 120 days for substantive projects, unless the review period is extended pursuant to the provisions of this Subpart. All applications other than emergency applications shall be acted upon by HFPB the State Board at the next regularly scheduled meeting that is at least 10 business days following the completion of the IDPH review between 60 days and 120 days from the date the application is declared complete by IDPH, unless the review period is extended. All non-substantive applications shall be acted upon by the State Board at the State Board meeting following 60 days from the date the application is declared complete, unless the review period is extended by the applicant.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.620 Technical Assistance, Letter of Intent Consultation, Classification, Completeness Review, and Review Procedures

a) Technical Assistance Consultation

1) The application must be completed in accordance with the requirements of this Part that are applicable to the individual project. An applicant may request technical assistance or a pre-application conference from IDPH regarding completion of the application and the applicability of the requirements of HFPB rules this Part prior to submission of the application.

2) Technical assistance may be provided to any person regarding pre-application conferences, the filing of a letter of intent, impending or pending application, or other request to HFPB, provided that the communication is not intended to influence any decision on the application. Any assistance shall be documented in writing by the
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applicant and employees within 10 business days after the assistance is provided. [20 ILCS 3960/4.2]

3) Technical assistance may be provided for the benefit of HFPB to clarify issues relevant to an application or other business of HFPB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. All such communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.

b) Letter of Intent

1) Prior to submission of an application for permit, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 60 days prior to receipt of an application for permit.

2) A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.

3) A letter of intent must contain the following information:

A) the name of the applicant;

B) the site of the proposed project and the name of the existing or proposed health care facility that is being established, constructed, or modified;

C) a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, the approximate gross square footage being added or modernized, and the date the application is to be submitted; and

D) if the project involves discontinuation of a facility or of a category of service, the reason for the discontinuation and the proposed discontinuation date.

cb) Classification of an Application

+ An application for permit shall be classified as substantive, nonsubstantive
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or emergency, as classified in 77 Ill. Adm. Code 1110.40.:

A) Substantive; or

B) Non-Substantive; or

C) Emergency.

2) Definitions of each classification are set forth in 77 Ill. Adm. Code 1100.220.

d(e) Completeness Review

1) Upon receipt of an application for permit, IDPH shall determine whether the application is complete or incomplete. An application for any project shall be deemed complete within 10 business days after receipt if all of the following have been met:

A) all review criteria applicable to the individual project (77 Ill. Adm. Code 1110 and 1120) have been addressed;

B) the required fee (as outlined in subsection (e) of this Section 77 Ill. Adm. Code 1190, Permit Application Fees) has been submitted;

C) the number of copies, forms, and format as specified in the applications; six copies of the application including one copy of the application containing original signatures have been submitted;

D) all annual progress reports on previously approved projects for the facility and/or applicants have been submitted;

E) all required information concerning completion of previously approved projects for the facility and/or applicants has been submitted;

F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;

G) all persons who are applicants have been identified and the applicants that hold the license and that will operate the facility
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have provided documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states; have submitted a Certificate of Good Standing or evidence that the persons are authorized to conduct business in Illinois from the Illinois Secretary of State; and

H) all HFPB requests and questionnaires for information or data for all Illinois facilities owned or operated by any applicant, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)) have been received and are complete; required by IDPH's Office of Epidemiology and Health Systems Development or the State Board, have been submitted in accordance with IDPH's promulgated rules.

I) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFPB;

J) documentation of compliance with the Flood Plain Rule of Executive Order 1979-4;

K) documentation of compliance with the requirements of the Illinois State Agency Historic Resources Preservation Act; and

L) identification of a site.

2) An application shall be incomplete if any of the elements described in subsection (d)(1) are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.

3) Applications received after 8:30 a.m. shall be deemed as being received the following business day.
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4) IDPH shall notify the applicant in writing, within the completeness review period, ten working days, of its decision and, in the case of an incomplete application, the reasons.

5) If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed 45 days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, IDPH shall again review the application for completeness and shall notify the applicant of its decision within ten working days. If IDPH finds that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

BOARD NOTE: It is the responsibility of the applicant to assure that IDPH is in receipt of the additional information within the prescribed timeframe.

Review Procedures

1) All applications will be reviewed and evaluated for conformance with the applicable review criteria of 77 Ill. Adm. Code 1110 and 1120 in effect at the time the application is deemed complete.

2) Each application will be reviewed and considered on an individual basis unless the State Board has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.

3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations, as adjusted by HFPB decisions (refer to 77 Ill. Adm. Code 1100.70) in effect prior to the date the State Board takes action on the application. HFPB action includes the following: the approval, issuance of an intent to deny, a notice of intent to deny, or denial of an application.

4) All applications except emergency are subject to the public hearing requirements of the Act. All evidence submitted pursuant to a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.
f) Application Processing Fee

1) All applicants, except those with projects that are not subject to a fee (see Section 1130.230), are required to submit an application processing fee. An initial fee deposit of $2,500 must accompany each application for permit submitted to HFPB. Upon the application being deemed complete, the full amount of the fee shall be determined.

2) Fees shall be assessed based upon the total estimated project costs. For each project having a total estimated project cost of:
   
   A) less than $1,250,000, then the application fee shall be $2,500;
   
   B) above $1,250,000, then the application fee shall be 0.2 of 1% of the total estimated project cost (total estimated project costs X .002 = Application Processing Fee);
   
   C) more than $50,000,000, the maximum application fee shall be $100,000.

3) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.630 Agency Actions During the Review Period

During the course of the review period, the Agency shall:

   a) Transmit a complete copy of the application (or such part thereof as may be necessary) to offices of IDPH the Department of Public Health or to any other State-agencies that have requested an opportunity to comment on the application;
   
   b) Notify the applicant of completeness and the start of the review period and forward to the applicant the scheduled date for HFPB State Board action.
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c) Offer an opportunity for a public hearing, provide a period for written comments concerning the proposed project, and when requested, conduct a public hearing in accordance with the provisions of 77 Ill. Adm. Code 1400;

d) Evaluate the application for compliance with the review criteria applicable to the specific project (as set forth in 77 Ill. Adm. Code 1110 or 1120);

e) Transmit to HFPB the State Board and to the applicant the following: IDPH's Agency's report and findings, the public hearing report, and a summary of all written public comment received 20 days prior to the scheduled HFPB State Board meeting, and written—Written comments that are received within the prescribed time periods established in this Part.

BOARD NOTE: Any communication, written or oral, received from a member of the public, news media, interested persons, legislators, or other persons regarding any matter other than the status of an application that is not authorized by the public comment process specified in this Part is ex parte and is prohibited. After the 20 day period shall be submitted to the State Board and to the applicant and made part of the application for permit record only if the State Board does not make a final decision and considers the application at a subsequent meeting.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.635 Additional Information Provided During the Review Period

a) Requested Information
   As needed to clarify the application, IDPH may request information or data during the review period from the applicant or from other persons in order to conduct its review. Requested information or data furnished to IDPH shall be made part of and included in the project record.

b) Supplemental Information
   Supplemental information or data may be provided by the applicant only if the information is due to a modification of the project, is in response to an Intent to Deny, or is in response to a request from HFPB. Supplemental information shall be made part of and included in the project record.

c) Public Comment Information
   Public comment information from persons other than the applicant that has been submitted in accordance with the public comment and public hearing provisions
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of this Part shall not be considered requested or supplemental information. The information shall be made part of and included in the project record.

d) Ex Parte Information
Information submitted by the applicant or by any other person that is not requested information, that is not supplemental information, or that is not public comment or public hearing information is ex parte and will not be considered in the review of the project.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.640 Extension of the Review Period Prior to Initial State Board Action

a) Extension by IDPH of the Review of Information Requested and Supplemental Information
As required to complete its review, IDPH may extend the review period for up to 60 days for the analysis of requested or supplemental information. HFPB will consider the application at the next regularly scheduled meeting that is at least 10 days following the completion of the IDPH review of the requested or supplemental information.

1) IDPH may request information or data during the review period. Information furnished at the request of IDPH shall not constitute supplemental information. IDPH may extend the review period until the next scheduled State Board meeting to review requested information.

2) Prior to initial State Board action, the applicant may provide supplemental information or data in support of the project only if such information is for a modification of the application. IDPH shall review the supplemental material for the modification within 60 days after receipt and extend the review period if necessary and present its findings to the State Board for action at its next scheduled meeting.

3) Any submissions of additional or other information (other than that requested by IDPH) by the applicant prior to initial State Board action will not be considered in the review of the project and will be returned to the applicant and will not be included in the project file.

4) Written comments from persons other than the applicant regarding a proposed project shall not constitute requested or supplemental
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information. The applicant shall be afforded an opportunity to address any written comments received that are in opposition to the proposed project at the State Board meeting.

b) Modification
The review period may be extended up to 60 days by IDPH if the applicant modifies the application prior to initial review by the State Board.

be) Extension Due to Deferral by Applicant
The applicant may defer initial consideration of a project by the State Board. A deferral extends from the HFPB State Board meeting at which the project has been scheduled to the next scheduled HFPB State Board meeting, subject to a review period of up to 60 days for analysis of requested and/or supplemental information. A request for deferral may be provided in writing. A request for deferral may be made in writing prior to the scheduled HFPB State Board meeting or verbally at the HFPB State Board meeting. An applicant may not defer:

1) initial consideration of the application by HFPB beyond to a scheduled meeting date that is more than 6 months from the date the application was deemed complete; or

2) HFPB consideration of an application that has received an Intent to Deny beyond a meeting date that is more than 6 months from the date of HFPB’s decision of Intent of Deny.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.650 Modification of an Application

a) Modifications to an application are allowed during the review period, prior to final HFPB decision. Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of 77 Ill. Adm. Code 1140. If requested, a hearing would occur within the time allocated for IDPH review. Type A modifications consist of any of the following:

1) An increase in the number of beds proposed in the project.

2) A change in the site of the project to a new location within the planning
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A change in site to a location outside the planning area originally identified in the application is not considered a modification and voids the application.

3) An increase in the cost of the project exceeding 10% of the original estimated project cost.

4) An increase in the total gross square footage (GSF) of the project exceeding 10% of the original GSF if such change results in an increase in the exterior dimensions of the project.

5) An increase in the categories of service to be provided.

6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.

7) Any modification to a project, including modifications specified in subsections (a)(1) through (a)(6) above, that, by itself, would require a certificate of need (CON) or exemption.

b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of HFPB the State Board, are Type B modifications and are not subject to public hearing.

c) An applicant can modify a project only twice during the review period, provided,
however, notwithstanding anything contained herein to the contrary, an applicant may modify a project at any time if such modification is in conformance with and limited to the comments, recommendations or objections of HFPB the State Board.

d) If an applicant modifies an application that is not a modification made in conformance with and limited to the comments, recommendations or objections of HFPB the State Board, IDPH shall have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria, hold a public hearing if requested, and submit its findings to HFPB the State Board at the next regularly scheduled meeting that is at least 10 days following the completion of the IDPH review.

AGENCY NOTE: A change in site to a location outside the planning area...
originaly identified in the application is not considered a modification, and will void the application. (See Section 1130.140.)

e) If a modification results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. Section 1130.230 is applicable with respect to any additional fees required for a modified application.

f) If a modification results in the need of an additional notification of opportunity for public hearing, then an additional fee of $2,000 will be assessed.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.655 HFPB Consideration and Action

HFPB shall review each application for permit to determine compliance with all applicable review criteria. HFPB shall consider the application material, requested or supplemental information, public comment and public hearing testimony, IDPH findings, and other information coming before it and take the following action:

a) approve the application and issue a permit;

b) issue an Intent to Deny;

c) issue an initial denial of a project and afford the applicant an opportunity for an administrative hearing;

d) issue a final denial of a project subsequent to an administrative hearing or waiver of such hearing;

e) defer action on an application to a subsequent meeting. HFPB deferral of an application shall extend the review period, if it were to otherwise expire, until the date of the subsequent HFPB meeting.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.660 Approval of an Application

a) The number of affirmative votes required for approval of an application and issuance of a permit by HFPB, the State Board, is specified in the Act, requires eight
The State Board shall consider the application and any supplemental information or modification submitted by the applicant, IDPH reports, the public hearing testimony, if any, and other information coming before it in making its determination whether to approve the project. The applications are reviewed to determine compliance with review criteria enumerated in 77 Ill. Adm. Code 1110 and 1120. The failure of a project to meet one or more review criteria, as set forth in 77 Ill. Adm. Code 1110 and 1120, shall not prohibit the issuance of a permit. A permit is effective on the date of HFPB State Board authorization.

b) HFPB may propose conditions to be placed upon any application for permit. Projects that are approved with conditions or stipulations shall contain the following:

1) Specified conditions that are expressly agreed to by the applicant;

2) Establishment of time frames for compliance with conditions;

3) Establishment of reporting requirements; and

4) Assurance that any change to the application for permit does not constitute a Type A modification as delineated in Section 1130.650(a) that would require a public hearing.

c) Failure to comply with any conditions within the prescribed time frames shall provide a basis to invalidate the permit.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.670 Intent to Deny Notice of Intent to Deny an Application

a) Issuance of Intent to Deny Notice of Intent to Deny Notice of Intent to Deny an Application

Failure of an application for permit to receive the number of affirmative votes required by the Act upon initial consideration by HFPB shall constitute an Intent to Deny. If an application for permit fails to receive eight affirmative votes upon the initial State Board consideration, the applicant shall be issued a Notice of Intent to Deny the application for permit. Subsequent to the issuance of an Intent to Deny, the applicant will be given an opportunity to appear before HFPB and present information as may be relevant to the approval of a permit [20 ILCS 3960/10]. The date of the Intent to Deny is the date of the HFPB meeting when
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The action occurred. The Notice of Intent to Deny shall be sent to the applicant by certified mail and shall afford the applicant an opportunity to appear before the State Board and an opportunity to submit additional information in support of the project.

b) Applicant's Response
The applicant shall notify HFPB the State Board in writing within 14 calendar days after issuance of an Intent to Deny and indicate if the applicant intends within ten working days after receipt of the Notice of Intent to Deny, whether it intends to:

1) appear before HFPB the State Board; and/or
2) submit supplemental information.

BOARDAGENCY NOTE: It is the responsibility of the applicant to assure that HFPB the State Board is in receipt of the response within 14 days after issuance of an Intent to Deny the ten day prescribed time frame.

c) Action Following Notice of Intent to Deny

1) If the applicant waives the right to appear before HFPB the State Board or if a written response is not received within 14 days after issuance of an Intent to Deny ten working days after receipt of the notice of opportunity to appear, then the application shall be considered withdrawn.

2) If the applicant indicates that no supplemental information will be submitted, HFPB the State Board shall take action on the application at its next meeting.

3) If the applicant indicates that supplemental information documentation shall be submitted, the applicant shall be afforded a period of 30 days from the date of issuance the State Board's decision of the Intent to Deny Notice of Intent to Deny to submit the such material. Upon receipt of supplemental information, IDPH shall commence a review and submit its findings to HFPB in accordance with the provisions of this Subpart. No material will be accepted by IDPH after the 60 day period expires. IDPH shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report. IDPH may request additional information or data during the review of the information submitted by the applicant. IDPH may extend the 60 day review period by no more than an additional 30 days to review the requested information. The project shall be considered at the next
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regularly scheduled State Board meeting following completion of IDPH review.

4) Written comments submitted to IDPH from persons other than the applicant regarding a proposed project that has received an Intent to Deny a Notice of Intent to Deny are ex parte and prohibited and shall not be considered shall not be included in the project file. This provision does not apply to public hearing testimony or comments that are received pursuant to a provision in Subpart I (Public Hearing and Comment Procedures) or to comments or testimony that has been submitted in response to requests by HFPB for information to assist in consideration of the application subsequent to the Intent to Deny. Type A modification.

d) Deferrals by Applicant
A project that has received an Intent to Deny a Notice of Intent to Deny and has been scheduled for HFPB State Board consideration can be deferred only by the applicant. A notice of deferral may be provided in writing prior to the scheduled HFPB meeting or be provided verbally at the HFPB meeting. An applicant may not defer HFPB State Board consideration beyond a HFPB State Board meeting date that is more than six months from the date of issuance of the Intent to Deny the applicant received an intent to deny.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.680 Denial of an Application

a) If, subsequent to an issuance of an Intent to Deny, an application for permit fails to receive the required number of affirmative votes for approval specified in the Act eight affirmative votes upon the second State Board consideration, the HFPB vote the applicant shall constitute a denial of the application for permit.

b) If HFPB the State Board denies an application for permit, the decision and notice of opportunity for administrative hearing (as set forth in 77 Ill. Adm. Code 1180) shall be transmitted to the applicant by certified mail.

c) At the conclusion of such administrative hearing, or upon default of the applicant, HFPB the State Board shall make its final administrative decision, specifying its findings of fact and conclusions of law. The Executive Secretary shall transmit the decision to the applicant by certified mail.
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(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 1130.710 Validity of Permits

A permit is effective on the date of HFPB State Board authorization.

a) A permit shall be valid until such time as the project has been completed, provided that:

1) obligation of the project occurs within the time frames specified in the Act, except for "major construction projects" and Master Construction projects, in which case obligation must occur within 18 months unless the obligation period is extended by HFPB the State Board (as defined in Section 1130.730); and

2) the project commences and proceeds to completion with due diligence (as defined in Section 1130.140). The obligation period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The obligation period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit.

b) Projects must proceed with due diligence and must be completed (see Section 1130.140) no later than the completion date approved by HFPB the State Board. All permits for projects that are not completed in the time frames specified shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart, unless renewed by HFPB the State Board pursuant to Section 1130.740.

cb) A permit is valid only for the defined construction or modification, equipment, site, amount, time period and persons named in the application for the permit and shall not be transferable or assignable. A transfer or assignment of a permit includes a change in the person who is the permit holder; a change in the membership or sponsorship of a not-for-profit corporation that is the permit holder; or the transfer, assignment, or other disposition of 10% or more of the stock or voting rights of a for-profit corporation that is the permit holder, invalidates the permit.
A permit shall not be bought, sold, or transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment. When a facility with a valid permit is purchased or otherwise acquired, the permit may not be transferred to allow the acquiring entity to complete the project for which the permit was issued. For projects not yet complete, an alteration must be obtained by the permit holder in accordance with the provisions of Section 1130.750. If a change of ownership occurs involving a valid permit that has not been completed, the permit shall be considered abandoned by the permit holder.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.720 Obligation

a) Projects for construction, establishment or modification must be obligated no later than: (pursuant to Section 1130.140) prior to the expiration date of the permit

1) 18 months for major construction projects; or

2) 12 months for all projects that do not include major construction; or

3) The HFPB completion date of the permit, if it occurs before the above-mentioned deadlines.

b) Projects that have no cost shall be considered obligated upon HFPB issuance of a permit.

cb) Permits for projects that have a cost and that have not been obligated as stated in this Section prior to the expiration date of the permit shall be considered expired and the project abandoned. Failure to obligate as stated shall subject the permit holder to fines pursuant to Section 1130.790(d)(1).

dc) The permit holder of a project that has a cost shall submit a notarized verification by an authorized representative certification by two authorized representatives of the permit holder (in the case of a corporation, one must be a member of the permit holder's board of directors) that the project has been obligated/initiated on a stated date certain; that the financial resources to fund the project are available or otherwise committed; and that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in compliance with that which
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HFPB has approved. This submittal must be made within 30 days after obligation. Failure by the permit holder to report obligation in accordance with these provisions failure by the permit holder to provide the required certification of obligation to the Executive Secretary no later than 10 business days following the permit expiration date shall subject the permit holder to the sanctions and penalties provided by the Act and this Subpart.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.730 Extension of the Obligation Period

a) HFPB may grant the permit holder a single extension of time to obligate the project. An extension shall be for a period of up to one year not exceed three months and shall commence on the previously defined obligation date, expiration date of the permit (i.e., 12 or 18 months from the date of State Board approval pursuant to Section 1130.710). Permits not obligated within approved time frames will expire.

b) The permit holder shall submit a written request for extension, along with an application processing fee. In requesting an extension, the permit holder shall describe, in writing, the events which have delayed the project's timely obligation and shall provide the following documentation, as applicable:

1) for major construction projects, evidence that final working design development drawings have been submitted to IDPH for review or, if IDPH review is not required, evidence that final working drawings have been completed;

2) for projects that are solely for the acquisition of major medical equipment, evidence that suppliers have been solicited and cost estimates received;

3) for projects that are solely for the provision of new services, verification by the permit holder's authorized representative that necessary staff has been recruited or that an application for reimbursement, recognition, or Medicare and/or Medicaid certification has been sought from third party payors or certification agencies evidence that substantial actions leading to the provision of such services have been accomplished;

4) a revised schedule indicating how obligation will be accomplished within
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the extension period requested;

5) confirmatory evidence that financial resources are available to complete the project, evidence that approval of loans, issuance of bonds or other necessary means of financing have been approved or can be secured where necessary for project funding per the application;

6) the amount of funds expended to date for the project.

c) A request for extension must be in writing and received by HFPB at least 45 days prior to the permit expiration date. A request for extension shall be made in writing and shall be received by IDPH no later than 45 days before the permit expiration date. A request for extension shall be assessed a $500 application processing fee and is subject to the requirements of Section 1130.230. A request for extension that is not received at least 45 days prior to the permit expiration date shall be subject to an additional $500 late application processing fee. If payment has not been received within 30 days after receipt of written notice for payment, the request for extension shall be considered withdrawn. A request for extension which is not submitted in accordance with this time frame above shall not be presented to the State Board for action.

d) IDPH shall review the request for extension and prepare a report of its findings. IDPH's findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFPB, shall approve or deny the request, or refer the request to HFPB for action. If IDPH finds that all criteria are not positive or if the Chairman refers this to HFPB for action, then the matter shall be sent by IDPH to HFPB. The State Board and HFPB shall evaluate the information submitted in making its determination whether to grant the extension. Projects that continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and that have shown good cause by submitting the required information for an extension request specified in subsection (b) of this Section, and for which the causes for delays are beyond the permit holder's control, shall be approved for extension. Eight affirmative votes are required for approval of an extension. Denial by HFPB of an extension request shall constitute the final decision and is not subject to administrative appeal.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.740 Renewal of a Permit
A permit holder may request a change in an approved project completion date by an application for renewal of a permit. A project must be completed within the timeframes specified in the Application for Permit unless renewed by the State Board.

a) Renewal of a permit by the State Board must be obtained for projects not completed is subject to the following:
   1) Projects that have not obtained permit renewals and that were obligated prior to May 1, 1990 must have obtained permit renewals no later than March 26, 1994.  
   2) Projects that have obtained permit renewals or that were obligated after May 1, 1990 must be completed or obtain permit renewals prior to the required project completion date.

b) Failure to complete a project or to renew a permit within the prescribed timeframes shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart.

c) A permit renewal shall commence on the expiration date of the original or renewed completion period.

d) The request for permit renewal shall be in writing and shall be received by the State Board at least 45 days but no more than 90 days prior to the expiration date of the completion period, and shall include the following information:
   1) the requested completion date;
   2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date;
   3) a statement as to the reasons why the project has not been completed; and
   4) confirmatory evidence by the permit holder's authorized representative that the project's costs and scope are in compliance with what approved and that sufficient financial resources are available to complete the project, evidence of financial commitment to fund the project; and
   5) the anticipated final cost of the project.

e) IDPH shall review the request and prepare a report of its findings. If the findings
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are that the request is in conformance with all HFPB criteria, and if this is the first request for this project, then the request, IDPH's findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFPB, shall approve or deny the request or refer the request to HFPB for action. If IDPH finds that all criteria are not positive or, if this is not the first request for this project or, if the Chairman refers this to HFPB for action, then HFPB will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.140). The number of eight affirmative votes are required to approve a renewal request is specified in the Act. Denial of a permit renewal request shall constitute the State Board's Notice of Intent to Revoke a permit and the permit holder shall be afforded an opportunity for an administrative hearing pursuant to Subpart J shall be subject to appeal under the provisions of 77 Ill. Adm. Code 1180 (Practice and Procedure in Administrative Hearings).

BOARD NOTE: Permit revocation procedures are explained in Section 1130.780.

f) A permit renewal request shall be assessed a $500 application processing fee and is subject to the requirements of Section 1130.230. Permit renewal requests that are not received at least 45 days prior to the expiration date of the completion period shall be subject to an additional $500 late application processing fee. If payment has not been received within 30 days after receipt of written notice for payment, the request for renewal shall be considered withdrawn.

g) Permit holders who have not submitted permit renewal requests at least 45 days prior to the expiration date of the completion period may also be subject to the Act's sanctions or penalties should a project not be completed and the permit completion period expires prior to HFPB approval of a renewal request. Sanctions and penalties include the denial of permit and other sanctions as stated in Section 1130.790.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.750 Alteration of a Project for which a Permit Has Been Issued

A permit is valid only for the defined construction or modification, equipment, site, amount and persons named in the application. Any change to a project subsequent to HFPB's issuance of a permit constitutes an alteration to the project. Projects for which a permit has been issued can be altered during the time period between the permit issuance and the date of
project completion. However, all proposed alterations that require HFPB review and action must be submitted to HFPB for review prior to the execution of the alteration. Some alterations must be reviewed and approved by HFPB. All alterations are to be reported to the State Board prior to incurring the alteration. Certain alterations require only notice to the State Board; others require notice and approval from the State Board; and others are not allowable and, if undertaken, will invalidate the permit. All alterations will be reviewed and approved on a cumulative basis. A permit holder may apply for more than one alteration during the life of a project. However, the limits on alterations shall apply cumulatively to all alterations for a single permit. The cumulative effect of alterations to a project shall not exceed the requirements stated below:

A permit holder must also report any alterations that have occurred without prior notice to the State Board. A permit holder that has incurred an alteration without providing prior notice is in violation of permit validity requirements of this Section and is subject to the imposition of sanctions or penalties as provided by the Act.

a) The permit holder shall notify IDPH in writing of any proposed or incurred alterations to a project for which a permit has been issued. The notice shall include a description of the alteration and related costs (if any). If the alteration requires State Board approval, the notice must also address all applicable review criteria related to the alteration. In addition, a proposed alteration that requires State Board approval must be received by IDPH at least 45 days prior to the next scheduled State Board meeting.

b) Alterations that necessitate only notice to the State Board are those alterations that do not require State Board approval and that do not invalidate the permit.

c) Allowable alterations that require HFPB action notice and approval from the State Board are:

1) before project obligation: a change in the approved number of beds or stations, provided that the change would not independently require a permit or exemption from HFPB;

2B) abandonment of an approved category of service established under the permit;

3G) any increase in the square footage of the project provided the increase does not exceed the lesser of 5% of the approved gross square footage or 5,000 additional gross square feet (Note: an increase in excess of those result in an exceedance of the project's square footage limitations as approved by the HFPB).
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allowable by this provision invalidate the permit);

4D) any decrease in square footage greater than 5% of the project (other than projects approved pursuant to a master design permit) approved prior to March 1, 1995, an increase in the cost of the project that exceeds 10% of the original approved permit amount;

5E) for projects approved subsequent to March 1, 1995 including projects approved pursuant to a master design permit, any increase in the cost of the project not to exceed 5% of the total project cost. This alteration may exceed the capital expenditure minimum in place when the permit was issued, provided that it does not exceed 5% of the total project cost in the cost of the project that exceeds the permit amount;

F) any increase to an altered permit amount;

6G) any increase in the amount of funds to be borrowed for those permit holders that have not documented a bond rating of "A" or better; or

7H) any increase in the project costs components (i.e., line item amounts) if the increase is not in compliance with the 77 Ill. Adm. Code 1120 review criteria; or

8) any change that substantially changes the scope or changes the functional operation of the project, as defined in Section 1130.140.

2) after project obligation:

A) a change in the approved number of beds or stations;

B) abandonment of an approved category of service;

C) any change in the project's design or change in the project's gross square footage unless such change is required or mandated by local, State, or federal building or life safety requirements that were not in effect at the time of project obligation;

D) any increase in the amount of funds to be borrowed; or

E) any increase to the permit amount or to an altered permit amount.
b) Alterations Not Allowed
Notwithstanding the provisions of subsection (a)(e) of this Section, the following alterations are not allowable and, if incurred, invalidate the permit:

1) an increase in the project costs, subsequent to obligation, that exceeds the lesser of 5% of the permit amount or the capital or major medical equipment minimums;

2) an increase in the project's gross square footage, prior to obligation, that exceeds the lesser of 5% of the project's approved gross square footage or 5,000 additional gross square feet; or

3) an increase in the project's gross square footage, subsequent to obligation, unless the increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of permit issuance.

3) any other change in the project's scope or funding that would require a CON or exemption.

c) Allowable Alterations Requiring Notice Only to HFPB
For any allowable change to the project that does not require an action of HFPB, notification must occur within 30 days after the alteration.

d) Allowable Alterations

1) All alterations must be reported. Some require Board action (those listed that require Board approval, and those that are clearly listed as "Not Allowed"). There is no specific list of allowable alterations cited, since the number of possible allowable alterations is infinite.

2) Allowable alterations consist of those alterations:
   A) that must be reported and approved by the Board;
   B) that are not included in the listing of "Not Allowed Alterations"; and
   C) that need only to be reported.
e) Alteration Procedures

1) The permit holder shall notify HFPB in writing of any alteration to a project. The notice shall include a description of the alteration and related costs (if any) and shall address all applicable review criteria related to the alteration if the alteration requires HFPB approval. IDPH shall review the alteration request for compliance with the review criteria and submit its findings to HFPB the State Board. If additional information is needed by IDPH to perform a review of the request, the permit holder shall be notified.

2) A request for alteration reviewed by HFPB the State Board is subject to the provisions of 77 Ill. Adm. Code 1110 or 1120 that are applicable to the individual project. Any proposed increase to a permit amount that exceeds the State Board's thresholds for capital expenditures can be reviewed as an alteration to the project providing that there are no other components to the proposed alteration that, when taken as a separate component, require a permit under the Act. The components and any other proposed alterations to a project that would, when taken as a separate component, require a permit under the Act, shall not be subject to review under this Section but shall require a new application for a supplemental permit.

f) IDPH shall review the request for alteration and prepare a report of its findings. If the findings are that the request is in conformance with all HFPB criteria and, if this is the first request for this project, then the request, IDPH's findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFPB, shall approve or deny the request or refer the request to HFPB for action. If IDPH finds that all criteria are not positive or, if this is not the first request for a particular project, or, if the Chairman refers a request to HFPB for action, then the matter shall be sent by IDPH to HFPB for consideration and action. The number of affirmative votes required for approval of an alteration request is specified in the Act. The approval or denial of a request for alteration constitutes HFPB's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.

gf) Upon approval of a request for alteration, HFPB the State Board will revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.
Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by the Executive Secretary.

Eight affirmative votes are required for approval of an alteration. The approval or denial of a request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable. Any alteration undertaken without prior HFPB State Board approval (when required) shall be considered a violation of the Act and shall be subject to the penalties mandated in the Act and in Section 1130.790.

A request for alteration shall be assessed an application processing fee of $1,000 or .02% percent of the dollar amount in excess of the approved permit amount, whichever is greater, and is subject to the requirements of Section 1130.230.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.760 Annual Progress Reports

Each permit holder shall submit annual progress reports to IDPH every 12 months from the permit issuance date until such time as the project is completed. The annual progress reports are due between 30 days prior to and 30 days after the anniversary date of HFPB approval of the permit issuance. Such reports shall include:

1) current status of the project, including: the percentage of the project finished; components finished and components yet to be finished; and any changes in the scope of the project and size; and

2) cost incurred to date and an itemized listing of the total current estimated project costs by sources and use of funds as detailed in 77 Ill. Adm. Code 1120 and a comparison of those costs to the approved permit amounts; and current information on financing for the project; and

3) the method of financing the project and sources of funds; the schedule of construction stages to completion; and

4) for major construction projects, the most recent Application and Certification for Payment for the construction contract, as per form G702.
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published by the American Institute of Architects, or equivalent; and

5) the anticipated date of completion.

b) Failure to provide the required annual progress reports will result in future applications being considered incomplete by IDPH until the required reports are received by the Agency.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns

Each permit holder shall notify HFPB the State within 30 days following the project completion date and provide the following supporting documentation within 90 days following the completion date: Agency regarding completion of the project.

a) For projects with no cost, the permit holder must submit a written notice to HFPB of the project's conclusion (e.g., initiation of a new service, discontinuation, certification of additional dialysis stations) of project completion to the Agency. Such notice is required only when a completion date has not been determined by the Agency pursuant to Section 1130.140(g).

b) For a project with a cost below the capital expenditure minimum all other projects, the permit holder must submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

1) a detailed itemization of all project costs and sources of funds as detailed in 77 Ill. Adm. Code 1120;

2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX of the Social Security Act;

3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;

4) certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized
representative of two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the entity that is the permit holder; and.

5) for major construction projects, the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.

c) For a project with a cost above the capital expenditure minimum in place at the time of permit approval, the permit holder must submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

1) itemization of all project costs;

2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX;

3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;

4) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative the permit holder; and

5) the final Application and Certification for Payment for the construction contract, as per the American Institute of Architects form G702 or equivalent

6) for permits with a project cost equal to or greater than three times the capital expenditure minimum in place at the time of permit approval, an audited financial report of all project costs and sources of funds.

d) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete by IDPH until the required report is filed.
ed) All permits for projects that are not completed in required timeframes shall constitute a basis to revoke the permit, unless renewed by HFPBthe State Board (reference Section 1130.710 and 1130.740).

e) For projects approved prior to the March 1, 1995, if the final realized cost exceeds the originally approved permit amount or revised permit amount (if less than the original amount) by more than ten percent, the amount over ten percent shall be considered a cost overrun without a permit unless subsequently approved by the State Board.

f) For projects which have an altered permit amount approved by the State Board, regardless of permit or alteration approval date, any amount of the final realized cost which exceeds the revised permit amount shall be considered a cost overrun and without permit unless subsequently approved by the State Board.

fg) Any project approved subsequent to March 1, 1995, any amount of the final realized cost that exceeds the approval permit amount shall be considered a cost overrun without a permit unless the amount is subsequently approved by HFPBthe State Board.

gg) Any project with a cost overrun shall not be complete until such time as HFPBthe State Board determines that the project is complete.

h) Any project that is compliant with the conditions of its permit shall not be complete until such time as HFPB determines that the project is complete.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.780 Revocation of a Permit

a) A permit shall be revoked by HFPB upon a finding that a permit holder has failed to comply with the requirements of the Act and this Part. Revocation proceedings shall be initiated by the State Board for any of the following reasons:

1) the project for which the permit was granted has been altered without the required approval of HFPBthe State Board;

2) the permit holder has failed to complete the project with due diligence comply with the authorization to obligate requirements;
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3) representations in the CON application that served as a basis for HFPB approval of the project and issuance of a permit have been materially changed; there has been a change in the amount for which the permit was granted which was not approved by the State Board; 4) or there has been information was submitted by the permit holder that is false or fraudulent and served as the basis and was material to the issuance of the permit or completion of the project.

b) If at any time HFPB the Agency has information that a reason for revocation of a permit exists, the Agency shall provide written notification of the allegations and pursuant to subsection (a) above, the Agency shall provide the permit holder written notification of the allegations and of the date, time and place when such allegations will be reviewed by the State Board. The permit holder will be afforded 30 days following receipt of the Agency notification to prepare and submit a written response to the allegations, which will be submitted along with the Agency report to the State Board for review.

BOARDAGENCY NOTE: It is the responsibility of the permit holder to assure that HFPB the Agency is in receipt of the written response within the 30 day prescribed time frame.

c) The permit holder shall be provided written notification of the date, time, and place when the allegations will be reviewed by HFPB and afforded an opportunity to appear before HFPB. If, after reviewing the allegations and the permit holder's response, if any, HFPB the State Board finds that a basis for revocation exists pursuant to subsection (a) above, it shall issue and transmit to the permit holder a "Notice of an Intent to Revoke" a permit.

d) The permit holder may request an administrative hearing by filing a written request with the Chairman within 30 days after receipt of the "Notice of Intent to Revoke" a permit pursuant to 77 Ill. Adm. Code 1180. The administrative hearing shall be conducted in accordance with 77 Ill. Adm. Code 1180.

e) If at the end of the 30-day period the permit holder has not responded or requested an administrative hearing, HFPB the State Board shall, at its next regularly scheduled meeting, act on the matter of the revocation of the permit. If an administrative hearing has been held, HFPB the State Board shall act on the matter of the revocation of the permit following the submission of the hearing officer's report.
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f) If HFPB the State Board revokes a permit or orders the revocation of a permit, the Executive Secretary shall transmit the decision to the permit holder by certified mail or shall serve it personally on the permit holder. All inventories shall be amended to indicate the elimination of the proposed project.

g) The decision by HFPB the State Board on the revocation of a permit constitutes its final administrative decision and shall be subject to the provisions of the Administrative Review Law – (Ill. Rev. Stat. 1991, ch. 110, par. 3-101 et seq.) [735 ILCS 5/Art. III].

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFPB the State Board’s Rules

a) Any person establishing, constructing, or modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility or portion thereof until the required permit is obtained. (Section 13.1 of the Act)

b) Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under this Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to $25,000. (Section 14 of the Act)

c) HFPB the State Board may deny an application for permit or may revoke or take other action as permitted by the Act with regard to a permit as HFPB the State Board deems necessary, including the imposition of fines. (Section 14.1(a) of the Act)

d) HFPB the State Board may impose fines as specified below for the enumerated violations:

1) A permit holder who fails to comply with the requirements for maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount, plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues.
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(Section 14.1(b)(1) of the Act)

2) A permit holder who alters the scope and size of an approved project or whose project costs exceed the allowable permit amount without first obtaining HFPB approval shall be fined an amount not to exceed the sum of:

A) The lesser of $25,000 or 2% of the approved permit amount; and

B) In those cases where the approved permit amount is exceeded by more than $1,000,000, an additional $20,000 for each $1,000,000, or fraction thereof, in excess of the approved permit amount.

(Section 14.1(b)(2) of the Act)

3) A person who acquires major medical equipment, or who establishes a category of service without first obtaining a permit or exemption, as the case might be, shall be fined an amount not to exceed $10,000 for each such acquisition or category of service established plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues. (Section 14.1(b)(3) of the Act)

4) A person who constructs, modifies or establishes a health care facility without first obtaining a permit shall be fined an amount not to exceed $25,000 plus an additional $25,000 for each 30-day period, or fraction thereof, that the violation continues. (Section 14.1(b)(4) of the Act)

5) A person who discontinues a health care facility or category of service without first obtaining a permit shall be fined an amount not to exceed $10,000 plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues. (Section 14.1(b)(5) of the Act)

6) A person subject to this Act who fails to provide information requested by HFPB or IDPH within 30 days of a formal written request shall be fined an amount not to exceed $1,000 for each 30-day period, or fraction thereof, that the information is not received by HFPB or IDPH. (Section 14.1(b)(6) of the Act)

e) If an individual or entity has failed to comply with the Act or HFPB's rules and has been notified by HFPB about an allegation of noncompliance, this shall
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provide a basis for HFPB to defer consideration of any and all applications, rulings, or advisory opinions filed before HFPB until the noncompliant matter is resolved.

(f) Failure to pay any fine imposed under this Section within 30 days after its imposition shall subject the person to other sanctions permitted by the Act as the State Board deems appropriate.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

SUBPART H: DECLARATORY RULINGS

Section 1130.810 Declaratory Rulings

HFPB The State Board shall render determinations on various matters relating to permits and the applicability of the statute and regulations. Requests for determination shall be made in writing. Pursuant to Section 5-150 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1009), such determinations are declaratory rulings and are not subject to appeal. The following matters shall be subject to declaratory rulings by HFPB the State Board include, but are not limited to:

a) whether a proposed project requires a permit or exemption reviewability of a proposed transaction;

b) corrections to the facility inventories utilized by HFPB the State Board;

c) recognition that a particular service was in existence prior to permit requirements;

d) amount of fees required;

e) project classification as substantive or non-substantive; and

f) applicability of rules.

BOARD NOTE: Declaratory ruling requests pertaining to an application for permit or exemption during the review period may be submitted only by the applicant and by IDPH.

(Source: Amended at 30 Ill. Reg. 14852, effective September 1, 2006)

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES
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**Section 1130.910 Applicability**

<table>
<thead>
<tr>
<th>a)</th>
<th>Public Hearing on Applications for Permit and Certificates of Recognition</th>
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<tbody>
<tr>
<td></td>
<td>The Act requires that IDPH affords an opportunity for public hearing when an application for permit is declared complete (see 20 ILCS 3960/8) and with respect to the approval of or revocation of a certificate of recognition of an areawide health planning organization (see 20 ILCS 3960/9).</td>
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<th>b)</th>
<th>Public Hearing on Certificates of Exemption for Change of Ownership</th>
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<tbody>
<tr>
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<td>The Act requires that IDPH afford an opportunity for public hearing when an application for a change of ownership exemption is declared complete (see 20 ILCS 3960/8.5).</td>
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<th>c)</th>
<th>Public Hearing on Proposed Rules</th>
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<td>In addition to the requirements of the APA, the State Board shall adopt procedures concerning public notice and hearing on proposed rules (see 20 ILCS 3960/12).</td>
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(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

**Section 1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit**

<table>
<thead>
<tr>
<th>a)</th>
<th>Notice of Review and Opportunity for Public Hearing and Comment</th>
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<tr>
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<td>After an application for permit has been received and has been deemed complete or after certain types of modification have been made to a complete application (pursuant to the provisions of this Part), IDPH shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). This Notice shall consist of at least the following elements:</td>
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1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date that the application is scheduled for HFPB review;

2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;

3) Information regarding where a copy of the application may be viewed by
the public and how copies of the application may be obtained;

4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;

5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing must be received by IDPH; and

6) All public comment regarding an application must be received by IDPH no later than 20 days prior to tentatively scheduled consideration of the application by HFPB. If that date of consideration is extended, then the public comment period will also be extended. If subsequent to HFPB consideration of an application, a final decision is not made (application is deferred or is issued an Intent to Deny, or is denied), then the public comment period shall be extended to the 20 days prior to the next consideration.

BOARD NOTE: The provisions of this subsection (a) do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing concerning an application for permit.

b) The Notice of Review and Opportunity for Public Hearing and Comment shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community where the project is to occur.

c) Notice to all other persons, including health care facilities and members of the general public, shall be deemed to have been given by publication of the notice in a newspaper in the area or community where the project is to occur.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.930 Notice of Public Hearing on Applications for Permit

a) Content and Distribution of Notice of Public Hearing on Application for Permit. If IDPH receives a request for a public hearing on a proposed project in response to the Notice of Review and Opportunity for Public Hearing or Comment within the time frame established in the notice, IDPH shall schedule a public hearing on
the proposed project and prepare and publish a Notice of Public Hearing. The content of the Notice of Public Hearing shall consist of at least the following:

1) Identification of the subject to be heard;

2) Identification of the law under which it is being heard;

3) Identification of the agency conducting the hearing;

4) Announcement of the time, date and location of the hearing;

5) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the project; and

6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on paper size 8 1/2" by 11".

b) Notice of such hearing shall be made promptly by certified mail to the applicant, and within 10 days prior to the hearing, by publication in a newspaper of general circulation in the area or community to be affected [20 ILCS 3960/8].

c) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Notice of Public Hearing in a newspaper in the area or community where the project is to occur.

BOARD NOTE: If the applicant or other person requests a public hearing on a proposed project after an application for permit has been submitted but prior to the application being deemed complete or after a modification that requires an opportunity for a public hearing (pursuant to the provisions of this Part) is received, IDPH shall not provide a Notice of Review and Opportunity for Public Hearing or Comment but shall, at the time the application is deemed complete or the modification is received, schedule a public hearing and prepare and publish a Notice of Public Hearing.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)
Procedures for public hearing shall include at least the following:

a) The hearing shall be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur [20 ILCS 3960/8];

b) A place of reasonable size and accessibility shall be provided;

c) A hearing officer or officers with shall conduct the hearing and take all necessary steps to assure the hearing's proper completion;

d) All interested persons attending such hearing shall be given reasonable opportunity to present their views or arguments in writing or orally. [20 ILCS 3960/8] Any person shall have the right to be represented by counsel;

e) The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;

f) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;

g) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;

h) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and

i) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to IDPH for submission to HFPB.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.950 Written Comments on Applications for Permit
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a) Provision for and Types of Written Comments
Written comments regarding an application and any supplemental information pertaining to an application must be submitted in accordance with the Notice of Review requirements of this Subpart, in accordance with public hearing requirements established at the direction of the hearing officer, or in accordance with requirements for additional testimony established as a request from and at the direction of HFPB.

b) Submission of Comments
Written comments are to be submitted to HFPB or the Executive Secretary at:

Illinois Health Facilities Planning Board
Illinois Department of Public Health
525 West Jefferson St., 2nd Floor
Springfield IL 62761

Those written comments that have been addressed and submitted as described in this subsection will be included as part of the public record, provided that such comments have been received within the prescribed time frame and in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that the Board's staff at IDPH receive the comments within the prescribed time frame. No person shall knowingly provide ex parte comment to any HFPB member or staff in contravention of Section 1130.630(d).

c) Format of Comments
Written comments must contain a signature and the name and address of the person submitting the comments. Written comments, other than those submitted electronically, must be on paper and not exceed a width of 8½" and a length of 11".

d) Forwarding of Comments to HFPB and to Applicant
All written comments that are received within the specified time frame will be forwarded by IDPH to HFPB and to the applicant in advance of the HFPB meeting date.

e) Ex Parte Comments
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFPB or to the applicant.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)
Section 1130.960  Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition)

a) Scheduling of Public Hearing
Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an areawide health planning organization for health facilities planning made to HFPB, IDPH shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days. (See 20 ILCS 3960/9.)

b) Content and Distribution of Notice of Public Hearing on Application for Certificate of Recognition (or Revocation of Recognition)
In addition to scheduling the public hearing, IDPH shall also prepare a Notice of Public Hearing and provide for distribution of the notice in accordance with the requirements of the Notice of Public Hearing for Applications for Permit as specified in this Subpart. (See 20 ILCS 3960/9.)

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.970  Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition)
The procedures for public hearing concerning an application for certificate of recognition or for the revocation of recognition shall be in accordance with the requirements of the Procedures for Public Hearing for Applications for Permit as specified in this Subpart.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.980  Procedures Concerning Public Hearing for Certificate of Exemption for Change of Ownership
The procedures pertaining to public hearing requirements concerning an application for exemption for a proposed change of ownership of a health care facility are as specified in Section 1130.520.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.990  Procedures for Public Hearing and Comment on Proposed Rules
All proposed rulemaking is subject to the provisions of the Illinois Administrative Procedure Act (IAPA). HFPB shall conduct public hearings on all proposed rules and provide notice of public hearings as part of the IAPA first notice requirements. Written comments should be submitted in accordance with the first notice requirements published in the Illinois Register.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.995 Procedures for Public Comment on All Other Matters

Public comment is permitted for all other matters subject to HFPB proceedings that are not specified above (e.g., requests for alterations, renewals, extensions, declaratory rulings). Public comment shall identify the subject matter and be in conformance with the following:

a) All public comment must be received by IDPH no later than 20 days prior to tentatively scheduled consideration of the matter by HFPB. If that date of consideration is extended, then the public comment period will also be extended.

b) Comments shall be in writing. Written comments are to be submitted to IDPH. Only those written comments that have been addressed or submitted to HFPB or Executive Secretary and received at HFPB headquarters shall be included as part of the public record, provided that such comments have been received within the prescribed time frame and are in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that IDPH receives the comments within the prescribed time frame. In addition, persons providing comments to HFPB are responsible to assure that any submission is not in violation of the ex parte provisions of the Act.

c) Written comments must contain a signature and the name and address of the person submitting the comments. Written comments, other than those submitted electronically, must be on paper and not exceed a width of 8½" and a length of 11".

e) Ex Parte Comments

Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFPB or to the applicant and shall not be considered in making a determination.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)
Section 1130.1010 The Right to an Administrative Hearing and Applicable Rules

a) This Subpart of practice and procedures for administrative hearings is promulgated pursuant to Section 5-10(a)(i) and Article 10 of the IAPA and Sections 10 and 11 of the Illinois Health Facilities Planning Act.

b) A person whose application for permit, a renewal thereof, or a certificate of recognition is denied or whose permit or certificate of recognition is revoked by the Illinois Health Facilities Planning Board shall be afforded an opportunity for a hearing before a hearing officer. [20 ILCS 3960/10] Such hearings shall be governed by this Part.

c) Administrative hearings in contested cases as defined by the IAPA shall be governed by this Part.

d) In case of a conflict between the provisions of this Part and the IAPA, the provisions of the IAPA shall apply. Provisions of the IAPA that relate to contested cases shall apply to all hearings.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1020 Initiation of a Contested Case (Pleadings)

a) In contested cases, where HFPB shall serve on the respondent a Notice of Opportunity for an Administrative Hearing, that notice shall contain:

1) a statement of the nature of the action;

2) a statement of the legal authority and jurisdiction under which the action is being initiated;

3) a reference to the particular Sections of the statutes and/or rules involved;

4) allegations of noncompliance;

5) a statement of the procedure for requesting an administrative hearing (Section 10-25 of the IAPA), including a date by which the request must be received by HFPB, which must be set at least 10 days after the notice is mailed or personally served;
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6) except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or reference number. (Section 10-25 of the IAPA)

b) A person who receives a Notice of an Opportunity for an Administrative Hearing must submit a written request for a hearing to HFPB. The request is to be sent to HFPB at the address stated in the notice and must be received by the date set forth in the notice. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.

c) Upon receipt of a timely request for hearing, HFPB shall issue a Notice of Hearing or Prehearing Conference. The notice of hearing or prehearing conference shall contain:

1) a statement of the nature of the hearing;

2) a statement of the time and place that the hearing or prehearing conference will be held;

3) a statement of the legal authority and jurisdiction under which the hearing is to be held; and

4) the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law. (Section 10-25 of the IAPA)

d) Amendments to the pleadings may be allowed upon proper motion at any time during the pendency of the proceedings on such terms as shall be just and reasonable.

e) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.

f) Venue shall be the location designated in the Notice of Administrative Hearing. Venue may be moved to another location upon stipulation by all parties or upon a showing to and a finding by the administrative law judge that exceptional
circumstances, including but not limited to age, infirmity or inability to travel, exist that make it desirable, in the interest of justice, to allow a change of venue.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

**Section 1130.1030 Waiver of Hearing**

An applicant's right to an administrative hearing on an application denied by HFPB pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to HFPB. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

**Section 1130.1040 Parties to Hearings**

a) The parties to proceedings before HFPB are complainants, applicants, respondents, and intervenors.

b) HFPB shall be deemed a complainant in any proceedings initiated by its own action.

c) An applicant is the person required by the Act to obtain a permit from HFPB who files an application with HFPB.

d) A respondent is a party other than an applicant against whom a complaint or petition is filed.

e) Intervenors are "adversely affected persons" and are granted the right to be parties to proceedings before HFPB. Such persons are defined as:

1) the areawide health planning organization for the health service area in which the proposed project is to be located;

2) areawide health planning organizations serving contiguous health service areas or located within the same Standard Metropolitan Statistical Area (SMSA);
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3) any person residing within the geographic area served or to be served by the applicant;

4) any person who regularly uses health care facilities within that geographic area;

5) health care facilities and HMOs located in the health service area in which the project is proposed to be located that provide services similar to the services of the applicant;

6) health care facilities and HMOs that, prior to receipt by IDPH of the application being reviewed, have formally indicated an intention to provide similar services in the future;

7) third party payers who reimburse health care facilities for services in the health service area in which the proposed project is to be located;

8) any agency that establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located; and

9) IDPH.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1050 Appearance — Right to Counsel

Any party to the proceeding may appear and be represented by an attorney at law authorized to practice in the State of Illinois.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1060 Prehearing Conferences

a) A prehearing conference may be scheduled by the administrative law judge or HFPB at their discretion or as a result of a request pursuant to subsection (b) of this Section. This conference shall be held prior to the date of hearing and shall be for the purpose of considering:
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1) the simplification of the issues;

2) amendments to the pleadings;

3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

4) the limitation of the number of expert witness; and

5) any other matters that may aid in the disposition of the hearing.

b) In any proceedings under this Section in which HFPB has not scheduled a prehearing conference, any party to the proceedings may request the scheduling of a prehearing conference. The request must be made in writing and received by the administrative law judge at least five days prior to the scheduled date of hearing. The requesting party shall serve all other parties to the proceedings with a copy of the request.

c) Upon the receipt of a request for a prehearing conference in accordance with subsection (b) of this Section, the administrative law judge shall schedule the prehearing conference and notify all parties of the date, time and place of the conference.

d) After a prehearing conference, the administrative law judge shall make a report that recites any action taken by the administrative law judge and any agreements made by the parties as to any of the matters considered.

e) Any party may request additional prehearing conferences. The administrative law judge, in his or her discretion, may deny or grant the request.

f) A certified stenographic reporter (court reporter) may not be present at a prehearing conference unless one of the parties to the proceeding or the administrative law judge requests a court reporter to be present. The request must be received by HFPB at least two working days in advance of the scheduled prehearing conference. The party, other than the administrative law judge or HFPB, requesting the presence of the court report shall be billed directly for the attendance fee of the reporter.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)
Section 1130.1070  Intervention

a) A right of intervention shall exist for other interested parties, including representatives of health planning organizations and consumer groups who demonstrate a relevant interest.

b) A person desiring to intervene shall present a Petition for Intervention accompanied by any pleadings or motions he proposes to file before the hearing. The Petition to Intervene shall be submitted to the administrative law judge for a determination of whether the petition should be granted.

c) In determining whether to allow intervention, the administrative law judge may consider whether the intervention will unduly delay the hearing, prejudice the rights of the respondent, be unduly burdensome to any party, enlarge the scope of the proceedings, or insert new issues into the proceedings; whether there are other remedies available to the petitioners; and whether there are any other factors that may bear upon the rights of any party.

d) An intervener shall have all the rights of an original party to the administrative hearing unless the administrative law judge in allowing intervention restricts the petitioner's right to intervene to certain issues in the proceedings.

e) Petition for Intervention

1) The Petition for Intervention shall contain:

A) the name and address of the person making the petition to intervene;

B) if the petitioner is represented by an attorney, the name and address of the attorney; and

C) a plain and concise statement setting forth the grounds for intervention.

2) All petitions shall be filed with the administrative law judge and copies served on all parties to the proceeding.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)
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Section 1130.1080 Disqualification of Administrative Law Judge

Prior to commencement of a hearing, a party may file a written motion to disqualify the administrative law judge supported by an affidavit setting forth the facts upon which the motion is made. The administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to HFPB. The report shall include a proposed ruling on the motion and the reasons for the ruling. If HFPB determines that bias or a conflict of interest exists, it shall grant the motion and the Director of IDPH shall appoint a new administrative law judge within 30 days after HFPB’s determination. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest (Section 10-30 of the IAPA).

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1090 Form of Papers

a) All papers filed in any proceeding, except exhibits, shall be typewritten or printed. If typewritten, the impression shall be on one side of the paper; long quotations shall be single spaced and indented. Mimiographed, multigraphed, hectographed, photostated papers, and the like, will be accepted as typewritten.

b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8½" and a length of 14" and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to these requirements.

c) All pleadings, written motions, or notices filed in the administrative proceeding shall be signed in ink by the party filing the paper or by an officer or agent or an attorney representing the officer or agent.

d) Pleadings, written motions, notices, and applications shall contain the address of the party filing the paper or, if represented by an attorney, the name and business address of such attorney.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1100 Service

a) Notices under this Subpart shall be served either personally or by certified mail upon all parties or their agents appointed to receive service of process.
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b) Service of pleadings or motions under this Part, unless otherwise provided for in this Subpart, shall be made by delivering in person or by depositing in the United States Mail, properly addressed with postage prepaid, one copy to each party to the proceeding. When any party or parties has appeared by attorney, service upon the attorney shall be deemed service upon such party or parties.

c) Proof of service under this Subpart shall be by certificate of attorney, affidavit or acknowledgement.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1110 Conduct of Hearings

a) All hearings conducted in any proceedings shall be open to the public.

b) Hearings shall commence and proceed with due diligence.

c) Hearings will be conducted by an administrative law judge, appointed by the Director of IDPH.

d) The administrative law judge shall conduct hearings; administer oaths; issue subpoenas; regulate the course of hearings; hold informal conferences for the settlement, simplification, or definition of issues; dispose of procedural requests, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; and rule upon the admissibility of evidence and amendments to pleadings.

e) In a hearing to consider the denial of a permit or certificate of recognition, the applicant shall have the burden of establishing that the proposed project or application for certificate of recognition, as the case may be, for which application for permit or recognition is made is consistent with the standards, criteria, or plans adopted by HFPB upon which the finding and decision of HFPB was made; only such testimony and evidence as is relevant shall be offered or accepted.

f) All parties to an administrative hearing shall have the right to give testimony, produce evidence, cross-examine adverse witnesses and present arguments relevant to the question of consistency and conformity of the proposed project with the adopted standards, criteria or plans upon which the finding and decision of HFPB was made.
g) The administrative law judge shall direct all parties to enter their appearances on the record.

h) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

i) At any stage of the hearing, or after all parties have completed the presentation of their evidence, HFPB or its administrative law judge may call upon any party or the technical staff of IDPH or other departments of State government or State Universities for further material or relevant evidence upon any issue. All parties at interest shall be afforded the right to present further evidence or material, or contradict the evidence or material presented, as per the provisions of the IAPA.

j) The rules of evidence and privilege as applied in civil cases in the Circuit Court of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of HFPB and also in formulating the findings of fact and conclusions of law (if any) that support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of IDPH that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter so offered. If, in the judgment of the administrative law judge, such immaterial or irrelevant matter would unnecessarily encumber the record, such book, paper, or document will not be received in evidence as a whole, but the material or relevant portions thereof, if otherwise admissible, may be read into the record or entered as an exhibit. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

k) Official notice may be taken of matters of which Circuit Courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within HFPB's specialized knowledge.
PARTIES SHALL BE NOTIFIED EITHER BEFORE OR DURING THE HEARING, OR BY REFERENCE IN PRELIMINARY REPORTS OR OTHERWISE, OF THE MATERIAL NOTICED, INCLUDING ANY STAFF MEMORANDA OR DATA, AND THEY SHALL BE AFFORDED AN OPPORTUNITY TO CONTEST THE MATERIAL SO NOTICED. HFPB’S EXPERIENCE, TECHNICAL COMPETENCE AND SPECIALIZED KNOWLEDGE MAY BE USED IN THE EVALUATION OF EVIDENCE.

1)  THE EXECUTIVE SECRETARY AND/OR HFPB’S LEGAL COUNSEL WILL ARRANGE FOR A CERTIFIED STENOGRAPHIC REPORTER (COURT REPORTER) TO MAKE A STENOGRAPHIC RECORD OF THE HEARINGS IN ALL ADMINISTRATIVE HEARINGS UNDER THIS PART. ANY PERSONS MAY MAKE ARRANGEMENTS TO OBTAIN A COPY OF THE STENOGRAPHIC RECORD FROM THE REPORTER.

m)  SUGGESTED CORRECTIONS TO THE TRANSCRIPT OF RECORD MAY BE OFFERED WITHIN 10 DAYS AFTER THE TRANSCRIPT IS FILED IN THE PROCEEDINGS, UNLESS THE DIRECTOR OF IDPH OR THE ADMINISTRATIVE LAW JUDGE PERMITS SUGGESTED CORRECTIONS TO BE OFFERED THEREAFTER. SUGGESTED CORRECTIONS SHALL BE SERVED UPON OR BROUGHT TO THE ATTENTION OF SUCH PARTY WHOSE APPEARANCE IS OF RECORD OR HIS/HER ATTORNEY, THE OFFICIAL REPORTER, AND THE ADMINISTRATIVE LAW JUDGE. IF SUGGESTED CORRECTIONS ARE NOT OBJECTED TO, THE ADMINISTRATIVE LAW JUDGE WILL DIRECT THE CORRECTIONS TO BE MADE AND THE MANNER OF MAKING THEM. IN CASE THE PARTIES DISAGREE ON SUGGESTED CORRECTIONS, THEY MAY BE HEARD BY THE ADMINISTRATIVE LAW JUDGE, WHO SHALL THEN DETERMINE THE MANNER IN WHICH THE RECORD SHALL BE CHANGED, IF AT ALL.

n)  WRITTEN OPENING ARGUMENTS AND WRITTEN CLOSING ARGUMENTS SHALL NOT BE PERMITTED UNLESS ALL PARTIES SO STIPULATE.

o)  ABSENT A SHOWING OF GOOD CAUSE, NO DOCUMENT SHALL BE OFFERED INTO EVIDENCE THAT WAS NOT DISCLOSED IN ACCORDANCE WITH THE REQUIREMENTS IN SECTION 1130.1120, AND NO WITNESS SHALL TESTIFY WHOSE NAME WAS NOT PROVIDED PURSUANT TO SECTION 1130.1120. FOR PURPOSES OF THIS SUBSECTION, A SHOWING OF GOOD CAUSE SHALL MEAN THAT A PARTY, THROUGH NO FAULT OF ITS OWN, DID NOT HAVE KNOWLEDGE OF A DOCUMENT TO BE OFFERED INTO EVIDENCE OR THE NAME OF A WITNESS WITHIN THE TIME FRAME NECESSARY FOR COMPLIANCE WITH SECTION 1130.1120.

p)  IF A PARTY, OR ANY PERSON AT THE INSISTENCE OF OR IN COLLUSION WITH A PARTY, VIOLATES ANY RULING OF THE ADMINISTRATIVE LAW JUDGE, THE ADMINISTRATIVE LAW JUDGE, ON MOTION, MAY ENTER SUCH ORDERS AS ARE JUST, INCLUDING, AMONG OTHERS, THE FOLLOWING:

1)  THAT FURTHER PROCEEDINGS BE STAYED UNTIL THE ORDER OR RULE IS COMPLIED WITH;

2)  THAT THE OFFENDING PARTY BE BARRED FROM FILING ANY OTHER PLEADINGS RELATING
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to any issue to which the refusal or failure relates;

3) that he or she be barred from maintaining any particular claim or defense relating to that issue;

4) that a witness be barred from testifying concerning that issue;

5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that his or her pleading be dismissed without prejudice; or

6) that any portion of his or her pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.

q) At any time, the administrative law judge may order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct that disrupts the hearing.

r) At the request of any party, the administrative law judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1120 Discovery

a) Prior to hearing or at the prehearing conference, HFPB shall provide all parties with a copy of HFPB’s reports relating to the Allegations of Noncompliance.

b) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a copy of any document that it intends to offer into evidence. This subsection shall not require any party to again provide copies of those documents already provided by HFPB under subsection (a).

c) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a list containing the name and address of any witness who may be called to testify.
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d) All parties shall be entitled to any exculpatory evidence in the HFPB's possession that tends to support the other party's position or that might impeach the credibility of HFPB's witness.

e) Upon a written request by HFPB, at any time after a notice or hearing request is filed, or at any stage of the hearing, the other parties shall be required to produce within seven days documents, books, records, or other evidence that relates directly to conduct of the business entity or other subject of the administrative hearing.

f) All parties shall be under a continuing obligation to promptly update requested discovery until the hearing is concluded without the necessity for further or additional requests.

g) There shall be no depositions for discovery purposes or interrogatories allowed in any proceedings brought pursuant to this Part, except as agreed to by the parties.

h) For good cause shown, including but not limited to age, infirmity, or inability to travel, evidentiary depositions shall be allowed, by the agreement of the parties or order of the administrative law judge.

i) Requests to Admit Facts and Genuineness of Documents shall be allowed in accordance with Supreme Court Rule 216.

j) Nothing contained in this Section shall preclude the parties from agreeing to the voluntary exchange of more information than is required.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1130 Motions

a) Motions, unless made during a hearing or pre-hearing, shall be made in writing and shall set forth the relief or order sought and the legal authority for the action requested. Except as otherwise provided in this Part or by a specific statute, motions may seek any relief or order recognized in the Illinois Code of Civil Procedure and Rules of the Illinois Supreme Court, and shall include a reference to the applicable Section of such Code or Rules. Motions based on a matter that does not appear of record shall be supported by affidavit.
b) Written motions shall be titled as to the party making the motion and the nature of the relief sought. The title shall be in capital letters and shall be placed either below the caption or to the right of the caption beneath the docket number. No motion shall be identically titled with any other motion. Examples of properly titled motions: Respondent's Motion to Dismiss, Respondent's Second Motion to Dismiss.

c) Motions to the pleadings if not raised at the earliest opportunity shall be deemed waived. Motions to the pleadings shall not be granted if the pleadings are in conformity with Section 1130.1020.

d) The administrative law judge shall not have the authority to dismiss, postpone, vacate, or overturn an order or notice issued by HFPB, but may make a recommendation to HFPB any time that circumstances merit such a recommendation.

e) Motions for a continuance shall be granted only for good cause shown. Motions for a continuance shall be in writing and filed at least 5 working days prior to the hearing. Motions for a continuance shall be made immediately when the party learns that a continuance was needed, steps that were taken to avoid the continuance, and the current reasons the continuance is needed shall be contained in the motion. After one continuance has been granted to a party additional continuances may be granted to that party only if:

1) a hearing on the issue of whether or not to grant the continuance has been held and the administrative law judge finds that the moving party has presented sufficient evidence showing entitlement to another continuance;

2) there is an emergency; or

3) all parties so stipulate.

f) Whenever possible, as much of the hearing as possible shall be completed and only those matters that must be continued shall be continued.

g) If there is an unforeseen emergency, motions for a continuance may be made by telephone rather than in writing. Motions by telephone shall be made through a conference call involving the administrative law judge and all parties and shall be confirmed within three business days by the filing of a written motion.
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h) Responses shall be in writing unless made at a prehearing conference or a hearing.

i) Demands for a Bill of Particulars shall not be allowed.

j) All motions under this Section shall be filed with the administrative law judge.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1140 Subpoenas

a) Subpoenas requiring the attendance and the giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records or memoranda may be issued by HFPB or the administrative law judge upon its own motion or upon the written request of any party to the proceeding. HFPB or the administrative law judge may require the party requesting the issuance of subpoenas to demonstrate the relevancy of the request to the issues in the hearing. For good cause shown, HFPB or the administrative law judge may deny or modify the request for subpoenas.

b) Subpoenas issued by HFPB or the administrative law judge upon the request of a party to the proceeding shall be delivered to the requesting party who shall be responsible for serving the subpoenas. Subpoenas shall be served personally or by certified mail.

c) The witness fee for attendance and travel shall be the same as the fee of the witness before the Circuit Courts of this State. When a witness is subpoenaed by HFPB or hearing officer upon its own motion or upon the request of IDPH, the witness fee shall be paid in the same manner as other expenses of the agency.

d) Subpoenas shall be enforced in the same manner as subpoenas issued by the Circuit Courts of this State.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1150 Administrative Law Judge's Report and Final Decision

a) At the conclusion of a hearing, the administrative law judge shall make a written report of the hearing, with his findings of fact and conclusions of law and his or her recommendations, if any, to HFPB through the Executive Secretary which
report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all pleadings and documents or evidence made a part of the record and any other material that is deemed to be a part of the record.

b) The administrative law judge shall render a report as promptly as possible. Except in unusual cases and for cause shown, the report should be made within 30 working days following the date the hearing is closed.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1160 Proposal for Decision

a) When a majority of the members of HFPB who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than HFPB, shall not be made final until a written proposal for decision is served upon the parties by certified mail and the provision of this Section complied with.

b) The proposal for decision shall be written by the administrative law judge. The Proposal for Decision shall:

1) indicate the proposed order;

2) contain a statement of the reasons for the proposed decision;

3) contain a statement of each issue of fact or law necessary to the proposed decision; and

4) indicate the time in which the adversely affected parties have to file written exceptions and a brief.

c) A party adversely affected by a proposal for decision shall within 10 days of receipt of the proposed finding submit in writing a notice of an intent to file exceptions and a written brief. Failure to file such notice within this time limit shall constitute a waiver of the right to file exceptions and a brief.

d) There shall be no right to oral arguments before HFPB on proposed decisions.

e) Written exceptions and brief are to be submitted within 30 days after receipt of the proposed decision. HFPB may in its discretion upon the showing of good
NOTICE OF ADOPTED AMENDMENTS

cause by a party grant additional time for the submission of the exception and brief if the request for such is made prior to the time for submission of the written exceptions and brief.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1170 Final Decision

a) On the basis of the hearing or upon default of the party to the hearing, HFPB shall make its final decision in each case, supported by concise written findings of fact and appropriate conclusions of law. The decision and supporting findings of fact and conclusions of law shall be made a part of the official record of each hearing.

b) A copy of HFPB’s decision shall be sent by Certified Mail or personally served upon all the parties.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1180 Records of Proceedings

a) A full and complete record shall be kept of all proceedings. The record shall consist of the following:

1) all pleadings (including all notices and responses to pleadings), motions, and rulings;

2) a transcript of the hearing, if any, and all evidence received;

3) a statement of matters officially noticed;

4) offers of proof, objections and rulings on those matters;

5) proposed findings and exceptions;

6) any decision, opinion or report by the administrative law judge;

7) all staff memoranda or data submitted to the administrative law judge or members of the agency in connection with their consideration of the case; and
HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

8) any communication determined to be ex parte, but such communications shall not form the basis for any finding of fact. (See 20 ILCS 3960/4.2.)

b) HFPB shall be the official custodian of all papers and documents filed in proceedings before HFPB.

c) The records of administrative proceedings, including the transcript, are public records and shall be open to reasonable public inspection at the offices of HFPB. The administrative law judge reports shall be available for public inspection after it has been delivered to HFPB.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1190 Miscellaneous

a) Computation of Time. The time within which any act under this Part is to be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or a holiday as defined or fixed by State statute, and then it shall also be excluded. If the day succeeding the last day is a Saturday, Sunday or holiday, then the succeeding day shall also be excluded.

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

c) Waiver. Compliance with any of this Part or with any or all provisions of the IAPA regarding contested cases may be waived by written stipulation of all parties.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)

Section 1130.1200 Number of Copies of Pleadings to be Filed

Under this Part, the parties shall file answers, amendments, motions, and affidavits in support of Motions, together with proof of service on all parties to the proceedings or their attorneys.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)
Section 1130.1210  Applicability

This Subpart applies to all contested cases.

(Source: Added at 30 Ill. Reg. 14852, effective September 1, 2006)
Section 1130. APPENDIX A Annual Inflation Adjustments to Review Thresholds

1. Capital Expenditures (Other than Major Medical Equipment):

<table>
<thead>
<tr>
<th>Baseline</th>
<th>Inflation Factor</th>
<th>Revised Review Threshold</th>
<th>Effective Date of Revision</th>
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2. Major Medical Equipment:

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3. Health and Fitness Centers:

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<th>Revised Review Threshold</th>
<th>Effective Date of Revision</th>
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HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED AMENDMENTS

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4. **Calculation of Inflation Factors:**

Inflation factors, for capital equipment projects represent the percentage increase or decrease in the related health care costs from July 1 of the preceding calendar year to July 1 of the year for which the adjustment is to be made. The capital threshold is adjusted utilizing the annualized data from the report year as compared to the preceding year. A growth in costs of five percent during this twelve-month period would result in an inflation factor of 1.05.

5. **Source of Data:**

The capital expenditure threshold adjustment for all items other than major medical equipment is taken from the Building Construction Cost Data, Hospitals Component of Square Footage, Cubic Feet and Percent of Total Cost from the R.S. Means Company, Inc., 63 Smiths Lane, Kingston MA 02364-0800 (2003, no later editions or amendments included).

(Source: Repealed at 30 Ill. Reg. 14852, effective September 1, 2006)
HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED REPEALER

1) **Heading of the Part:** Public Hearing and Comment Procedures

2) **Code Citation:** 77 Ill. Adm. Code 1140

3) **Section Numbers:**

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<td>1140.70</td>
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<tr>
<td>1140.80</td>
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</table>

4) **Statutory Authority:** Health Facilities Planning Act [20 ILCS 3960]

5) **Effective Date of Rulemaking:** September 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 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 Proposed Repealer Published in Illinois Register:** 29 Ill Reg. 16294; October 28, 2005

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were requested.

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:** Parts 1130, 1140, 1180 and 1190 of the Health Facilities Planning Board (HFPB) rules have been reviewed and revised to accomplish the following objectives:

1. Eliminate redundancy,
2. Clarify language,
3. Make language consistent throughout the Sections,
4. Update language in response to current statutory requirements, and
5. Streamline and clarify the review processes.

This Part, concerning Public Hearing and Comment Procedures, has been consolidated and moved to Part 1130. This existing Part 1140 has been repealed.

16) **Information and questions regarding this adopted repealer shall be directed to:**

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

217/782-2043  
e-mail: rules@idph.state.il.us
HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Practice and Procedure in Administrative Hearings

2) Code Citation: 77 Ill. Adm. Code 1180

3) Section Numbers: Adopted Action:
   1180.10   Repealed
   1180.20   Repealed
   1180.30   Repealed
   1180.40   Repealed
   1180.50   Repealed
   1180.60   Repealed
   1180.70   Repealed
   1180.80   Repealed
   1180.90   Repealed
   1180.95   Repealed
   1180.100  Repealed
   1180.110  Repealed
   1180.120  Repealed
   1180.130  Repealed
   1180.140  Repealed
   1180.150  Repealed
   1180.160  Repealed
   1180.170  Repealed
   1180.180  Repealed
   1180.190  Repealed
   1180.200  Repealed

4) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960]

5) Effective Date of Rulemaking: September 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 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 Proposed Repealer Published in Illinois Register: 29 Ill Reg. 16304; October 28, 2005
HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED REPEALER

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.

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: Parts 1130, 1140, 1180 and 1190 of the Health Facilities Planning Board (HFPB) rules have been reviewed and revised to accomplish the following objectives:

1. Eliminate redundancy,
2. Clarify language,
3. Make language consistent throughout the Sections,
4. Update language in response to current statutory requirements, and
5. Streamline and clarify the review processes.

This Part, concerning Practice and Procedure in Administrative Hearings, has been consolidated and moved to Part 1130. This existing Part 1180 has been repealed.

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

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

217/782-2043
e-mail: rules@idph.state.il.us
HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Permit Application Fees

2) Code Citation: 77 Ill. Adm. Code 1190

3) Section Numbers: Adopted Action:
   1190.10   Repealed
   1190.20   Repealed
   1190.30   Repealed
   1190.40   Repealed
   1190.50   Repealed
   1190.60   Repealed
   1190.70   Repealed
   1190.80   Repealed
   1190.90   Repealed

4) Statutory Authority: Health Facilities Planning Act [20 ILCS 3960]

5) Effective Date of Rulemaking: September 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 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 Proposed Repealer Published in Illinois Register: 29 Ill Reg. 16322; October 28, 2005

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.

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

14) Are there any amendments pending on this Part? No
HEALTH FACILITIES PLANNING BOARD

NOTICE OF ADOPTED REPEALER

15) **Summary and Purpose of Rulemaking**: Parts 1130, 1140, 1180 and 1190 of the Health Facilities Planning Board (HFPB) rules have been reviewed and revised to accomplish the following objectives:

1. Eliminate redundancy,
2. Clarify language,
3. Make language consistent throughout the Sections,
4. Update language in response to current statutory requirements, and
5. Streamline and clarify the review processes.

This Part, concerning Fees, has been consolidated and moved to Part 1130. This existing Part 1190 has been repealed.

16) **Information and questions regarding this adopted repealer shall be directed to**:

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5th Floor  
Springfield, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Organization, Public Information, and Types of Proceedings

2) **Code Citation:** 2 Ill. Adm. Code 2175

3) **Section Numbers:**
   - 2175.100  Amend
   - 2175.105  Amend
   - 2175.110  Amend
   - 2175.115  Amend
   - 2175.120  Amend
   - 2175.125  Amend
   - 2175.130  Amend
   - 2175.135  Amend
   - 2175.140  Amend
   - 2175.200  Amend
   - 2175.205  Amend
   - 2175.210  Amend
   - 2175.215  Amend
   - 2175.220  Amend
   - 2175.300  Amend
   - 2175.305  Amend
   - 2175.310  Amend
   - 2175.315  Amend
   - 2175.320  Amend
   - 2175.400  Amend
   - 2175.500  Amend
   - 2175.505  Amend
   - 2175.510  Amend
   - 2175.515  Amend
   - 2175.520  Amend
   - 2175.525  Amend
   - 2175.530  Amend
   - 2175.535  Amend
   - 2175.540  New Section
   - 2175.545  New Section
   - 2175.550  New Section
   - 2175.555  New Section
   - 2175.600  Amend
   - 2175.APPENDIX A  Amend
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5 of the Environmental Protection Act [415 ILCS 5/5].

5) Effective Date of Amendments: August 29, 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, are on file in the Board’s Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.

9) Notice of Proposal Published in Illinois Register: This rulemaking is adopted in accordance with procedures for required rulemaking under Section 5-15 of the Illinois Administrative Procedure Act. Therefore, publication of a notice of proposed rulemaking was not required.

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Pursuant to Section 5-15 of the Illinois Administrative Procedure Act, this rulemaking is being adopted without publication of a notice proposed rulemaking, or JCAR second notice review.

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

14) Are there any proposed rulemakings 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 July 20, 2006, in docket R04-9. The Board is updating its Part 2175 rules. The amendments encompass three different topics: (1) statutory changes affecting the Board; (2) Board procedural rule changes; and (3) various developments at the Board, such as the public availability of Clerk’s Office online (COOL) as an “electronic file cabinet” on the Board’s Web site.
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Statutory changes. Recent amendments to the Environmental Protection Act (Act) [415 ILCS 5 (2004)] and the Open Meetings Act [5 ILCS 120 (2004)] have impacted the Board. For example, Public Act 93-509 (eff. Aug. 11, 2003) amended the Act, reducing the number of Board Members from seven to five. This, in turn, lowered the number of affirmative votes needed for Board action from four to three. These statutory changes are reflected in the amendments at Sections 2175.105(b) (Board membership) and 2175.120(b) (approval of majority of members required for Board decisions). Public Act 93-523 (eff. Jan. 1, 2004) amended the Open Meetings Act to require that public bodies keep a “verbatim record of all their closed meetings in the form of an audio or video recording.” The Board complied with this new requirement by audio-taping its closed deliberative sessions, held pursuant to Section 2(c)(4) of the Open Meetings Act [5 ILCS 120/2(c)(4) (2004)]. Verbatim recording is now covered in Section 2175.135 of the Board’s administrative rules. Other new provisions of the Open Meetings Act, brought about by Public Act 94-28 (eff. Jan. 1, 2006), impose Web site posting requirements on certain public bodies. Under Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], a public body with a Web site maintained by a full-time staff must post its regular meeting agendas and annual meeting schedule on its Web site. Under Section 2.06(b) of the Open Meetings Act [5 ILCS 120/2.06(b)], such a public body must also post the regular open meeting minutes of the public body on the Web site within seven days after approving the minutes. The Board has full-time staff dedicated to its Web site maintenance, and has made changes to address the new Web site posting requirements in Sections 2175.125, 2175.130, and 2175.135 of this Part.

Procedural Rule Changes. The Board adopted an entirely new set of procedural rules in 2000, repealing its then-current procedural rules and replacing them and all Board procedural resolutions. See Revision of the Board’s Procedural Rules: 35 Ill. Adm. Code 101-130, R00-20 (Dec. 21, 2000). The new procedural rules took effect January 1, 2001. The adopted amendments update the cross-references to the new procedural rules in the administrative rules. The Board also added to the administrative rules descriptions of various Board proceedings that had been lacking, such as of Clean Air Act “Fast-Track” rulemaking. See, e.g., Sections 2175.550, 2175.555, and 2175.600.

New Developments. Finally, the Board has made various changes to the administrative rules to reflect changes to COOL, the Board’s electronic docketing system for rulemakings and adjudicatory cases, and to update the addresses of the Board offices.

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

Richard McGill
Illinois Pollution Control Board
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

100 W. Randolph, Suite 11-500
Chicago, IL 60601

312-814-6983

Copies of the Board's opinion and order 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 R04-9 in your request. The Board order is also available from the Board’s Web site (www.ipcb.state.il.us)

The full text of the Adopted Amendments begins on the next page:
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XXVIII: POLLUTION CONTROL BOARD

PART 2175
ORGANIZATION, PUBLIC INFORMATION, AND TYPES OF PROCEEDINGS

SUBPART A: INTRODUCTION AND ORGANIZATION

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<tr>
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<td>Board Membership</td>
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APPENDIX A  Organizational Chart

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5 of the Environmental Protection Act [415 ILCS 5/5].


SUBPART A: INTRODUCTION AND ORGANIZATION

Section 2175.100  Summary and Purpose
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

As required by Section 5-15 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/5-15] and Section 140/4 of the Freedom of Information Act (FOIA) [5 ILCS 140/4], this Part sets forth the administrative rules which apply to the Illinois Pollution Control Board (Board). These rules are intended to generally explain what the Board is, how the Board is organized and operates, and how the public can get information from the Board. These rules do not explain, and are not intended to explain, the Board's procedural requirements for processing rulemaking and adjudicatory cases. Those procedural rules are found at 35 Ill. Adm. Code 101-130. If there is a conflict between the Board's procedural rules (35 Ill. Adm. Code 101-130) and this Part, the procedural rules will control.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.105 Board Membership

a) The Board was created pursuant to Section 5 of the Illinois Environmental Protection Act (Act) [415 ILCS 5/5]. The Board is a quasi-legislative and quasi-judicial administrative agency responsible for adopting environmental regulations and deciding certain environmental disputes and cases brought pursuant to the Illinois Environmental Protection Act. The Board determines, defines, and implements environmental control standards in accordance with the Illinois Environmental Protection Act.

b) The Board is comprised of seven technically qualified members. The members are appointed by the Governor with the advice and consent of the Senate, for a term of three years.

c) The Governor designates one member to serve as Chairman. The Chairman serves at the pleasure of the Governor and is responsible for the administration of the Board.

d) Pursuant to Section 3.1 of the Executive Reorganization Implementation Act [15 ILCS 15/3.1], the Board is an agency of State government that is created by law with the primary responsibility of exercising regulatory or adjudicatory functions independently of the Governor. As such, the Board is excluded from the term "Agency directly responsible to the Governor" or "agency" as defined in the Executive Reorganization Implementation Act [15 ILCS 15/3.1].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.110 Organization and Supervisory Relationships
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

a) Each member of the Board is aided by a confidential assistant who may be an attorney or who may have an advanced technical degree, and a personal secretary. The Chairman may have two confidential assistants and a personal secretary.

b) To carry out its functions, the Board is comprised of the following offices and units: Clerk's Office, Legal Unit, Hearings Unit, Technical Unit, and Fiscal Unit. The function of each is as follows:

1) Clerk's Office. This office is responsible for the processing, maintenance, and distribution of all regulatory and adjudicatory case related materials of the Board. The Clerk's Office is located in Chicago.

2) Legal Unit. This unit is responsible for general legal functions of the Board and case or rule-related legal responsibilities, as designated by the Chairman. Under the direction of the Senior Attorney, this unit also consists of attorneys responsible for conducting Board adjudicatory hearings throughout the State, making such rulings as may be necessary at hearing, and generally managing the Board's adjudicatory caseload.

3) Technical Unit. This unit is comprised of environmental specialists responsible for gathering such technical and scientific data as may be required by the Board in the performance of its duties and for advising the Board on technical issues related to pending adjudicatory cases and rulemakings, as assigned by the Chairman.

4) Hearings Unit. Under the direction of a Chief Hearing Officer, this unit is comprised of attorneys responsible for conducting Board hearings throughout the State, making such rulings as may be necessary at hearing, and generally managing the Board's adjudicatory caseload.

4)5) Fiscal Unit. Under the direction of a Fiscal Officer, this unit is responsible for budgeting, expenditures, procurement, computer operations, and related duties.

e) The Board may also employ other professional staff to carry out its functions and mandates, including but not limited to an Executive Coordinator, a Public Information Affairs Coordinator, a Human Resources Manager, an Information Systems Analyst, and a Rulemaking Coordinator.
d) Organizational relationships are shown in the organizational chart in Appendix A at the end of this Part. Detailed descriptions of the specific responsibilities and duties of each of the job titles are maintained in the Board's Springfield or Chicago office.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.115 Location of Offices

a) The Board maintains two central offices, one in Chicago and one in Springfield. The Board may also maintain satellite offices in various regions of the State.

b) The Clerk's Office is located in the Chicago office. The address and general telephone number of the Chicago office is:

Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St.
Suite 11-500
Chicago, Illinois  60601
(312) 814-3620
(312) 814-3669 (Fax)

c) The Office of the Chairman, the Fiscal Office, and the Legislative/Government Affairs Coordinator are located in the Springfield office. The address and general telephone number of the Springfield office is:

Illinois Pollution Control Board
1021 North Grand Ave. East
600 South Second Street
Suite 402
Springfield, Illinois  62704
(217) 524-8500
(217) 524-8508 (Fax)

d) The Board maintains satellite offices in the following locations:
Section 2175.120  Board Meetings

a) The Board makes all decisions on adjudicatory cases and regulatory matters at open meetings of the Board noticed and held in accordance with the Open Meetings Act [5 ILCS 120]. The Board may also hold meetings that are closed to the public pursuant to Section 2(c)(a) of the Open Meetings Act [5 ILCS 120/2(c)(a)], including closed deliberative sessions under Section 2(c)(4) of the Open Meetings Act [5 ILCS 120/2(c)(4)]. The Board regularly holds closed deliberative sessions (see Sections 2175.125 and 2175.130 of this Part).

b) Open Board meetings may be held when a quorum of Board members, constituted by four members of the Board, is present. If there is no vacancy on the Board, four members of the Board constitute a quorum; otherwise, a majority of the Board constitutes a quorum, and no vacancy impairs the right of the remaining members to exercise all of the powers of the Board. Every action approved by a majority of the members of the Board constitutes the action of the Board. [415 ILCS 5/5(a)] Four affirmative votes are required for any final determinations of the Board, except in a proceeding to remove a seal under Section 34(d) of the Illinois Environmental Protection Act [415 ILCS 5/34(d)].

c) The Board may hold a closed meeting upon a majority vote of a quorum present taken at an open meeting for which notice has been given as required by the Open Meetings Act [5 ILCS 120/2a]. Closed meetings may be held when a majority of a quorum is present [5 ILCS 120/1.02].

d) Board members may attend meetings in the following ways:
NOTICE OF ADOPTED AMENDMENTS

1) Meetings, whether open or closed, may be held with Board members physically present physically or by videoconference. Closed meetings may also be held with Board members present telephonically.

2) If a quorum of Board members is present physically or by videoconference at an open meeting, a majority of the Board may allow a Board member to attend the meeting telephonically if the member cannot otherwise attend because of personal illness or disability, the business of the Board, or a family or other emergency. In such instances, the Board member who wishes to attend telephonically will notify the Clerk of the Board before the meeting unless advance notice is impractical.

Section 5 of the Illinois Environmental Protection Act requires the Board to hold at least one open meeting each month and allows the Board to hold special and emergency meetings [415 ILCS 5/5]. The Chairman or two Board members may call a special meeting of the Board that is open to the public.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.125 Public Notice of Open Board Meetings and Closed Deliberative Sessions

a) Public Notice of Regular Open Board Meetings and Closed Deliberative Sessions.

1) The Board adopts annual schedules of open meetings and closed deliberative sessions. Regular open Board meetings are generally held twice a month, usually every first and third Thursday of the month at the James R. Thompson Center (JRTC) in Chicago or at the Board's Springfield office, but dates, times and locations are subject to change. Regular closed deliberative sessions are generally held twice a month, usually every second and fourth Thursday of the month at the JRTC in Chicago or at the Board's Springfield office, but dates, times and locations are subject to change.

2) Notification of regular open Board meetings is given in the Board's Environmental Register, a monthly publication available in hard copy and on the Board's Web site Home Page (see Section 2175.310 of this Part). Notification of all regular open Board meetings and closed deliberative sessions is also provided pursuant to Sections 2.02 and 2.03 of the Open Meetings Act [5 ILCS 120/2.02 and 2.03].
POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

A) At least 48 hours before each regular open Board meeting and closed deliberative session, an agenda for the meeting or session is posted at the Board's Chicago office and at any other location where the meeting or session is to be held. Each such agenda is also posted on the Board's Web site and remains so posted at least until the regular meeting or session is concluded.

B) Notification of the annual schedule of regular open Board meetings and closed deliberative sessions is given at the beginning of each fiscal year by posting a copy of the schedule at the Board's Chicago office. In addition, the annual schedule is posted on the Board’s Web site and remains so posted at least until a new public notice of the schedule of regular meetings and sessions is approved. The schedule of regular open Board meetings also appears at the end of every regular open Board meeting agenda.

b) Teleconferencing—The Board attempts to hold one meeting every quarter via teleconferencing equipment, with hook-ups in, at least, Chicago and Springfield. Both locations are open to the public.

b) Public Notice of Special or Emergency Meetings.

1) Whether a special or emergency meeting is an open Board meeting or a closed deliberative session, notice of a special or emergency meeting will generally be given to all Board members and the public at least 48 hours prior to the meeting. The notice will include a copy of the agenda and will comply with the Open Meetings Act. If, however, a majority of the Board certifies that an emergency exists and exigencies of time are such that the 48-hour notice must be dispensed with, a special meeting may be called by the Chairman or two Board Members merely by posting notice in the Board’s offices and giving notice to the public of an emergency meeting will be given as soon as is reasonably far in advance as is practicable, but prior to the holding of such meeting.

2) Notice of a special or emergency meeting will include a copy of the meeting agenda and will be posted at the Board's Chicago office, at any other location where the meeting is to be held, and on the Board's Web site.
POLLUTION CONTROL BOARD

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(see Section 2175.310 of this Part), pursuant to Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02].

3) Notwithstanding subsections (b)(1) and (2) of this Section, at any open Board meeting for which notice has been given as required by the Open Meetings Act, the Board may, without additional notice under Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], hold a special or emergency closed deliberative session. Only topics specified in the vote to close the meeting may be considered during the closed deliberative session [5 ILCS 120/2a] (see Section 2175.120(c) of this Part).

c) Notice to Media. The Board gives notice of regular, special, or emergency meetings, whether the meeting is an open Board meeting or a closed deliberative session, to any news medium that has filed an annual request for such notice under Section 2.02(b) of the Open Meetings Act [5 ILCS 120/2.02(b)].

d) Videoconference and Teleconference. Whether the meeting is a regular, special, or emergency meeting, the Board may hold its open meetings and closed deliberative sessions by videoconference between Chicago and Springfield locations. Such open Board meetings may be attended by the public at both locations. A Board member may attend an open Board meeting telephonically only in accordance with Section 2175.120(d)(2) of this Part. The Board may hold its closed deliberative sessions by teleconference.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.130 Agenda of Open Board Meetings and Closed Deliberative Sessions

a) The Board maintains an agenda for each of its open Board meetings and closed deliberative sessions in accordance with Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02]. Open Board meeting agendas contain the list of rulemakings, adjudicatory cases, and motions that may be decided by the Board at that meeting. Closed deliberative session agendas contain the list of rulemakings, adjudicatory cases, and motions on which the Board may deliberate at that session. Agendas are posted at the Board's Chicago office, at any other location where the meeting or session is to be held, and on the Board's Web site (see Section 2175.310 of this Part).

b) The Board does not generally place any item on the agenda that has been filed less than two full days before the scheduled Board
POLLUTION CONTROL BOARD

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meeting.

c) The Board may also issue an addendum to the agenda of an open Board meeting or closed deliberative session and, as provided for in Section 2.02(a) of the Open Meetings Act [5 ILCS 120/2.02(a)], may consider items not specifically set forth on the agenda.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.135 Minutes of Open Board Meetings; Minutes and Verbatim Record of Closed Deliberative Sessions

a) The Board will keep minutes of all open Board meetings in accordance with Section 2.06(a) of the Open Meetings Act [5 ILCS 120/2.06(a)]. Minutes of all such meetings subject to the Open Meetings Act shall be available to the public at the Clerk's Office or on the Board's Web site Home Page (see Section 2175.310 of this Part). The minutes will include the time, date, and place of the meeting, the items decided and the numeric decision vote, the Board members recorded as present or absent, and whether the members were present physically, by videoconference, or telephonically.

b) The Board will keep minutes of all its closed deliberative sessions in accordance with Section 2.06(a) of the Open Meetings Act [5 ILCS 120/2.06(a)]. Minutes of all such sessions will be available to the public only as provided in Section 2.06(d) and (f) of the Open Meetings Act [5 ILCS 120/2.06(d) and (f)]. The minutes will include the time, date, and place of the session, the items on which the Board deliberated, the Board members recorded as present or absent, and whether the members were present physically, by videoconference, or telephonically.

c) The Board will keep a verbatim record of all its closed deliberative sessions in the form of an audio or video recording in accordance with Section 2.06(a) of the Open Meetings Act [5 ILCS 120/2.06(a)]. Verbatim recordings of all such sessions will be available to the public only as provided in Section 2.06(c) and (e) of the Open Meetings Act [5 ILCS 120/2.06(c) and (e)].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)
POLLUTION CONTROL BOARD

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Section 2175.140  Accessibility of Open Board Meetings and Hearings

In compliance with the Americans with Disabilities Act and other applicable federal and State laws, the Board will make every effort to hold public meetings and hearings in facilities that are accessible to people with disabilities. Persons requiring such services should contact Dorothy Gunn, Clerk of the Board, at 100 W. Randolph Street, Suite 11-500, Chicago, Illinois  60601 or at 312/814-3620 at least five (5) days prior to a Board meeting or hearing.

(Source:  Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

SUBPART B:  FEES AND FORMS OF PAYMENT

Section 2175.200  Filing Fees

a) A person filing an action for which a filing fee is prescribed by Section 7.5 of the Illinois Environmental Protection Act [415 ILCS 5/7.5] shall pay that fee at the time the petition is presented to the Clerk for filing.

b) The following initial filings require filing fees and will only be considered filed when accompanied by the appropriate fee, which may be paid in the form of government voucher, money order or check made payable to the Illinois Pollution Control Board, but which may not be paid in cash:

1) Petition for Site-Specific Regulation, $75.

2) Petition for Variance, $75.

3) Petition for Review of Illinois Environmental Protection Agency (Agency) Permit Decision, Underground Storage Tank (UST) Decision, or any other final appeal determination pursuant to Section 40 of the Illinois Environmental Protection Act [415 ILCS 5/40], $75.

4) Petition to Contest Local Government Pollution Control Facility Siting Decision, pursuant to Section 40.1 of the Illinois Environmental Protection Act [415 ILCS 5/40.1], $75; and

5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Illinois Environmental Protection Act [415 ILCS 5/28.1], $75.
POLLUTION CONTROL BOARD

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c) The Clerk will refuse to file any petition that is not accompanied by the required fee. The fee must be paid in the form specified in Section 2175.215 of these rules.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.205  Copying Fees

a) Most files, records, and data are available on the Board's Web site (see Section 2175.310 of this Part), where they may be viewed, searched, and downloaded free of charge. Copies may also be made at the Board offices in Chicago upon payment of reasonable reproduction fees as follows:

1) A hard copy of a single opinion and order will be furnished on request without cost, irrespective of length, with any dissenting and/or concurring opinions. Hard copies of multiple opinions and orders cost 75 cents per page.

2) Hard copies of hearing transcripts cost 75 cents per page.

3) Hard copies of all other documents cost 75 cents per page.

d) State agencies are, upon request, provided copies of opinions and orders and transcripts free of charge.

4) When reasonably practicable, materials may be provided electronically in the form of a diskette or compact disk. The fee for such material will be based on actual costs incurred by the Board.

b) State agencies are, upon request, provided a hard copy of opinions and orders and transcripts free of charge.

c) Fees will be waived or reduced if:

1) The requestor is a constitutional officer or a member of the General Assembly; or
POLLUTION CONTROL BOARD

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2) The requestor states the specific purpose for the request and indicates that a waiver of the fee is in the public interest. Waiver of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the purpose of personal or commercial benefit. [5 ILCS 140/6(b)]

d) No fee will be charged to inspect records. Inspection of records can only take place in Chicago at the Clerk's Office.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.210 Copying Photocopying Procedures

a) All files, records, and data may be copied at the Board's Chicago office upon payment, except for information exempted pursuant to Section 7 of FOIA [5 ILCS 140/7]. (See Section 2175.300 of this Part.) [415 ILCS 5/7].

b) The Board will contract for any copying that would impose a substantial administrative burden on the Board. The person requesting such copies will be charged the reproduction charges incurred by the Board.

c) Requests for copies will be honored in as timely a manner as is reasonably practicable. Requests to receive copies by mail will be honored. However, the Board reserves the right to charge the requesting party for the mailing costs incurred by the Board.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.215 Forms of Payment

a) Any amount over $10 must be paid by check or money order made payable to the Illinois Pollution Control Board, except as provided in subsection (b) of this Section. A State agency may use an Office of the Comptroller voucher to remit payment for filing fees and photocopy charges.

b) Filing fees may be paid in the form of a check or money order made payable to the Illinois Pollution Control Board, or cash, but cash payment is discouraged. A State agency may use an Office of the Comptroller voucher to remit payment for
POLLUTION CONTROL BOARD

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filing fees (see Section 2175.200 of this Part) and copy fees (see Section 2175.205 of this Part).

c) In the event that a check for filing fees, paid pursuant to Section 7.5 of the Illinois Environmental Protection Act is not honored by petitioner's bank, the Fiscal Officer may require that payment be made within 48 hours by certified check or money order. Failure to make payment may subject the parties to sanctions, including penalties as provided for in the Board's procedural rules. (See 35 Ill. Adm. Code 101.800-120.)

d) In the event that a check for copying fees is not honored by the remitter's bank, the Fiscal Officer may require that payment be made within 48 hours by certified check or money order. The Fiscal Officer may also require that copying fees be paid only by certified check or money orders prior to the conveyance of material for any entity or individual who remits to the Board a check subsequently is not honored by the remitter's bank.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.220 Other Fees/Costs

The Board may, in its procedural rules (see 35 Ill. Adm. Code 101.130-120), provide for the payment of certain types of its costs where appropriate.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

SUBPART C: PUBLIC INFORMATION

Section 2175.300 Files Open to Reasonable Inspection

a) The Clerk will maintain files containing all information submitted to or produced by the Board or any of its members relating to matters within the Board's jurisdiction. Without limiting the foregoing, the files will include: pleadings, motions, notices, minutes, transcripts, exhibits, orders and opinions, proposed and adopted regulations, the Environmental Register and other Board releases, business records, and informal complaints.

b) Pursuant to Section 1 of the Illinois State Records Act, the Clerk will maintain for five (5) years, all documents submitted by the parties in rulemaking and adjudicatory cases and participants in rulemaking [5 ILCS 160/4]. After five
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(5) years, the documents will be microfilmed and the microfilm shall be maintained by the Board. Documents microfilmed for the Board's record are subject to destruction unless the parties or participants request that the documents be returned at the closure of the five (5) year period. Over-sized exhibits that are not capable of being microfilmed will be returned to the parties or participants at their request or destroyed.

e) All files, records, and data, other than personnel files, are maintained by the Clerk's Office and are available from the Clerk of the Board, in the Board's Chicago office. Most of these materials are also available through the Board’s Web site (see Section 2175.310 of this Part), where they may be viewed, searched, and downloaded only. Such types of material include but are not limited to:

1) Documents filed in an adjudicatory within a case or rulemaking, including, but not limited to, appearances, pleadings, exhibits, motions, transcripts of hearings, and public comments;

2) Opinions and orders of the Board;

3) Documents published by the Board for use by the general public, such as the Environmental Register.

d) The files, records, and data of the Board are open to reasonable public inspection and copying in the Board's Chicago office, except for information exempted pursuant to Section 7 of FOIA the Freedom of Information Act [5 ILCS 140/7], including but not limited to, information that constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communication between or among the Board and/or staff; draft orders and opinions and orders; and technical unit memoranda.

e) The Board has adopted procedural rules at 35 Ill. Adm. Code 130-120 to establish the procedures to be taken by any person to obtain trade secret protection for trade secrets and other non-disclosable information as described in Section 7 of the Illinois Environmental Protection Act [415 ILCS 5/7]. (See 35 Ill. Adm. Code 130101-120.)

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.305 Publications
POLLUTION CONTROL BOARD

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a) Environmental Register

1) The Board's monthly publication, the Environmental Register, contains reports of the Board's activities and notices of meetings and hearings. Single hard copies are provided free of charge at the Board's Chicago and Springfield offices.

2) A yearly hard copy subscription may be purchased, at a cost of $20 to defray reproduction and distribution charges, by contacting the Board's Chicago office. Government entities and not-for-profit organizations properly categorized as such under the Internal Revenue Code may request a free hard copy subscription to the Environmental Register. Proof of organizational status is required.

3) The Environmental Register is provided free of charge on the Board's Web site.

b) Opinions, Orders, Regulations

1) Copies of opinions and orders of the Board are available upon request as provided at Section 2175.205 of this Part, including through the Board's Web site (see Section 2175.310 of this Part(a).

2) The Board's opinions and orders are also available through various commercial services including LEXIS and Westlaw.

3) The Board's regulations are published in the Illinois Register (see Section 2175.305(d) of this Part) and by various commercial services. They are also published periodically by the Agency by subtitle and are available in hard copy as quantities permit free of charge from the Board's Chicago office. Additionally, the Board maintains on its Web site the text of the Board's regulations set forth in Title 35 of the Illinois Administrative Code.

c) Annual Report

1) The Board publishes an Annual Report of the Chairman. The report includes information regarding the Board's membership, regulatory and case activities for the fiscal year, a summary of legislative activity
POLLUTION CONTROL BOARD

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affecting the Board, a summary of Board decisions reviewed by the courts during the fiscal year, and information on administrative activities.

2) When completed and printed, the Annual Report is available in hard copy free of charge in reasonable quantities from the Board's Chicago and Springfield offices. The Annual Report is also available free of charge from the Board's Web site (see Section 2175.310 of this Part).

d) Illinois Register

1) Required Filings. The Illinois Register is a publication containing all State regulations and is published by and available from the Office of the Secretary of State and various commercial services. The Board is required to publish the following information in the Illinois Register:

A) Notice of all proposed and adopted regulations as required by Section 5-40 of the IAPA [5 ILCS 100/5-40]. The notices describe the rules, contain contact names for questions and provide directions for participation at public hearings and submission of written comments.

B) Notice of all emergency and peremptory regulations as required by Sections 5-45 and 5-5046 of the IAPA Illinois Administrative Procedure Act [5 ILCS 100/5-45 and 5/5046]. The notices describe the rules and contain contact names for questions.

C) Results of Board determinations in adjusted standards proceedings pursuant to Section 28.1 of the Illinois Environmental Protection Act [415 ILCS 5/28.1]. The Board publishes this list at the close of each fiscal year, in July or August depending upon the Illinois Register publication schedule.

D) A regulatory agenda setting forth rules the Board may be considering during a six-month period. This agenda lists rules before in advance of publication of the notice described in subsection (d)(1) of this Section. The regulatory agenda appears in January/February or July/August of each year, depending upon the Illinois Register publication schedule. The agenda describes the anticipated rules, contains contact names for questions, and provides directions for public participation.
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2) Discretionary filings: Section 7.3 of the Illinois Environmental Protection Act [415 ILCS 5/7.3] and Section 5-70(b) of the Illinois Administrative Procedure Act [5 ILCS 100/5-70(b)] allow the Board to publish other documents concerning its activities. These include, but are not limited to, notices of public hearings, and notices of proposed and adopted identical-in-substance rules as discussed in Section 7.2 of the Illinois Environmental Protection Act [415 ILCS 5/7.2].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.310 Board Web Site

Board's Home Page on World Wide Web Internet

a) The Board maintains a Web site with information that Home Page on the World Wide Web of the Internet. The information on the Home Page is continuously updated. The Board's Home Page includes, but is not limited to, the following information:

1) Board Members' Profiles and a Citizen's Guide to the Board;
2) Environmental Register;
3) Open Board Meeting and Closed Deliberative Session Dates and Agendas;
4) Procedural Rules in Title 35 of the Illinois Administrative Code;
5) Administrative Rules in Title 2 of the Illinois Administrative Code;
6) Annual Reports;
7) Summary of Pending Rulemakings;
8) Summary of Recent Legislation Affecting the Board;
9) Open Board Meeting Minutes;
10) The Clerk's Office On-Line (COOL): COOL is the Board's searchable electronic docketing system for rulemakings and adjudicatory cases, containing Board opinions and orders, hearing transcripts, and participant and party filings, all of which may be viewed, searched, and downloaded;
NOTICE OF ADOPTED AMENDMENTS

11) Environmental Regulations in Title 35 of the Illinois Administrative Code;

12) The Act [415 ILCS 5]; and

13) Formal and informal complaint forms.

b) The information on the Board's Web site can be downloaded free of Board charges. The Web site can be accessed through the Internet using any commercially available on-line service. The Web site can be accessed directly at the following electronic address:

http://www.ipcb.state.il.us

http://www.state.il.us/pcb/prbhpage.htm

c) The Board's Web site can also be accessed through the State of Illinois Web site at the following electronic address:

http://www.illinois.gov/government/agency.cfm

http://www.state.il.us/

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.315 Documents Prepared by the Clerk's Office

Various documents are routinely prepared by and for the Clerk's Office for internal use by the Board and are also available for inspection and copying. These include, but are not limited to, docket sheets, listings of adjudicatory cases and rulemakings by type and status tracking sheets. Hard copies will be available within five (5) working days of a request at a cost of $5.00 per page.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.320 Requests for Information

a) Informal requests for information may be made to any Board office. Informal requests will be filled promptly upon receipt of the request. However, where a request for information maintained by the Clerk's Office is made at a Board office other than the Chicago office, some delay may be necessary to allow for the Clerk's Office to provide the material. Inspection of documents can only take place at the Clerk's Office.
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b) A formal request for information pursuant to the Freedom of Information Act (FOIA) must state that it is a formal request pursuant to FOIA. The formal request must be addressed to the Clerk of the Board, who will date-stamp the request upon receipt. All formal requests will be processed pursuant to the timeframe requirements set forth in FOIA. The FOIA requires an initial response to the request be made within seven (7) working days of receipt of the formal request, subject to extension.

1) Any person whose formal request is denied by the Clerk may appeal such denial by filing a written notice of appeal addressed to the Chairman of the Board. The notice of appeal must include a copy of the formal request, the Clerk's denial letter, and a statement of why the person believes the denial was improper. The Chairman will determine in writing whether the Clerk's denial was proper or improper, and will notify the person within seven (7) working days after receipt of the notice.

2) If the Chairman affirms the denial or fails to take action within seven (7) working days, the person may file suit in circuit court for injunctive or declaratory relief pursuant to Section 11 of the FOIA [5 ILCS 140/11].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

SUBPART D: ACCESS TO BOARD RULES

Section 2175.400 Access to Board Rules in the Illinois Administrative Code

a) All Board rules have been codified under Title 35 of the Illinois Administrative Code since October 1983. Each general area of regulation has been assigned a particular Subtitle as set out below:

<table>
<thead>
<tr>
<th>SUBTITLE</th>
<th>SUBJECT MATTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Procedural Rules</td>
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<tr>
<td>B</td>
<td>Air Rules</td>
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<tr>
<td>C</td>
<td>Water Rules</td>
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<td>D</td>
<td>Mine Rules</td>
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<td>E</td>
<td>Livestock Waste</td>
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<td>F</td>
<td>Public Water Supplies</td>
</tr>
<tr>
<td>G</td>
<td>Waste Disposal</td>
</tr>
<tr>
<td>H</td>
<td>Noise Rules</td>
</tr>
</tbody>
</table>
POLLUTION CONTROL BOARD

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I Nuclear Radiation
M Biological Materials

b) The Subtitles listed in subsection (a) of this Section, above, also include some rules of the Environmental Protection Agency and the Department of Natural Resources. The Board's rules appear at Chapter I of each of the Subtitles.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

SUBPART E: RULEMAKING

Section 2175.500 Proposals


1) The Act provides for five types of rulemakings:


B) Federally required rules, as defined in Section 28.2 of the Act [415 ILCS 5/28.2] (see 35 Ill. Adm. Code 102.Subpart E);

C) Other regulatory proposals, both of general applicability and not of general applicability, as allowed by Sections 26, 27, and 28 of the Act [415 ILCS 5/26, 27, and 28] (see 35 Ill. Adm. Code 102.Subpart B);

D) Clean Air Act fast-track rulemakings, as defined by Section 28.5 of the Act [415 ILCS 5/28.5] (see 35 Ill. Adm. Code 102.Subpart C); and


2) The IAPA provides for three types of rulemakings:
POLLUTION CONTROL BOARD

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A) General rulemaking pursuant to Section 5-40 of the IAPA [5 ILCS 100/5-40], which includes first notice and second notice (see 35 Ill. Adm. Code 102.600-102.608);

B) Emergency rulemaking pursuant to Section 5-45 of the IAPA [5 ILCS 100/5-45] (see 35 Ill. Adm. Code 102.612); and

C) Peremptory rulemaking pursuant to Section 5-50 of the IAPA [5 ILCS 100/5-50] (35 Ill. Adm. Code 102.614).

b) Proposals for the adoption, amendment, or repeal of a substantive regulation may be made by the Environmental Protection Agency (Agency), the Illinois Department of Natural Resources (Department), the Board, or any member of the public. Only the Agency may propose a Clean Air Act fast-track rulemaking [415 ILCS 5/28.5]. Proposals made by the Agency, Department, or Board are automatically scheduled for hearings.

c) In the case of a proposal made by a member of the public, the proposal must be accompanied by a petition signed by 200 persons, specifying home addresses, unless that requirement is waived by the Board. When the proposal is accompanied by a petition, the matter is placed on the agenda for Board decision. Generally, the Board will authorize a hearing unless it determines that the proposal is plainly devoid of merit, or deals with a subject on which a hearing has been held within the preceding six months, or is not accompanied by an adequate statement of supporting reasons. The proponent will be notified of an adverse decision and of the reasons for such a decision.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.505 Initial Hearing

a) All hearings on regulatory proposals are conducted according to the Board's procedural rules at 35 Ill. Adm. Code 102. These hearings are open to the public, and at such hearings, the public is permitted to examine the record, examine witnesses (except as limited by the Hearing Officer), testify, and submit evidence except as limited by the Hearing Officer or Board procedural rule.

b) Unless otherwise directed by the Hearing Officer or the Board, the rulemaking record remains open for written public comment for a minimum of 14 days following the Board's receipt of the hearing transcript. Any person may
POLLUTION CONTROL BOARD

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make a written submission on the proposal within this period or during the first notice period pursuant to the Administrative Procedure Act (IAPA) [5 ILCS 100].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.510 First Notice

a) The Board may adopt a proposed rule for first notice pursuant to Section 5-40 of the APA [5 ILCS 100/5-40]. The proposed rules are filed with the Secretary of State for first-notice publication in the Illinois Register. Generally, the Board does not proceed to first notice until merit and economic hearings have concluded and comments have been received unless there is a need to proceed more expeditiously.

b) The public has a right to comment on the proposed rules during the first-notice period and retains all other rights set out in Section 5-40 of the IAPA [5 ILCS 100/5-40].

c) Pursuant to Section 28 of the Illinois Environmental Protection Act, the Board may, after hearing in general, revise the proposed regulation before adoption without conducting further hearings [415 ILCS 5/28].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.515 Second Notice

a) Upon termination of the first-notice period, the Board may adopt the proposal for second notice pursuant to Section 5-40 of the APA [5 ILCS 100/5-40], for review by the Joint Committee on Administrative Rules (JCAR).

b) After the second-notice period has commenced, the proposed rules will only be amended in response to JCAR recommendations.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.520 Adopted Rules

a) At the conclusion of the second-notice period, the Board may adopt a final opinion and order adopting the new or amended rules and setting forth the reasons for adoption.
b) The adopted rules are then filed with the Secretary of State and are published in the Illinois Register along with supporting information.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.525 Emergency Rules

Pursuant to the Illinois Emergency Management Agency Act [20 ILCS 3305/7] Illinois Emergency Services and Disaster Act of 1975 [65 ILCS 5], on proclamation by the Governor, that a disaster emergency exists, or when the Board finds that a severe public health emergency is involved in relation to any proposed regulation, then such regulation will take effect without delay and the Board may proceed with the required economic impact hearings while the regulation continues in effect [415 ILCS 5/27(c)]. When such an emergency exists, or when the Board finds another situation exists that reasonably constitutes a threat to the public interest, safety, or welfare, the customary 45-day notice provision is waived; however, notice and text of the emergency rule must be published in the Illinois Register [5 ILCS 100/5-45(b)]. An emergency rule is effective for a maximum period of 150 days pursuant to Section 5-45(c) of the Illinois Administrative Procedure Act [5 ILCS 100/5-45(c)], but it may be adopted as a permanent rule by following usual rulemaking procedures.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.530 Peremptory Rules

When the Board is required by federal law, federal rules and regulations, or by a court order to adopt a certain rule, that rule need not be published in the Illinois Register until it has been adopted pursuant to Section 5-50 of the Illinois Administrative Procedure Act [5 ILCS 100/5-50]. However, notice and text of the adopted rule must be published in the Illinois Register pursuant to Section 5-70 of the Illinois Administrative Procedure Act [5 ILCS 100/5-70].

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.535 Rules Identical-In-Substance to Adoption of Federal Regulations

a) The Board adopts regulations in the following programs pursuant to Section 7.2 of the Illinois Environmental Protection Act [415 ILCS 5/7.2] that are identical-in-substance to federal regulations and which are exempt from Sections 5-35 and 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35 and 5-40]:
NOTICE OF ADOPTED AMENDMENTS

1a) Exemptions from the definition of volatile organic material: Section 9.1(e) of the Illinois Environmental Protection Act [415 ILCS 5/9.1(e)],

2b) Underground injection control (UIC): Section 13(c) of the Illinois Environmental Protection Act [415 ILCS 5/13(c)],

3e) Wastewater pretreatment: Section 13.3 of the Illinois Environmental Protection Act [415 ILCS 5/13.3],

4d) Safe Drinking Water Act (SDWA): Section 17.5 of the Illinois Environmental Protection Act [415 ILCS 5/17.5],

5e) Resource Conservation and Recovery Act (RCRA), Subtitle C, hazardous waste (RCRA Subtitle C): Section 22.4(a) of the Illinois Environmental Protection Act [415 ILCS 5/22.4(a)],

6f) RCRA Resource Conservation and Recovery, Illinois Environmental Protection Act, Subtitle I, underground storage tank (UST): Section 22.4(d) of the Illinois Environmental Protection Act [415 ILCS 5/22.4(d)],

7g) RCRA Resource Conservation and Recovery Act, Subtitle D municipal solid waste landfills (RCRA Subtitle D): Section 22.40(a) of the Illinois Environmental Protection Act [415 ILCS 5/22.40(a)].

b) Section 7.2(b) of the Act [415 ILCS 5/7.2(b)] provides timetables for rule adoption, but generally the Board must adopt rules within one year after the United States Environmental Protection Agency's (USEPA) adoption of the corresponding federal rule. The Board adopts a proposal for public comment that is published in the Illinois Register. The Board then accepts public comments for 45 days, after which the Board adopts final rules that are published in the Illinois Register.

c) Because Sections 5-35 and 5-40 of the IAPA (5 ILCS 100/5-35 and 5-40) do not apply to identical-in-substance rulemaking under Section 7.2 of the Act (415 ILCS 5/7.2), the Board does not follow the IAPA's procedure of first notice, second notice, and final adoption.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)
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Section 2175.540 Federally Required Rules

Under Section 28.2 of the Act [415 ILCS 5/28.2], the Board may adopt a "required rule." A "required rule" means a rule that is needed to meet the requirements of the federal Clean Water Act, SDWA, Clean Air Act (including required submission of a State Implementation Plan), or RCRA, other than a rule required to be adopted as an identical-in-substance rule (see Section 2175.535 of this Part) [415 ILCS 5/28.2(a)].

(Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.545 Generally Applicable Rules and Site-Specific Rules

Under Sections 27 and 28 of the Act [415 ILCS 5/27 and 28], the Board may adopt substantive environmental rules of generally applicability and of site-specific applicability. Under Section 26 of the Act [415 ILCS 5/26], the Board may adopt such procedural rules as may be necessary to accomplish the purposes of the Act.

(Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.550 Clean Air Act Fast-Track Rulemaking

Under Section 28.5 of the Act [415 ILCS 5/28.5], the Board may adopt rules proposed by the Agency that are required to be adopted by the State under the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (CAAA). A "fast-track" rulemaking proceeding is a proceeding to promulgate a rule that the CAAA requires to be adopted. For purposes of this type of rulemaking, "requires to be adopted" refers only to those regulations or parts of regulations for which USEPA is empowered to impose sanctions against the State for failure to adopt such rules [415 ILCS 5/28.5(a) and (c)].

(Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

Section 2175.555 Updating Incorporations By Reference

Under Section 28.6 of the Act [415 ILCS 5/28.6], the Board may update an incorporation by reference included in a Board rule without conducting hearings if no objection is filed or hearing is requested during the first-notice period pursuant to Section 5-40 of the IAPA [5 ILCS 100/5-40]. Such rulemaking is limited to replacing a reference in a Board rule to an older or obsolete version of an incorporated document with a reference to the current version of that document or its successor document.
POLLUTION CONTROL BOARD

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(Source: Added at 30 Ill. Reg. 14990, effective August 29, 2006)

SUBPART F: ADJUDICATORY PROCEEDINGS

Section 2175.600 Adjudicatory Proceedings

a) The Board is authorized to hear the following types of adjudicatory cases: (See 35 Ill. Adm. Code 101-130 for procedural rules governing the processing of these cases.)

1) Enforcement Action. The Illinois Attorney General, any State's Attorney, or any person may initiate an enforcement action by the filing of a complaint pursuant to Section 31 of the Illinois Environmental Protection Act [415 ILCS 5/31].

2) Permit Appeal. Any person who, pursuant to Section 39 of the Act [415 ILCS 5/39], has been denied a permit by the Agency, or who has been issued a permit by the Illinois Environmental Protection Agency pursuant to Section 39 of the Illinois Environmental Protection Act [415 ILCS 5/39] with one or more conditions to which that person objects, may file a petition with the Board for a review of the Agency's action. If the Agency grants a RCRA permit for a hazardous waste disposal site or grants or denies a National Pollutant Discharge Elimination System (NPDES) permit, certain third parties may petition the Board for a hearing to contest the decision of the Agency [415 ILCS 5/40(b), (e)(1)]. (See 35 Ill. Adm. Code 105.)

3) Pollution Control Facility Siting Review. An applicant for local siting approval of a pollution control facility who has been denied such approval or granted conditional approval by a county board or the governing body of a municipality or third party who participated in the public hearing conducted by a county board or the governing body of a municipality may contest that decision by filing a petition for hearing pursuant to Section 40.1(a) of the Illinois Environmental Protection Act [415 ILCS 5/40.1(a)]. A third party who participated in the public hearing conducted by a county board or the governing body of a municipality may contest a grant of local siting approval by filing a petition for hearing pursuant to Section 40.1(b) of the Act [415 ILCS 5/40.1(b)]. (See 35 Ill. Adm. Code 107.)

4) Variances/Adjusted Standards. Any person adversely affected by a Board
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rule or order may file a petition for a variance or adjusted standard pursuant to Section 37 of the Illinois Environmental Protection Act [415 ILCS 5/37] or a petition for an adjusted standard pursuant to Section 28.1 of the Act [415 ILCS 5/28.1]. (See 35 Ill. Adm. Code 104.)

5) Trade Secret Determination. Any person who is adversely affected by a trade secret determination made by the Illinois Environmental Protection Agency or the Illinois Department of Natural Resources may contest that determination before the Board. (See 35 Ill. Adm. Code 130.)

6) Appeal of Office of the State Fire Marshal (OSFM) UST Fund Denial of Eligibility or Deductibility Determination to UST Program. Owners or operators of UST underground storage tanks who have been denied eligibility by the OSFM to access the UST underground storage tank reimbursement fund, or who disagree with an OSFM determination of the applicable deductible for UST Fund reimbursement, by the Office of State Fire Marshal may petition for review pursuant to Section 57.9(c) of the Illinois Environmental Protection Act [415 ILCS 5/57.9(c)]. (See 35 Ill. Adm. Code 105.)

7) Appeal of Agency Decisions Regarding UST Program. Owners or operators of UST underground storage tanks who have been denied requested UST Fund reimbursement or UST cleanup approvals by the Agency may petition for review pursuant to Section 40 of the Illinois Environmental Protection Act [415 ILCS 5/40]. (See 35 Ill. Adm. Code 105.)

8) Tax Pollution Control Facility Certifications. Under the Property Tax Code, the Board may issue a certificate finding that a facility is a "pollution control facility" or that a device is a "low sulfur dioxide emission coal fueled device" for property tax purposes [35 ILCS 200/11-10, 11-40]. A person seeking a tax certificate must first submit an application to the Agency. The Agency is then required to file with the Board a recommendation on whether the Board should issue the certificate. An applicant who wishes to contest an Agency recommendation that the Board deny tax certification may file a petition with the Board. (See 35 Ill. Adm. Code 125.) Application for a pollution control facility certificate demonstrating that a particular facility is entitled to tax treatment as a pollution control facility as defined in Section 11-10 of the Property Tax Code may be filed with the Board pursuant to Sections
NOTICE OF ADOPTED AMENDMENTS

9) Administrative Citations. The Agency or a unit of local government delegated authority by the Agency, may issue administrative citations for violations of the Illinois Environmental Protection Act, Section 21(o) and (p) of the Act [415 ILCS 5/21(o) and (p)], and these citations shall be enforceable by filing copies with the Board pursuant to Section 31.1 of the Illinois Environmental Protection Act [415 ILCS 5/31.1]. The respondent named in the administrative citation may file a petition for review with the Board. (See 35 Ill. Adm. Code 108.)

10) Water Well Setback Exceptions. A water well owner may petition the Board for an exception from the water well setback requirements of the Illinois Environmental Protection Act by filing a petition with the Board and the Agency pursuant to Section 14.2 of the Illinois Environmental Protection Act [415 ILCS 5/14.2]. (See 35 Ill. Adm. Code 106.)

11) Other. Any other proceedings which are authorized by the Illinois Environmental Protection Act or the Board's procedural rules may be brought before the Board pursuant to statutory authority and any Board regulations adopted thereunder.

(Source: Amended at 30 Ill. Reg. 14990, effective August 29, 2006)
NOTICE OF ADOPTED AMENDMENTS

Section 2175. APPENDIX A  Organizational Chart
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENT

1) **Heading of the Part**: Illinois Renewable Fuels Development Program

2) **Code Citation**: 32 Ill. Adm. Code 130

3) **Section Number**: Emergency Action
   130.30 Amendment

4) **Statutory Authority**: Implementing and authorized by the Illinois Renewable Fuels Development Program Act [20 ILCS 689]

5) **Effective Date of Emergency Amendment**: August 30, 2006

6) **If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire**: The Department has not specified an earlier expiration date.

7) **Date Filed with the Index Department**: August 30, 2006

8) The Department maintains a copy of the emergency amendment, including any material incorporated by reference, in its principal office in Springfield, Illinois and is available for public inspection.

9) **Reason for Emergency**: In Section 130.30, "Allocation of Appropriations" the final rules refer to "subject to appropriation from the Build Illinois Bond Fund", but in FY-07 the funding for the Renewable Fuels Development Program was through the Renewable Resources Trust Fund, P.A. 94-0798, Article 95 Section 130, using General Revenue Funds. So therefore in order to use the Rules to select projects to be funded through the Renewable Fuels Development Program, this emergency amendment is needed.

10) **A Complete Description of the Subjects and Issues Involved**: Currently the final rules state "subject to appropriation from the Build Illinois Bond Fund", however because there was no capital budget this fiscal year, this program for FY 07 is being funded through the Renewable Resources Trust Fund P.A. 94-0798, Article 95 Section 130 using General Revenue Funds. In order to process grant awards the rules must be adjusted to read more generally, i.e., "Subject to appropriation the Director is authorized to award grants for projects approved pursuant to . . .". Rules must be corrected in order to proceed with grant awards.

11) **Are there any proposed rulemakings pending on this Part?** Yes
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].

13) Information and questions regarding this emergency amendment shall be directed to:

   Name: Jolene Clarke
   Rules Administrator
   Address: Department of Commerce and Economic Opportunity
            620 East Adams Street
            Springfield, IL  62701
   Telephone: 217/557-1820
   Fax: 217/782-0038
   e-mail: jolene.clarke@illinois.gov

The full text of the Emergency Amendment begins on the next page:
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENT

TITLE 32: ENERGY
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 130
ILLINOIS RENEWABLE FUELS DEVELOPMENT PROGRAM

Section
130.10 Purpose
130.20 Definitions
130.30 Allocation of Appropriations

EMERGENCY
130.40 Project Eligibility Requirements
130.50 Eligible Uses of Grant Funds
130.60 Project Labor Agreements
130.70 Form of Application
130.80 Application Submittal
130.90 Application Evaluation Procedures
130.100 Grant Award Evaluation Criteria and Funding Limitations
130.110 General Program Requirements
130.120 Grant Agreement
130.130 Administrative Requirements for Grants
130.APPENDIX A Renewable Fuels Development Program Application Cover Sheet
130.APPENDIX B Application Form For Renewable Fuels Development Program
130.APPENDIX C Projected Energy Use By Type Information Form

AUTHORITY: Implementing and authorized by the Illinois Renewable Fuels Development Program Act [20 ILCS 689].


Section 130.30 Allocation of Appropriations

EMERGENCY

Subject to appropriation from the Build Illinois Bond Fund, the Director is authorized to award grants for projects approved pursuant to this Part. An approved project is eligible for only one grant per fiscal year from the Renewable Fuels Development Program. A project means either the construction of a new facility where such production did not previously exist or an expansion
DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF EMERGENCY AMENDMENT

to increase the capacity of an existing production facility, as described in the application approved and funded by the Department through this program. Further, a facility receiving a grant for new construction or a plant expansion in one fiscal year may be eligible for a grant for expansion of the capacity of that facility in another fiscal year.

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 15025, effective August 30, 2006, for a maximum of 150 days)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Medical Assistance Programs

2) Code Citation: 89 Ill. Adm. Code 120

3) Section Number: Emergency Action: Amend
   120.500

4) Statutory Authority: 305 ILCS 5/5-2 (12) and 305 ILCS 5/12-13

5) Effective Date: September 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: September 1, 2006

8) A copy of the emergency amendment, 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: As part of the Fiscal Year 2007 budget implementation, these emergency amendments permit the Department to make potentially life saving health benefits available to more persons who have breast or cervical cancer as quickly as possible.

10) Complete Description of the Subjects and Issues Involved: Since August 2001, HFS has, in partnership with the Department of Public Health, provided medical assistance to persons who have breast or cervical cancer or a precancerous condition diagnosed under the auspices of the Illinois Breast and Cervical Cancer Program (IBCCP). Up to this point in time, coverage was extended as minimally required by the statute. These amendments will expand eligibility for medical assistance to additional persons who have breast or cervical cancer diagnosed by any medical provider as long as they meet all eligibility requirements for the IBCCP and are referred to the Program by their medical provider.

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

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 emergency amendment shall be directed to:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

The full text of the Emergency Amendment begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section 120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section 120.10 Eligibility For Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
120.14 Presumptive Eligibility for Children
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard
120.40 Exceptions To Use Of MANG Income Standard
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children
120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD – MANG(AABD) and All Other Licensed Medical Facilities
120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643
120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings
120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community – Integrated Living Arrangements
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

SUBPART D: MEDICARE PREMIUMS

Section 120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
Section 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
Section 120.73 Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
Section 120.74 Qualified Medicare Beneficiary (QMB) Income Standard
Section 120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
Section 120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section 120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section 120.90 Migrant Medical Program (Repealed)
Section 120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section 120.200 Elimination Of Aid To The Medically Indigent
Section 120.208 Client Cooperation (Repealed)
Section 120.210 Citizenship (Repealed)
Section 120.211 Residence (Repealed)
Section 120.212 Age (Repealed)
Section 120.215 Relationship (Repealed)
Section 120.216 Living Arrangement (Repealed)
Section 120.217 Supplemental Payments (Repealed)
Section 120.218 Institutional Status (Repealed)
Section 120.224 Foster Care Program (Repealed)
Section 120.225 Social Security Numbers (Repealed)
Section 120.230 Unearned Income (Repealed)
Section 120.235 Exempt Unearned Income (Repealed)
Section 120.236 Education Benefits (Repealed)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

120.240 Unearned Income In-Kind (Repealed)
120.245 Earmarked Income (Repealed)
120.250 Lump Sum Payments and Income Tax Refunds (Repealed)
120.255 Protected Income (Repealed)
120.260 Earned Income (Repealed)
120.261 Budgeting Earned Income (Repealed)
120.262 Exempt Earned Income (Repealed)
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SUBPART I: SPECIAL PROGRAMS

Section 120.500 Health Benefits for Persons with Breast or Cervical Cancer

a) A person shall be eligible for medical assistance if the person meets the following eligibility requirements under Health Benefits for Persons with Breast or Cervical Cancer (BCC):

1) Cooperates in establishing eligibility as described in Section 120.308.

2) Meets citizenship/immigration status as described in Section 120.310.

3) Meets residency requirements as described in Section 120.311.

4) Assigns rights to medical support and collection of payment as described in Section 120.319.

5) Furnishes a Social Security number as described in Section 120.327.

6) Is under the age of 65 years.

7) Has been screened for breast or cervical cancer under the National Breast and Cervical Cancer Early Detection Program (NBCCEDP) administered by the Illinois Department of Public Health (IDPH) as
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described in subsection (c) of this Section, and have been found to need treatment, as defined in subsection (d) of this Section, for breast or cervical cancer or a precancerous condition as defined in subsection (e) of this Section.

8) **Continue** to need treatment as defined in subsection (d) of this Section.

9) **Is** uninsured, that is, must not have creditable coverage, as defined under the Health Insurance Portability and Accountability Act, for breast or cervical cancer treatment.

b) A person shall not be determined eligible for Health Benefits for Persons with Breast or Cervical Cancer:

1) **if, upon screening by the Department**, the person is **found to be** otherwise eligible for medical assistance under Section 120.11, 120.20 or 120.30 without a spenddown; or

2) if the person is in a correctional facility pursuant to 42 CFR 435.1008.

c) A person shall meet the screening requirement if:

1) the person's breast or cervical cancer screening was **conducted** within the scope of a grant, sub-grant or contract under the NBCCEDP administered by IDPH; or

2) **beginning September 1, 2006, the person's diagnosis of breast or cervical cancer or precancerous cervical condition was confirmed by an entity receiving a grant, sub-grant or contract under the NBCCEDP administered by IDPH.**

d) A person shall be considered to need treatment if, in the opinion of the person's treating physician, the person requires therapy directed toward cure or palliation of breast or cervical cancer, including recurrent metastatic cancer that is a known or presumed complication of breast or cervical cancer and complications resulting from the treatment modalities themselves. Treatment includes diagnostic services that may be necessary to determine the extent and proper course of treatment. Persons who require only routine monitoring services (for example, pap smears or mammograms) are not considered to need treatment.
e) For the purposes of this Section, a precancerous condition means:

1) Cervical intraepithelial neoplasia, grade III (CIN III);

2) Severe dysplasia of the cervix;

3) High-grade squamous intraepithelial lesion (HGSIL); or

4) Atypical glandular cells of undetermined significance (AGUS) with a suspicion of adenocarcinoma in situ.

f) All income and assets shall be exempt from consideration in determining eligibility under this Section.

g) A person's eligibility for medical assistance under this Section shall be terminated when the person no longer meets the requirements of this Section.

h) Application Process

1) The process of applying for medical assistance shall be initiated by the submission to the Department, by an entity designated by IDPH, of a statement certifying that a person meets the condition of eligibility described in subsection (a)(7) of this Section.

2) The Department shall contact the person by telephone, mail or other appropriate means to complete an application.

3) The application date shall be the date a signed application is received in the Department's central breast and cervical cancer eligibility unit.

4) Application may be made by additional methods that the Department establishes.

5) Applications shall meet all requirements found at 89 Ill. Adm. Code 110.10(a), (c), (e) and (i).

6) A BCC application is only an application for Health Benefits for Persons with Breast or Cervical Cancer.
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i) Authorization of Medical Assistance Eligibility

1) Eligibility will be effective no earlier than the third month before the month of application if the applicant received medical services during that period and would have been eligible if he or she had applied. In no case shall eligibility be effective prior to July 1, 2001, for persons meeting the screening requirement described in subsection (c)(1) of this Section, or prior to September 1, 2006, for persons meeting the screening requirement described in subsection (c)(2) of this Section.

2) The applicant may choose to receive medical assistance for any of the three months prior to the month of application.

2) Eligibility can begin no earlier than the following:

A) for persons meeting the screening requirement described in subsection (c)(1) of this Section, the month in which the applicant was screened as described in subsection (a)(7) of this Section; or

B) for persons meeting the screening requirement described in subsection (c)(2) of this Section, the month in which the applicant was diagnosed with breast or cervical cancer or one of the precancerous cervical conditions described in subsection (e) of this Section.

j) Persons enrolled in Health Benefits for Persons with Breast or Cervical Cancer shall be exempt from Sections 102.210 and 102.230.

k) Persons enrolled in Health Benefits for Persons with Breast or Cervical Cancer who enter a nursing facility must provide income information sufficient for the Department to calculate a group care credit, as established in Sections 120.40 and 120.60, except that assets shall not be counted. The Department will not pay for nursing facility services for any person who refuses to provide the required information.

l) Persons applying for or enrolled in Health Benefits for Persons with Breast or Cervical Cancer shall be entitled to appeal rights as described at 89 Ill. Adm. Code 102.80-83.
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(Source: Amended by emergency rulemaking at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days)
1) **Heading of the Part:** Veterans' Health Insurance Program

2) **Code Citation:** 89 Ill. Adm. Code 128

3) **Section Numbers:** | **Emergency Action:**
---|---
128.100  | New Section
128.110  | New Section
128.200  | New Section
128.210  | New Section
128.220  | New Section
128.230  | New Section
128.240  | New Section
128.250  | New Section
128.260  | New Section
128.300  | New Section
128.320  | New Section
128.330  | New Section
128.340  | New Section
128.350  | New Section

4) **Statutory Authority:** The Veterans' Health Insurance Program Act [330 ILCS 125]

5) **Effective Date:** September 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:** September 1, 2006

8) A copy of the emergency rules, 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:** These emergency rules are being filed pursuant to the Veterans' Health Insurance Program Act [330 ILCS 125]. Senate Bill 627 (the enabling legislation) was sent to the Governor for signature on May 25, 2006 and signed into law on May 30, 2006, becoming Public Act 94-816. The Act included explicit emergency rulemaking authority so as to ensure the most expeditious provision of healthcare service for veterans. The Department is taking this action in the interest of extending health insurance to eligible veterans of the U.S. Armed Forces as quickly as possible.
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10) **Complete Description of the Subjects and Issues Involved:** Under these emergency rules eligible veterans in Illinois who lack medical insurance may be, by paying affordable co-payments and premiums, covered by health insurance and prescription drug coverage.

11) **Are there any other amendments pending on this Part?** No

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 emergency rulemaking shall be directed to:**

    Tamara Tanzillo Hoffman  
    Chief of Administration and Rules  
    Illinois Department of Healthcare and Family Services  
    201 South Grand Avenue East, 3rd Floor  
    Springfield IL 62763-0002  
    217/557-7157

The full text of the Emergency Rules begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY RULES

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 128
VETERANS HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

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128.100 General Description
EMERGENCY
128.110 Definitions
EMERGENCY

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

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128.200 Eligibility
EMERGENCY
128.210 Eligibility Exclusions and Terminations
EMERGENCY
128.220 Application Process
EMERGENCY
128.230 Determination of Monthly Countable Income
EMERGENCY
128.240 Eligibility Determination and Enrollment Process
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128.250 Appeals
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128.260 Renewals of Eligibility
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128.300 Covered Services
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128.310 Service Exclusions
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128.320 Co-payments and Cost Sharing
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128.330 Premium Requirements
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128.340 Non-payment of Premium
EMERGENCY
128.350 Provider Reimbursement
EMERGENCY

AUTHORITY: The Veterans' Health Insurance Program Act [330 ILCS 125]

SOURCE: Emergency rule adopted at 30 Ill. Reg. 15044, effective September 1, 2006, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 128.100 General Description
EMERGENCY

This Part implements the Veterans' Health Insurance Program Act [330 ILCS 125] that authorizes the Department to administer a program to offer uninsured veterans in Illinois access to health benefits. The Department coordinates with the Illinois Department of Veterans' Affairs to assist veterans to apply for the program. Eligible veterans are not eligible for Veterans Administration Healthcare or other State-administered health benefits. The Department shall provide health benefits coverage to eligible veterans through purchasing or providing health care benefits.

Section 128.110 Definitions
EMERGENCY

For the purpose of this Part, the following terms shall be defined as follows:

"Act" means the Veterans Health Insurance Program Act [330 ILCS 125].

"Department" means the Department of Healthcare and Family Services and any successor agencies.

"DVA" means the Illinois Department of Veterans Affairs.

"Family" means the veteran applying for the program and the following individuals who live with the veteran who are counted in determining eligibility:

The spouse of the veteran
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Children under 19 years of age of the veteran or the veteran's spouse

If the veteran or the spouse is pregnant, the unborn children.

"Federal Poverty Level" means the federal poverty income guidelines as established by the federal Department of Health and Human Services and published in the Federal Register.

"Health Insurance" means any health insurance coverage as defined in 215 ILCS 105/2.

"Practitioner" means a physician (including a hospital billing a physician office visit), osteopath, podiatrist, optometrist, chiropractor, advanced practice nurse, Federally Qualified Health Center, Rural Health Clinic or Encounter Rate Clinic.

"Program" means the program created under the Veterans' Health Insurance Program Act and this Part, commonly called Veterans Care.

"Resident" means an individual who has an Illinois residence, as provided in Section 5-3 of the Illinois Public Aid Code.

"Uninsured" means the person is not covered by group or individual health insurance that provides coverage for hospitalization and physician visits.

"Veteran" means an individual who served for at least 180 consecutive days after initial training in any branch of the U.S. military including the Reserve and National Guard. The veteran must not be currently on active duty in the U.S. military.

"Veterans Administration Geographic Means Test" means the income guidelines established by the U.S. Veterans Administration annually by county and published in the Federal Register for determining eligibility for Veterans Administration healthcare.

"Veterans Administration Healthcare" means any of the health programs or services provided or administered by the U.S. Department of Veterans Affairs.

"Veterans Care" means the common name for this program under the Act.

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT
Section 128.200 Eligibility

A veteran may be eligible for Veterans Care provided that all of the following eligibility criteria are met:

a) The veteran is not eligible for Veterans Administration healthcare, medical assistance under the Public Aid Code or benefits including rebates under the Children's Health Insurance Program Act;

b) The veteran was not dishonorably discharged;

c) The veteran is a resident of the State of Illinois;

d) The veteran has been uninsured for at least 6 months; and

e) The veteran is at least 19 and is no more than 64 years of age.

Section 128.210 Eligibility Exclusions and Terminations

A veteran shall not be determined eligible for Veterans Care if:

a) The veteran is an inmate of a public institution.

b) The veteran is a resident of a nursing facility.

c) A veteran's coverage under the program shall be terminated if the veteran:

1) loses his or her Illinois residency.

2) attains 65 years of age.

3) becomes enrolled in Veterans Administration healthcare, medical assistance under the Public Aid Code or health benefits including rebates under the Children's Health Insurance Program Act.

4) meets the provisions of subsection (a) of this Section.
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5) Fails to pay the premium as specified in Section 128.330.

6) Fails to report to the Department changes that affect eligibility for the program.

7) Asks the Department to terminate the coverage.

8) Is no longer eligible based on any other applicable State or federal law or regulation.

9) Failed to provide eligibility information that was truthful and accurate to the best of the veteran's knowledge and belief and that affected the veteran's eligibility.

10) Was incorrectly determined eligible.

11) Fails to complete the redetermination of eligibility within the required timeframes or provide proof of on-going eligibility.

12) Becomes covered by other health insurance.

c) Following termination of a veteran's coverage under the program, the following action is required before the veteran can be re-enrolled:

1) A new application must be completed and the veteran must be determined otherwise eligible.

2) There must be full payment of premiums due under this Part for periods in which a premium was owed and not paid.

3) If the termination was the result of non-payment of premiums, the veteran is ineligible for the program for three months, starting with the first month of cancellation or termination from coverage, before becoming eligible for re-enrollment.

4) If there was an unpaid premium from a previous coverage period, the unpaid premium, in addition to the first month's premium, must be paid before new coverage may begin.

**Section 128.220 Application Process**
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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EMERGENCY

a) Veterans apply for the program by submitting the Veterans Care application to the DVA through either the Veterans Service Office or Veterans Assistance Commission serving the veteran's community.

b) The application must meet all requirements found at 89 Ill. Adm. Code 110.10 including provisions regarding who may apply on behalf of the veteran.

c) Applicants are obligated to provide truthful and accurate information for determining eligibility and to promptly report any change in information provided on the application.

d) The Department may direct the DVA to stop taking applications if that is necessary to maintain the cost of the program within the available funding.

Section 128.230 Determination of Monthly Countable Income

EMERGENCY

a) The earned and unearned income of the following persons shall be counted when determining eligibility, except as specified in subsections (b) and (c) of this Section.

1) Income of the veteran;

2) Income of the veteran's spouse;

3) Unearned income of a dependent child under the age of 18 years who is included in the income standard as set forth at 89 Ill. Adm. Code 120.20 because it is to the advantage of the veteran.

b) Monthly unearned income shall be counted as described at 89 Ill. Adm. Code 120.330 through 120.345 and Sections 120.350, 120.355, 120.371 and 120.376. However, 89 Ill. Adm. Code 120.335(a) shall not apply.

c) Monthly earned income shall be considered as described at 89 Ill. Adm. Code 120.360, 120.361, 120.371, 120.372, 120.373 and 120.375.

Section 128.240 Eligibility Determination and Enrollment Process

EMERGENCY
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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a) The applicant's military discharge status, time spent in active duty, health insurance status and eligibility for Veterans Administration healthcare will be reviewed first.

b) For the purpose of determining eligibility under this Part, applicants who are not found ineligible under subsection (a) of this Section will be screened for eligibility for medical assistance under the Public Aid Code or health benefits including rebates under the Children's Health Insurance Program Act. Veterans who are likely to be eligible for these other programs will be directed to apply for them. Veterans may be enrolled under this Part while an application for coverage under another program is pending.

c) If the monthly countable income is below the Veterans Care income standard, the application will be approved if all other factors of eligibility are met. The Veterans Care income standard is 25 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold. At the sole discretion of the Department, this standard may be raised to 50 percent of the Federal Poverty Level plus the Veterans Administration Geographic Means Test threshold after February 28, 2007.

d) Applicants will be notified, in writing, regarding the outcome of their eligibility determination.

e) Eligibility determinations for the program made by the 10th day of a month will be effective the first day of the following month. Eligibility determinations for the program made after the 10th day of a month will be effective no later than the first day of the second month following that determination.

f) The duration of eligibility for the program will be 12 months unless one of the events described in Section 128.210(b) occurs or the Department shortens the enrollment period to maintain program spending within available funding.

g) Veterans may obtain backdated medical coverage for the month of application plus up to three months prior to the month of application but no earlier than the beginning of the program on September 1, 2006. This coverage shall be subject to the veteran paying the premiums for the months of backdated coverage requested. The veteran may choose the month for which backdated coverage will begin. Backdated months of coverage shall be consecutive beginning with the initial month of backdated coverage requested.
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h) At the sole discretion of the Department, the Department may reduce the income threshold established in subsection (c) of this Section if necessary to keep the cost of the program within available funding.

Section 128.250 Appeals

EMERGENCY

a) Any person who applies for or receives benefits under the program shall have the right to appeal any of the following actions:

1) Refusal to accept an application.

2) Denial of an application or cancellation at the redetermination of eligibility including denial based on failure to meet one or more of the eligibility requirements specified in this Part. No eligibility exists during the appeal process. If the appeal is upheld, the veteran will have the opportunity to receive coverage back to the original application date including possible backdated months or the cancellation month. All premium and co-payment requirements shall apply to the retroactive period.

3) Termination of coverage based on failure to continue to meet one or more of the eligibility requirements specified in this Part. If the termination is not upheld on appeal, coverage under the Program shall be reinstated retroactive to the termination date. All premium and co-payment requirements shall apply to any retroactive period. The veteran may choose coverage for all or some of the months during the appeal process as long as the retroactive months are consecutive to the new initial month of regular eligibility.

4) Determination of the amount of the premium or co-payments required. Any premium or co-payment requirements shall remain in force during the appeal process.

5) Individuals or their representatives do not have the right to appeal Department decisions necessary to keep the cost of the program within the annual appropriations, such as:

A) A Department decision to cease accepting applications.
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B) A Department decision to increase premium levels for all individuals within an income range.

C) A Department decision to require more frequent redeterminations of eligibility.

D) A Department decision to increase the income standard.

b) In addition to the actions that are appealable under subsection (a) of this Section, individuals shall have the right to appeal any of the following actions:

1) Termination of coverage due to non-payment of the required premium.

2) Denial of payment for a medical service or item that requires prior approval.

3) Decision granting prior approval for a lesser or different medical service or item than was originally requested.

c) Individuals may initiate the appeal process by:

1) Filing a written, signed request for a hearing directed to the Department's Bureau of Administrative Hearings;

2) Calling a toll free telephone number designated by the Department.

d) The request for a hearing may be filed by the individual affected by the action or by the individual's authorized representative.

e) For purposes of initiating the appeal process, a copy of a written, signed request for a hearing is considered the same as the original written, signed request.

f) The request for a hearing must be filed no later than 60 days after notice of the appealable action has been given.

g) The provisions of Subpart A of the Department's administrative rules at 89 Ill. Adm. Code 104, Practice in Administrative Hearings, shall govern the handling of appeals and the conduct of hearings under the Program.
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h) An individual can, prior to a decision being rendered on the appeal, reapply for the Program.

Section 128.260 Renewals of Eligibility

a) Eligibility shall be reviewed at least annually.

b) Prior to the eligibility period ending, and in sufficient time for the veteran to respond to the Department's request for information, the Department or its designee will send an annual renewal notice to the veteran.

c) Renewals shall be subject to all eligibility requirements and exclusions set forth in Sections 128.200 and 128.210(a).

d) The Department may require renewal of eligibility more frequently than annually if necessary to keep spending within available funding.

Section 128.300 Covered Services

Covered health care services shall be the same as covered services for adults described in the State's approved plan under Title XIX of the Social Security Act except as provided in Section 128.310.

Section 128.310 Service Exclusions

The following health care services shall not be covered under this Part.

a) Non-emergency medical transportation.

b) Certain over-the-counter drugs.

c) Nursing facility services.

Section 128.320 Co-payments and Cost Sharing

Co-payment and cost sharing requirements are as follows:
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1) Practitioner office visit, $15
2) Dental visits, $15
3) Inpatient hospitalization, $150 per hospital stay
4) Hospital or Ambulatory Surgical Treatment Center outpatient encounter with a payable service on the Ambulatory Procedure List as set forth at 89 Ill. Adm. Code 148.140(b), 10 percent of the Department rate as set forth in Section 128.350(c).
5) Hospital Emergency Visit, $50
6) Prescription drugs, $6 for a 1- to 30-day supply of generic drugs or $14 for a 1- to 30-day supply of brand name drugs.

c) Providers are responsible for collecting co-payments.
d) Providers may elect not to charge co-payments. If co-payments are charged, the co-payment may not exceed the amounts established in this Section.

Section 128.330 Premium Requirements

EMERGENCY

a) Veterans enrolled in Veterans Care must pay a $40 per month premium.
b) No premium is charged for the first two months of prospective eligibility for first-time participants whose initial month of coverage, not counting backdated months, begins prior to January 1, 2008.
c) Premiums are billed by and payable to the Department, or its authorized agent, on a monthly basis.
d) The premium due date is the 20th day of the month preceding the month of coverage.
e) The premium may increase during the eligibility period if the Department makes a decision to increase premiums to keep the Program costs within available funding.
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NOTICE OF EMERGENCY RULES

f) Premiums for backdated months must be received by the 90th day after the date of eligibility determination. Coverage for backdated months is not provided if the payment is not received by the due date.

Section 128.340 Non-payment of Premium
EMERGENCY

a) For initial coverage, veterans will have a grace period through the end of the month preceding the third month of coverage to pay the premium. For subsequent months, veterans will have a grace period of one month following the month in which the premium was due to pay the premium.

b) Failure to pay the full monthly premium by the last day of the grace period will result in termination of coverage.

c) Partial premium payments will not be refunded.

d) When termination of coverage is recorded by the 10th day of the month, it will be effective the first day of the following month. When termination of coverage is recorded after the 10th day of the month, it will be effective no later than the first day of the second month following.

Section 128.350 Provider Reimbursement
EMERGENCY

a) Provider participation under this Part shall be subject to enrollment with and approval by the Department to provide health care under 89 Ill. Adm. Code 140.11 and 140.12.

b) Provider participation under this Part shall be voluntary.

c) Providers under this Part shall be reimbursed in accordance with the established rates of the Department or other appropriate State agency as set forth in 89 Ill. Adm. Code 140, 143, 144, 148, 149, 152, and 153; 52 Ill. Adm. Code 132; and 77 Ill. Adm. Code 2090 less co-payments or cost sharing as specified in Section 128.320 regardless of whether the patient share is collected.

d) Providers under this Part shall be prohibited from billing veterans covered under Veterans Care for any difference between the charge amount and the amount paid
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by the Department other than the co-payment amounts specified in Section 128.320.

e) Providers shall be responsible for refunding to the veteran co-payments collected in excess of the amounts permitted by this Part.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

1) **Heading of the Part:** Pay Plan

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

3) **Section Number:** Peremptory Action
   310.APPENDIX A TABLE D Amendment

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking:** The Department of Central Management Services (CMS) is amending the Pay Plan (80 Ill. Adm. Code 310) Section 310.Appendix Table D to reflect the Memorandum of Agreement between the State of Illinois and the Municipal, Teamsters, Chauffeurs and Helpers Union, Local 726, affiliated with the International Brotherhood of Teamsters signed August 7, 2006. The Memorandum of Agreement includes the seasonal, salaried, full-time Highway Maintainers whose primary function is snow removal (Snowbirds) in Cook County in the Teamsters Local 726 from October 16 though April 15, inclusive, during each fiscal year. The rate of pay for that time is $3,390 per month during Fiscal Year 2007 and $3,575 per month during Fiscal Year 2008. Only the Fiscal Year 2007 rate is added to the Fiscal Year 2007 Pay Plan. The Fiscal Year 2008 rate will be made part of the Fiscal Year 2008 Pay Plan through later rulemaking.

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

6) **Effective Date:** September 5, 2006

7) **A Complete Description of the Subjects and Issues Involved:** Section 310.Appendix A Table D HR-001 (Teamsters Local #726) is amended to add another Full Scale Rates table and a Note. The table includes the Highway Maintainer (Snowbirds) title, its title code 18639, its bargaining unit HR-001, its Pay Plan Code Q, and its pay rate $3,390. The Note explains the definition of Snowbirds.

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

9) **Date filed with the Index Department:** September 5, 2006

10) **This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.**
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes

12) Are there any other proposed amendments pending on this Part? Yes

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Ill. Reg. Citation</th>
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<tr>
<td>310.100</td>
<td>Amendment</td>
<td>30 Ill. Reg. 12060, 7/14/06</td>
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<tr>
<td>310.490</td>
<td>Amendment</td>
<td>30 Ill. Reg. 12060, 7/14/06</td>
</tr>
</tbody>
</table>

13) 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.

14) Information and questions regarding this peremptory amendment shall be directed to:

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

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

NOTICE OF PEREMPTORY AMENDMENT

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
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 Daily or Hourly Rate Conversion
310.250 Member, Patient and Inmate Rate
310.260 Trainee Rate
310.270 Legislated and Contracted Rate
310.280 Designated Rate
NOTICE OF PEREMPTORY AMENDMENT

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
310.455 Intermittent Merit Increase
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
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)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

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)
310.TABLE M  RC-110 (Conservation Police Lodge)
310.TABLE N  RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O  RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P  RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
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) (Repealed)
310.TABLE AB VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)

310.APPENDIX B  Schedule of Salary Grade Pay Grades – Monthly Rates of Pay
310.APPENDIX C  Medical Administrator Rates
310.APPENDIX D  Merit Compensation System Salary Schedule
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

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, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11,
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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NOTICE OF PEREMPTORY AMENDMENT

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

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

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

#### Full Scale Rates

<table>
<thead>
<tr>
<th>Title</th>
<th>Title Code</th>
<th>Bargaining Unit</th>
<th>Pay Plan Code</th>
<th>Pay from October 16, 2006</th>
<th>Pay to April 15, 2007</th>
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</thead>
<tbody>
<tr>
<td>Highway Maintainer (Snowbirds)</td>
<td>18639</td>
<td>HR-001</td>
<td>Q</td>
<td>3390.00</td>
<td></td>
</tr>
</tbody>
</table>

**NOTE:** Snowbirds are all seasonal, full-time Highway Maintainers whose primary function is snow removal.

<table>
<thead>
<tr>
<th>Title</th>
<th>Title Code</th>
<th>Bargaining Unit</th>
<th>Pay Plan Code</th>
<th>Pay from July 1, 2006</th>
<th>Pay to January 1, 2007</th>
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<tr>
<td>Building Services Worker</td>
<td>05616</td>
<td>HR-001</td>
<td>B</td>
<td>2841.94 16.33</td>
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<tr>
<td>Elevator Operator</td>
<td>13500</td>
<td>HR-001</td>
<td>B</td>
<td>2907.74 16.71</td>
<td>2953.74 16.98</td>
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<tr>
<td>Elevator Operator – Assistant Starter</td>
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<td>HR-001</td>
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<td>2948.87 16.95</td>
<td>2994.87 17.21</td>
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<tr>
<td>Elevator Operator – Starter</td>
<td>13500</td>
<td>HR-001</td>
<td>B</td>
<td>2969.45 17.07</td>
<td>3015.45 17.33</td>
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<tr>
<td>Grounds Supervisor</td>
<td>17549</td>
<td>HR-001</td>
<td>B</td>
<td>4490.00 25.80</td>
<td>4536.00 26.07</td>
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<tr>
<td>Grounds Supervisor (Chicago Read)</td>
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<td>HR-001</td>
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<td>4665.00 26.81</td>
<td>4711.00 27.07</td>
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<tr>
<td>Grounds Supervisor (Supervising Tractor Trailer Drivers)</td>
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<td>HR-001</td>
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<td>4950.00 28.45</td>
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<tr>
<td>Heavy Construction Equipment Operator</td>
<td>18465</td>
<td>HR-001</td>
<td>Q</td>
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<td>4825.00 27.73</td>
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<tr>
<td>Heavy Construction Equipment Operator (Bridge Crew)</td>
<td>18465</td>
<td>HR-001</td>
<td>Q</td>
<td>4853.66 27.89</td>
<td>4899.66 28.16</td>
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<tr>
<td>Highway Maintainer and Highway Maintainer (Tractor Mower)</td>
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<td>HR-001</td>
<td>Q</td>
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<td>4720.00 27.13</td>
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<td>HR-001</td>
<td>Q</td>
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<td>4794.12 27.55</td>
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<tr>
<td>Highway Maintainer (Drill Rig)</td>
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<td>HR-001</td>
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<td>4825.00 27.73</td>
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<td>4781.00 27.48</td>
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NOTICE OF PEREMPTORY AMENDMENT

<table>
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</tr>
<tr>
<td>Highway Maintenance Lead Worker (Emergency Patrol)</td>
<td>18659</td>
<td>HR-001</td>
<td>Q</td>
</tr>
<tr>
<td>Highway Maintenance Lead Worker (Lead Lead Worker) (Bridge Crew)</td>
<td>18659</td>
<td>HR-001</td>
<td>Q</td>
</tr>
<tr>
<td>Highway Maintenance Lead Worker (Lead Lead Worker) (Emergency Patrol)</td>
<td>18659</td>
<td>HR-001</td>
<td>Q</td>
</tr>
<tr>
<td>Laborer (Maintenance)</td>
<td>23080</td>
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<tr>
<td>Maintenance Equipment Operator</td>
<td>25020</td>
<td>HR-001</td>
<td>B</td>
</tr>
<tr>
<td>Maintenance Equipment Operator (Dispatcher)</td>
<td>25020</td>
<td>HR-001</td>
<td>B</td>
</tr>
<tr>
<td>Maintenance Equipment Operator (Tractor Trailer)</td>
<td>25020</td>
<td>HR-001</td>
<td>B</td>
</tr>
<tr>
<td>Maintenance Worker (not DOT, Chicago Read or DHS forensic)</td>
<td>25500</td>
<td>HR-001</td>
<td>B</td>
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<tr>
<td>Maintenance Worker (Chicago Read)</td>
<td>25500</td>
<td>HR-001</td>
<td>B</td>
</tr>
<tr>
<td>Maintenance Worker (DHS, forensic)</td>
<td>25500</td>
<td>HR-001</td>
<td>Q</td>
</tr>
<tr>
<td>Maintenance Worker (DOT, not Emergency Patrol)</td>
<td>25500</td>
<td>HR-001</td>
<td>B</td>
</tr>
<tr>
<td>Maintenance Worker (DOT, Emergency Patrol)</td>
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**New Hire Rates**

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<tr>
<td>Highway Maintainer</td>
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<td>HR-001</td>
<td>Q</td>
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</table>
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Highway Maintainer and Highway Maintainer (Tractor Mower)

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<td></td>
<td>Mo.</td>
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<td>Mo.</td>
<td>Hr.</td>
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Highway Maintainer (Bridge Crew)

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</table>
## NOTICE OF PEREMPTORY AMENDMENT

### Highway Maintainer (Drill Rig)

**July 1, 2006**

- **On employee's "new hire" anniversary July-December 2006**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - Full Scale

- **January 1, 2007**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - Full Scale

**Between the Dates**

- **New Hire Between the Dates**
- **(7/1/02-12/31/02)** 4512.00 25.93
- **(7/1/03-6/30/03)** 4512.00 25.93
- **(7/1/03-12/31/03)** 4278.00 24.59
- **(7/1/04-6/30/04)** 4278.00 24.59
- **(7/1/04-12/31/04)** 4054.00 23.30
- **(7/1/05-6/30/05)** 4054.00 23.30
- **(7/1/05-12/31/05)** 3817.00 21.94
- **(1/1/06-6/30/06)** 3817.00 21.94
- **(7/1/06-12/31/06)** 3788.00 21.77
- **(1/1/07-6/30/07)**

(Source: Peremptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006)

### Highway Maintainer (Emergency Patrol)

**July 1, 2006**

- **On employee's "new hire" anniversary July-December 2006**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - Full Scale

- **January 1, 2007**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - **Mo.**
  - **Hr.**
  - Full Scale

**Between the Dates**

- **New Hire Between the Dates**
- **(7/1/02-12/31/02)** 4515.00 25.95
- **(7/1/03-6/30/03)** 4515.00 25.95
- **(7/1/03-12/31/03)** 4279.00 24.59
- **(7/1/04-6/30/04)** 4279.00 24.59
- **(7/1/04-12/31/04)** 4055.00 23.30
- **(7/1/05-6/30/05)** 4055.00 23.30
- **(7/1/05-12/31/05)** 3817.00 21.94
- **(1/1/06-6/30/06)** 3817.00 21.94
- **(7/1/06-12/31/06)** 3790.00 21.78
- **(1/1/07-6/30/07)**

(Source: Peremptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006)
1) **Heading of the Part:** Medical Payment

2) **Code Citation:** 89 Ill. Adm. Code 140

3) **The Notice of Adopted Amendments that is being corrected appeared at:** 30 Ill. Reg. 14280; September 1, 2006.

4) **Explanation:** On question #14, "Are there any amendments pending on this Part?”, the Department listed incorrect page numbers for amendments published in the July 14, 2006 issue of the *Illinois Register* (corrected below) and inadvertently omitted the following outstanding rulemakings:

<table>
<thead>
<tr>
<th>Section Number</th>
<th>Proposed Action</th>
<th>Ill. Reg. Citation</th>
</tr>
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<td>140.490</td>
<td>Amendment</td>
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<td>140.492</td>
<td>Amendment</td>
<td>30 Ill. Reg. 12066; 7/14/06</td>
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<td>140.13</td>
<td>Amendment</td>
<td>30 Ill. Reg. 14007; 8/25/06</td>
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<td>140.15</td>
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1) **Heading of the Part:** Providers of Supplemental Educational Services

2) **Code Citation:** 23 Ill. Adm. Code 675

3) **The Notice of Adopted Amendment being corrected appeared at:** 30 Ill. Reg. 14325; September 1, 2006.

4) **The information being corrected is as follows:** The list of differences given in response to item 11 should have included a specific statement of the fact that Section 675.230 had been added to the rulemaking so that several of its provisions could be amended to match the changes made in Section 675.210.
ILLINOIS HEALTH FACILITIES PLANNING BOARD

NOTICE OF AGENCY RESPONSE TO JOINT COMMITTEE OBJECTION TO PROPOSED RULEMAKING

1) **Heading of the Part:** Illinois Health Facilities Planning Procedural Rules

2) **Code Citation:** 77 Ill. Adm. Code 1130

3) **Section Numbers: Action:**
   - 1130.110  Agree
   - 1130.120  Agree
   - 1130.130  Agree
   - 1130.140  Agree
   - 1130.150  Agree
   - 1130.210  Agree
   - 1130.220  Agree
   - 1130.230  Agree
   - 1130.240  Agree
   - 1130.310  Agree
   - 1130.410  Agree
   - 1130.500  Agree
   - 1130.510  Agree
   - 1130.520  Agree
   - 1130.531  Agree
   - 1130.540  Agree
   - 1130.541  Agree
   - 1130.542  Agree
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   - 1130.560  Agree
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   - 1130.655  Agree
   - 1130.660  Agree
   - 1130.670  Agree
   - 1130.680  Agree
   - 1130.710  Agree
   - 1130.720  Agree
NOTICE OF AGENCY RESPONSE TO JOINT COMMITTEE OBJECTION TO PROPOSED RULEMAKING

1130.730 Agree
1130.740 Agree
1130.750 Agree
1130.760 Agree
1130.770 Agree
1130.780 Agree
1130.790 Agree
1130.810 Agree
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1130.1180 Agree
1130.1190 Agree
1130.1200 Agree
1130.1210 Agree
NOTICE OF AGENCY RESPONSE TO JOINT COMMITTEE OBJECTION TO PROPOSED RULEMAKING

1130.APPENDIX A  Agree

4) Date Originally Published in the Illinois Register: October 28, 2005; 29 Ill. Reg. 16173

5) JCAR Statement of Objection to Proposed Rulemaking Published in the Illinois Register: July 28, 2006; 30 Ill. Reg. 13028

JCAR objected to the Board's rulemaking because HFPB failed to review its rules and promulgate amendments before December 31, 2004 pursuant to Public Act 93-41. JCAR also objected to Section 1130.640 of the rulemaking that allows DPH to extend by 60 days the 120-day time limit on its review of a permit request. Section 8 of the Illinois Health Facilities Planning Act [20 ILCS 3960/8] allows only the permit applicant, not DPH, to seek an extension of the statutory 120-day cap on the review period. JCAR stated that if HFPB believes more time is needed for these reviews, it should seek a statutory change.

6) Summary of Action Taken by the Agency: HFPB agrees that the amendments to its rules were not promulgated in accordance with the statutory time frame. HFPB also accepts the Joint Committee's Objection to Section 1130.640 and will seek legislation to amend the Illinois Health Facilities Planning Act to extend the statutory cap on the Board's review of a permit request.
JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 29, 2006 through September 5, 2006 and have been scheduled for review by the Committee at its October 10, 2006 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

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PROCLAMATIONS

2006-292
NATIONAL PAYROLL WEEK

WHEREAS, more than 140 million Americans, including approximately 12.5 million Illinoisans, contribute millions of dollars to federal and state treasuries through payroll taxes each year; and

WHEREAS, payroll taxes help subsidize vital civic programs and projects, such as education, Medicare, parks, roads, and Social Security; and

WHEREAS, by paying and reporting worker wages and collecting and paying employment taxes, which account for 66 percent of United States Treasury revenue from workers, payroll professionals perform an essential role in supporting the country; and

WHEREAS, payroll professionals also play a key role in maintaining our state's economic health, carrying out such diverse tasks as paying into the unemployment insurance system, providing information for child support enforcement, and carrying out tax withholding, reporting, and depositing; and

WHEREAS, the American Payroll Association, and its Diamond Sponsor, Automatic Data Processing, conducts a nationwide public awareness campaign that explains the payroll withholding system, promotes the benefits of payroll, and pays tribute to American workers and payroll professionals; and

WHEREAS, these dedicated professionals meet regularly with federal and state officials to discuss both improving compliance with government procedures and how compliance can be achieved at least cost to both government and businesses:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 4-8, 2006 as NATIONAL PAYROLL WEEK in Illinois in recognition of all the hardworking Americans in this state, and in support of the worthy efforts of the American Payroll Association and their Chicago Chapter.

Issued by the Governor on August 29, 2006.
Filed by the Secretary of State August 29, 2006.

2006-293
FAITH IN ACTION DAY

WHEREAS, throughout the history of our nation, the spirit of volunteerism has been reflected in neighbors helping neighbors to overcome obstacles; and
WHEREAS, in 1993, Faith in Action was established with support from the Robert Wood Johnson Foundation, as a program to provide volunteer care for people with long-term health needs such as arthritis, diabetes, cancer, Alzheimer's, and HIV/AIDS; and

WHEREAS, Faith in Action programs are coalitions of local religious congregations, health care providers, community organizations and service providers who work together to provide those in need with non-medical assistance; and

WHEREAS, through Faith in Action, Americans of every faith including Catholics, Hindus, Jews, Muslims, and Protestants work together to help members of their community with long-term health needs to maintain their independence for as long as possible; and

WHEREAS, there are thirty-three active Faith in Action programs in Illinois where volunteers assist those in need by performing duties such as shopping for groceries, providing rides to medical appointments, cooking meals, doing light housework, running errands, and providing companionship:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 17, 2006 as FAITH IN ACTION DAY in Illinois, and encourage all citizens to promote the spirit of volunteerism in our families and communities by expressing their gratitude to the noble volunteers across our state.

Issued by the Governor on August 29, 2006.
Filed by the Secretary of State August 29, 2006.

2006-294
5-A-DAY MONTH

WHEREAS, the prevention of obesity, cancer, and heart disease are three of the most urgent health challenges of our day, with heart disease being the leading cause of death in Illinois; and

WHEREAS, the Illinois Department of Human Services and the Illinois Department of Public Health recommend that people should increase their consumption of fruits and vegetables and be physically active each day, to help reduce the risk of obesity, cancer, and heart disease; and
PROCLAMATIONS

WHEREAS, only 22.6 percent of Illinoisans eat five or more fruits and vegetables a day and only 40.2 percent of Illinoisans get the recommended 30 minutes of physical activity a day; and

WHEREAS, the Center for Disease Control continues their work to support the 5-A-Day for Better Health national disease prevention and health promotion program; and

WHEREAS, the Illinois Department of Human Services and the Illinois Department of Public Health support the 5-A-Day goal and 5-A-Day Month. The theme of this observance is "Fruits and Vegetables Count: What is your Number”:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2006 as 5-A-DAY MONTH in Illinois, and encourage all citizens to recognize the health benefits of eating healthy foods on a daily basis.

Issued by the Governor on August 30, 2006.
Filed by the Secretary of State August 30, 2006.

2006-295
FETAL ALCOHOL SYNDROME DISORDERS AWARENESS DAY

WHEREAS, Fetal Alcohol Syndrome (FAS) is one of the most preventable causes of mental retardation and birth defects. Sadly, as many as 40,000 infants are still born every year in the United States with fetal alcohol effects; and

WHEREAS, Fetal Alcohol Syndrome Disorders are the leading cause of mental retardation in western civilization, including the United States, and are 100 percent preventable; and

WHEREAS, FAS is a lifelong, mentally and physically disabling condition caused by mothers who drink during pregnancy; and

WHEREAS, research has found that even minimal drinking during pregnancy can kill developing brain cells and result in brain damage, facial deformities, and growth abnormalities. Heart, kidney, and liver defects are also common; and

WHEREAS, those with FAS typically have difficulty communicating, learning, and memorizing. Consequently, they have trouble in school and are often deficient in interpersonal skills; and
PROCLAMATIONS

WHEREAS, unfortunately, there is no cure for FAS. However, with early detection and diagnosis, children with FAS can receive services that increase their chance for a better life; and

WHEREAS, since 1999, September 9 has been observed as International FAS Day to encourage expecting mothers to abstain from alcohol during their nine months of pregnancy:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim September 9, 2006 as FETAL ALCOHOL SYNDROME DISORDERS AWARENESS DAY in Illinois to raise awareness about Fetal Alcohol Syndrome, and to urge all expecting mothers to take extra precautions while pregnant for the health and well-being of their children.

Issued by the Governor on August 30, 2006.
Filed by the Secretary of State August 30, 2006.

2006-296
GORDON D. BUSH ELEMENTARY SCHOOL DAY

WHEREAS, Gordon D. Bush is a native of East St. Louis and was educated in School District 189. He is a graduate of SIUE with Bachelors and Masters Degrees in City Planning. The University honored him with its coveted "Distinguished Alumni Award.” Gordon has received two honorary doctorate degrees: from Wiley College in Marshall, Texas; and from Mount Senario College in Ladysmith, Wisconsin; and

WHEREAS, Gordon served 28 years as a Commissioned Officer, U. S. Army Corps of Engineers, including 25 years with the 102nd U.S. ARCOM, St. Louis, MO. Gordon retired as a Lieutenant Colonel and was commended by President Bill Clinton for "Meritorious Military Service to his Country”; and

WHEREAS, in 1993, Mayor Bush brought the Casino Queen to East St. Louis causing the greatest economic boom in the city's history. He appeared on "Good Morning America” and was featured in "TIME” Magazine to explain how he leveraged these new funds to bring fiscal solvency to his city; and

WHEREAS, Gordon was appointed by the Honorable Secretary of State Jesse White to serve as Chief Liaison for the Department of Senior and Community Services for downstate Illinois; and

WHEREAS, Gordon's illustrious 30 years in public service includes: elected East St. Louis (ESL) Democratic Committeeman, elected ESL City Commissioner, elected ESL
PROCLAMATIONS

City Treasurer, elected first Black Member and Chairman of St. Clair County Board of Review, elected Mayor of ESL, and elected St. Clair County Assessor; and

WHEREAS, a ribbon-cutting/open house ceremony will be held for the new Gordon D. Bush Elementary School, named in his honor, on September 7, 2006:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 7, 2006 as GORDON D. BUSH ELEMENTARY SCHOOL DAY in Illinois.

Issued by the Governor on August 31, 2006.
Filed by the Secretary of State August 31, 2006.

2006-297
CARIBBEAN FESTIVAL DAYS

WHEREAS, on September 9th and 10th, 2006, the 3rd Annual Caribbean Festival will be hosted by Martin's International Culture, Inc., its affiliate Martin's Inter-Culture Ltd., and several sponsors; and

WHEREAS, this year's Caribbean Festival is dedicated to "Teens In Crisis," and Unity among all Nations, with the belief that "Out of Many We are One People"; and

WHEREAS, the primary objective of the Festival is to bring together, under one umbrella, people of various nationalities, cultures, and ethnic backgrounds; and

WHEREAS, the Caribbean Festival will give a Back-to School Scholarship for students to help with school tuition and expenses; and

WHEREAS, a "Chi-Town Idol" contest will be conducted to find Illinois' most talented artists in song, spoken word, and dance:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 9th and 10th, 2006 as CARIBBEAN FESTIVAL DAYS in Illinois, and encourage all residents to participate in this family event.

Issued by the Governor on August 31, 2006.
Filed by the Secretary of State August 31, 2006.

2006-298
GEORGIA DOTY HEALTH EDUCATION FUND DAY
WHEREAS, the Georgia Doty Health Education Fund (GDHEF) is a non-profit organization that works to raise awareness of community health issues; and

WHEREAS, named after the late Georgia Doty, a pioneer in the healthcare industry and philanthropic entrepreneur, the Georgia Doty Scholarship Fund was established in 1985 as a community-based initiative to provide scholarships to low-income and disadvantaged minorities seeking a career in medicine; and

WHEREAS, the GDHEF is committed to working with health organizations and public agencies, as well as individuals, to develop partnerships resulting in quality programming and good public policy making, based on accurate information regarding health disparities. The mission of GDHEF is served through activities that include the dissemination of vital health care information to underserved communities, which is provided through symposiums, seminars, and literature; and

WHEREAS, after being diagnosed with Hepatitis C in 1998, Ronald Doty, son of the late Georgia Doty and founder of the Georgia Doty Scholarship Fund, immediately began researching the disease, its causes, progression and treatment, and launched a passionate campaign to educate the public about its prevention, intervention, and treatment. In line with Georgia's vision, he focused his attention on ensuring that Chicago's women and minorities became well-informed about the dangers of this disease; and

WHEREAS, to further ensure a focused campaign, the Georgia Doty Scholarship Fund's name was changed to the Georgia Doty Health Education Fund (GDHEF) in 2001, expanding its mission to focus on the prevention and early detection of Hepatitis C; and

WHEREAS, on October 28, 2006, the Georgia Doty Health Education Fund will be holding their annual Health Warriors Awards Ceremony:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 28, 2006 as GEORGIA DOTY HEALTH EDUCATION FUND DAY in Illinois, in recognition of this organization's vital impact on our great State.

Issued by the Governor on August 31, 2006.
Filed by the Secretary of State August 31, 2006.

2006-299
ITALIAN HERITAGE MONTH/CHRISTOPHER COLUMBUS DAY
WHEREAS, the first Italian to set foot in this hemisphere was an explorer named Christopher Columbus. Daring to find a western route to Asia, Columbus set sail in 1492 and stumbled upon the Caribbean that same year; and

WHEREAS, today, there are more than 15 million Italian-Americans living in just the United States. Of them, nearly 750,000 live in the State of Illinois; and

WHEREAS, Italian-Americans have made significant contributions to American life. From sciences to the arts, their influences can be clearly seen throughout the country; and

WHEREAS, in 1976, President Jimmy Carter issued a proclamation to recognize the many achievements and successes of Italian-Americans. Since then, every October has been designated the official month to celebrate Italian-American heritage; and

WHEREAS, the second Monday of every October is also designed as a national holiday in honor of Christopher Columbus. In commemoration, the Joint Civic Committee of Italian Americans hosts an annual Columbus Day Parade in Chicago:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2006 as \textbf{ITALIAN HERITAGE MONTH} and October 9, 2006 as \textbf{CHRISTOPHER COLUMBUS DAY} in Illinois in recognition of Italian-American heritage, and in honor of Christopher Columbus and his contributions to the birth of this nation.

Issued by the Governor on August 31, 2006.
Filed by the Secretary of State August 31, 2006.

\textbf{2006-300}
\textbf{KINDERGARTEN DAY}

WHEREAS, enrollment in pre-primary education in the United States has increased significantly since 1991. According to the National Center for Education Statistics, from 1991 – 2001, pre-primary enrollment of children between the ages of three and five increased by twenty percent; and

WHEREAS, during the kindergarten years, children often make considerable gains in reading and math. In addition, they begin to develop advanced social skills from the constant interaction that they have with one another; and

WHEREAS, those different skills and abilities that kindergarteners acquire lay the foundation for success at future grade levels. History has shown that in many cases, these
PROCLAMATIONS

children go on to become more competent learners, and are less likely to be held back in school; and

WHEREAS, my administration is committed to improving education in Illinois at all levels. Since taking office, significant increases have been made for K-12 spending and per-student state aid funding. This year, with the support of the General Assembly, Illinois became the first state in the nation to offer three and four-year-olds the opportunity to attend preschool through the Preschool for All program. With these efforts, we are aiming to not only enhance the educational experiences of current students, but also to continue increasing enrollment in pre-school and kindergarten programs in this state:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim the second Tuesday of September, September 12, 2006, as KINDERGARTEN DAY in Illinois, and encourage all parents to enroll their children in kindergarten to enhance their abilities, and provide them with better chances to succeed later in life.

Issued by the Governor on September 1, 2006. File by the Secretary of State September 1, 2006.
ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

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<th>Microfiche sets of the Illinois Register 1977 – 2001</th>
<th>$ 200.00 (per set)</th>
</tr>
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<tbody>
<tr>
<td>Specify Year(s) _____________________________________</td>
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<table>
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<th>Cumulative/Sections Affected Indices 1990 - 2002</th>
<th>$ 5.00 (per set)</th>
</tr>
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<tbody>
<tr>
<td>Specify Year(s) _________________________________</td>
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</tbody>
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(Processing fee for credit cards purchases, if applicable.) $ 2.00

**TOTAL AMOUNT OF ORDER** $ ____________

☐ Check Make Checks Payable To: Secretary of State

☐ VISA ☐ Master Card ☐ Discover (There is a $2.00 processing fee for credit card purchases.)

Card #: ____________________________ Expiration Date: _______

Signature: ____________________________

**Send Payment To:** Secretary of State
Department of Index
Administrative Code Division
111 E. Monroe
Springfield, IL 62756

**Fax Order To:** (217) 524-0308

<table>
<thead>
<tr>
<th>Name:</th>
<th>Attention:</th>
<th>ID #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
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<td></td>
</tr>
<tr>
<td>City:</td>
<td>State:</td>
<td>Zip Code:</td>
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<tr>
<td>Phone:</td>
<td>Fax:</td>
<td>E-Mail:</td>
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</table>

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