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RULES
OF GOVERNMENTAL
AGENCIES



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TABLE OF CONTENTS

November 17, 2006 Volume 30, Issue 46

PROPOSED RULES

FINANCIAL AND PROFESSIONAL REGULATION, ILLINOIS DEPARTMENT OF Illinois Public Accounting Act 68 Ill. Adm. Code 1420	18024
HOUSING DEVELOPMENT AUTHORITY, ILLINOIS Multifamily Rental Housing Mortgage Loan Program 47 Ill. Adm. Code 310	18029
SECRETARY OF STATE Issuance of Licenses 92 Ill. Adm. Code 1030	18077
Cancellation, Revocation or Suspension of Licenses or Permits 92 Ill. Adm. Code 1040	18089
TRANSPORTATION, ILLINOIS DEPARTMENT OF Airport Hazard Zoning 92 Ill. Adm. Code 16	18095
Carmi Municipal Airport Hazard Zoning Regulations (Repealer) 92 Ill. Adm. Code 26	18101
Chicago-O'Hare International Airport Zoning Regulations (Repealer) 92 Ill. Adm. Code 28	18120
Lawrenceville-Vincennes Municipal Airport Hazard Zoning Regulations (Repealer) 92 Ill. Adm. Code 56	18135
Olney-Noble Airport Hazard Zoning Regulations (Repealer) 92 Ill. Adm. Code 72	18154
Dixon Municipal Airport Hazard Zoning (Repealer) 92 Ill. Adm. Code 97	18173

ADOPTED RULES

COMMERCE COMMISSION, ILLINOIS Telephone Assistance Programs 83 Ill. Adm. Code 757	18196
SECRETARY OF STATE Regulations under Illinois Securities Law of 1953 14 Ill. Adm. Code 130	18211

NOTICE OF PUBLICATION ERROR

JOINT COMMITTEE ON ADMINISTRATIVE RULES ENVIRONMENTAL PROTECTION AGENCY Municipal Brownfields Redevelopment Grant Program 35 Ill. Adm. Code 885	18226
SECRETARY OF STATE HUMAN SERVICES, DEPARTMENT OF Food Stamps 89 Ill. Adm. Code 121	18230

REGULATORY AGENDA

EMERGENCY MANAGEMENT AGENCY, ILLINOIS

General Provisions for Radiation Protection

32 Ill. Adm. Code 31018248

HUMAN RIGHTS, DEPARTMENT OF

Procedures of the Department of Human Rights

56 Ill. Adm. Code 252018254

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received.....18256

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

ENVIRONMENTAL PROTECTION AGENCY

Listing of Derived Water Quality Criteria.....18257

FINANCIAL AND PROFESSIONAL REGULATION, ILLINOIS DEPARTMENT OF

Notice of Fine Imposed Under the Residential Mortgage License Act of

1987.....18266

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

Diabetes Awareness Month

2006-384.....18267

Veterans Day At Leo High School

2006-385.....18267

Children's Book Week

2006-386.....18268

Editors Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 16, 2006 to January 2, 2007 by noon as January 1, 2007 is a holiday and the office is closed.

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2006

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 27, 2005	January 6, 2006
2	January 3, 2006	January 13, 2006
3	January 9, 2006	January 20, 2006
4	January 17, 2006	January 27, 2006
5	January 23, 2006	February 3, 2006
6	January 30, 2006	February 10, 2006
7	February 6, 2006	February 17, 2006
8	February 14, 2006	February 24, 2006
9	February 21, 2006	March 3, 2006
10	February 27, 2006	March 10, 2006
11	March 6, 2006	March 17, 2006
12	March 13, 2006	March 24, 2006

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
13	March 20, 2006	March 31, 2006
14	March 27, 2006	April 7, 2006
15	April 3, 2006	April 14, 2006
16	April 10, 2006	April 21, 2006
17	April 17, 2006	April 28, 2006
18	April 24, 2006	May 5, 2006
19	May 1, 2006	May 12, 2006
20	May 8, 2006	May 19, 2006
21	May 15, 2006	May 26, 2006
22	May 22, 2006	June 2, 2006
23	May 30, 2006	June 9, 2006
24	June 5, 2006	June 16, 2006
25	June 12, 2006	June 23, 2006
26	June 19, 2006	June 30, 2006
27	June 26, 2006	July 7, 2006
28	July 3, 2006	July 14, 2006
29	July 10, 2006	July 21, 2006
30	July 17, 2006	July 28, 2006
31	July 24, 2006	August 4, 2006
32	July 31, 2006	August 11, 2006
33	August 7, 2006	August 18, 2006
34	August 14, 2006	August 25, 2006
35	August 21, 2006	September 1, 2006
36	August 28, 2006	September 8, 2006
37	September 5, 2006	September 15, 2006
38	September 11, 2006	September 22, 2006
39	September 18, 2006	September 29, 2006
40	September 25, 2006	October 6, 2006
41	October 2, 2006	October 13, 2006
42	October 10, 2006	October 20, 2006
43	October 16, 2006	October 27, 2006
44	October 23, 2006	November 3, 2006
45	October 30, 2006	November 13, 2006
46	November 6, 2006	November 17, 2006
47	November 13, 2006	November 27, 2006
48	November 20, 2006	December 1, 2006
49	November 27, 2006	December 8, 2006
50	December 4, 2006	December 15, 2006
51	December 11, 2006	December 22, 2006
52	December 18, 2006	December 29, 2006

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Public Accounting Act
- 2) Code Citation: 68 Ill. Adm. Code 1420
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1420.25	Amendment
1420.35	Amendment
- 4) Statutory Authority: Illinois Public Accounting Act [225 ILCS 450]
- 5) A Complete Description of the Subjects and Issues Involved: Section 9.1 of the Act provides for temporary practice in Illinois by CPAs licensed in other jurisdictions subject to notice to the Division in accordance with the Act and Rules; Section 1420.35 implements this notice provision. This rulemaking clarifies when and how out of state CPAs must provide notice and apply for a temporary permit. It further clarifies in subsection (b) that out of state CPAs providing professional services other than those constituting the practice of public accounting as defined in Section 8 of the Act (such as preparing or filing tax forms) need not obtain a temporary practice permit or obtain registration as a registered CPA if they are lawfully practicing in another state and the services are incidental to practice in another state.
- 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, at 30 Ill. Reg. 16435, effective September 29, 2006
- 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 has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Division of Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of certified public accountants.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Public accounting skills are required for licensure.
- 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 this rulemaking was not anticipated at the time of publication of the most recent regulatory agendas.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1420

ILLINOIS PUBLIC ACCOUNTING ACT

Section

1420.10	Experience
1420.20	Application for Licensure as a Certified Public Accountant
1420.25	Application for Licensure as a Registered Certified Public Accountant
1420.30	Application for Licensure-Firm
1420.35	Temporary Practice
1420.40	Fees for the Administration of the Act
1420.50	Endorsement
1420.60	Restoration
1420.70	Continuing Professional Education
1420.80	Renewals
1420.90	Annual Report of the Committee
1420.100	Conduct of Hearings (Repealed)
1420.110	Granting Variances

AUTHORITY: Implementing the Illinois Public Accounting Act [225 ILCS 450] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Public Accounting Act, effective June 30, 1975; codified at 5 Ill. Reg. 11058; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7748, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 14548, effective October 13, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6179, effective April 25, 1984; amended at 9 Ill. Reg. 5708, effective April 15, 1985; amended at 9 Ill. Reg. 8738, effective May 28, 1985; amended at 9 Ill. Reg. 13360, effective August 21, 1985; amended at 10 Ill. Reg. 20739, effective December 1, 1986; amended at 11 Ill. Reg. 18276, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 420 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1420 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2944; amended at 19 Ill. Reg. 16258, effective November 28, 1995; amended at 21 Ill. Reg. 15255, effective November 17, 1997; amended at 24 Ill. Reg. 14005, effective August 31, 2000; amended at 29 Ill. Reg. 9853, effective August 1, 2005; amended at 31 Ill. Reg. _____, effective _____.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1420.25 Application for Licensure as a Registered Certified Public Accountant

- a)** Any person seeking a license as a registered certified public accountant pursuant to Section 4 (Transitional Language) of the Act shall file an application with the Division postmarked no later than June 30, 2010 on forms provided by the Division. The application shall include the following:
- 1a)** Proof of a Certified Public Accountant certificate issued by the Illinois Board of Examiners or proof of similar certification from another jurisdiction with equivalent educational requirements and examination standards. The Division may rely on the determinations of the National Qualification Appraisal Service of the National Association of State Boards of Accountancy or any other qualification appraisal service, as it deems appropriate; and
- 2b)** The required fee specified in Section 1420.40.
- b)** Individuals providing professional services on a temporary basis, other than those services constituting the practice of public accounting as defined in Section 8 of the Act, shall not be required to obtain registration as a registered certified public accountant so long as practice is conducted in accordance with Section 1420.35(b).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 1420.35 Temporary Practice

- a)** Any person temporarily practicing public accounting (as defined in Section 8 of the Act) pursuant to this Section shall, within 30 days after commencing practice, file a notice with the Division, on forms prescribed by the Division, that shall include a self-certification stating the date the applicant's license was issued and the date of expiration, along with the fee required by Section 1420.40. This temporary permit shall be deemed a license and shall be valid for a period of one year.
- b)** Incidental Practice
- 1)** Individuals providing professional services, other than those services constituting the practice of public accounting as defined in Section 8 of the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Act, shall not be required to obtain this temporary practice permit or obtain registration as a registered certified public accountant so long as:

- A) the individual is lawfully practicing in another state;
 - B) the professional services provided in this State are incidental to practice in another state; and
 - C) the individual does not solicit Illinois clients, maintain a physical presence in Illinois, or maintain clients in Illinois that are not incidental to practice in another state.
- 2) Practice in this State is "incidental" to practice in another state if it is a continuation or extension of an engagement or client relationship originating in another state.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Multifamily Rental Housing Mortgage Loan Program
- 2) Code Citation: 47 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
310.101	Amended
310.102	Amended
310.103	Amended
310.105	Amended
310.106	Amended
310.201	Amended
310.202	Amended
310.203	Amended
310.204	Amended
310.205	Amended
310.206	Repealed
310.302	Amended
310.303	Amended
310.305	Amended
310.306	Amended
310.308	Repealed
310.309	Amended
310.401	Amended
310.402	Amended
310.403	Amended
310.404	Amended
310.405	Amended
310.406	New Section
310.407	New Section
310.501	Amended
310.602	Amended
310.604	Amended
310.701	Amended
310.702	Amended
310.703	Amended
310.801	Amended
310.802	Amended
310.803	Amended
310.804	Amended

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

310.805	Amended
310.806	Amended
310.901	Amended
310.902	Repealed
310.903	Amended
310.904	Repealed
310.905	Repealed
310.906	Repealed
310.907	Repealed
310.908	Repealed
310.909	Repealed
310.910	Repealed
310.911	Amended
310.912	Repealed
310.913	Amended
310.1001	New Section
310.1002	New Section
310.1003	New Section
310.1004	New Section
310.1005	New Section

- 4) Statutory Authority: Authorized by Section 7.28 of the Illinois Housing Development Act (20 ILCS 3805/7.28)
- 5) A Complete Description of the Subjects and Issues Involved: These amendments involve the administration of the multifamily rental housing mortgage loan program.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed amendment replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: The proposed amendments do not create, expand, or modify a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Richard B. Muller, Esq.
401 North Michigan Avenue, Suite 700
Chicago Illinois 60611
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments will have a favorable impact on real estate developers and contractors participating in the multifamily rental housing mortgage loan program.
 - B) Reporting, bookkeeping or other procedures required for compliance: No new requirements.
 - C) Types of Professional skills necessary for compliance: No new requirements.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 20, 2006

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

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 310
MULTIFAMILY RENTAL HOUSING MORTGAGE LOAN PROGRAM

SUBPART A: GENERAL RULES

Section	
310.101	Authority
310.102	Purpose and Objectives
310.103	Definitions
310.104	Borrowing by the Authority
310.105	Compliance with Federal Law
310.106	Standards
310.107	Forms and Procedures for the Program
310.108	Fees and Charges of the Authority
310.109	Waiver (Repealed)
310.110	Amendment
310.111	Severability
310.112	Gender and Number
310.113	Titles and Captions
310.114	Calendar Days

SUBPART B: NOTICE OF PROPOSED DEVELOPMENTS

Section	
310.201	Applicability and Purpose of Notification
310.202	Notification by Authority
310.203	Comments and Responses
310.204	Submissions to the Authority Conditional Commitment Application
310.205	Hearings
310.206	Notice of Issuance of Conditional Commitment Letter (Repealed)

SUBPART C: OWNER

Section	
310.301	Eligible Mortgagors
310.302	Land Trusts

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

310.303	Organizational Documents
310.304	Books and Records
310.305	Audits
310.306	Annual Financial Report
310.307	Furnishing Information
310.308	Purchase of Authority Bonds and Notes (Repealed)
310.309	Standards for Approval of Conveyance and Amendment of Documents

SUBPART D: MORTGAGE LOAN

Section	
310.401	Maximum Mortgage Loan Amount
310.402	TermMaturity of Mortgage Loans
310.403	Equity and Distributions
310.404	Development Funds and Property
310.405	Reserve Fund for Replacements
310.406	Other Reserve Funds
310.407	Assignment or Sale of Mortgage Loan

SUBPART E: CONSTRUCTION

Section	
310.501	Design and Construction Standards

SUBPART F: MARKETING AND MANAGEMENT

Section	
310.601	Marketing and Management
310.602	Marketing and Management Plans
310.603	Maintenance
310.604	Cost of Services

SUBPART G: OCCUPANCY

Section	
310.701	Tenant Selection Plan
310.702	Income and Rental Limits
310.703	Commercial Facilities

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

SUBPART H: RATE OF RETURN ON EQUITY FOR
LIMITED-PROFIT ENTITIES

Section

310.801	Statutory Authorization
310.802	Developments Eligible for Increased Rate of Return
310.803	Retroactive Adjustments
310.804	Calculation of Alternate Basic Rate of Return
310.805	Risk Premium for Special Needs
310.806	Increases in the Basic Rate of Return

SUBPART I: ENERGY EFFICIENCY STANDARDS FOR NEW
AND REHABILITATED DEVELOPMENTS

Section

310.901	Statutory Authorization
310.902	Definitions (Repealed)
310.903	Incorporation of National Standards
310.904	Thermal Requirements (Repealed)
310.905	Air Infiltration Requirements (Repealed)
310.906	Doors, Windows and Glass (Repealed)
310.907	Mechanical Work (Repealed)
310.908	Insulation (Repealed)
310.909	Mechanical Work Insulation (Repealed)
310.910	Electrical Work (Repealed)
310.911	Energy Audit Analysis
310.912	Rehabilitation Guidelines (Repealed)
310.913	Rehabilitation Waiver

SUBPART J: CONDUIT BOND ISSUANCESSection

<u>310.1001</u>	<u>Conduit Bonds</u>
<u>310.1002</u>	<u>Applications</u>
<u>310.1003</u>	<u>Eligible Mortgagor</u>
<u>310.1004</u>	<u>Regulatory Agreement</u>
<u>310.1005</u>	<u>Applicable Rules</u>

AUTHORITY: Implementing and authorized by the Illinois Housing Development Act [20

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

ILCS 3805].

SOURCE: Adopted at 5 Ill. Reg. 14583, effective prior to October 24, 1980 as corrected at 6 Ill. Reg. 620; codified at 7 Ill. Reg. 2433; amended at 8 Ill. Reg. 2996, effective February 28, 1984; amended at 9 Ill. Reg. 8631, effective May 29, 1985; emergency amendment at 9 Ill. Reg. 10086, effective June 13, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11296, effective July 5, 1985; amended at 9 Ill. Reg. 14675, effective September 13, 1985; amended at 9 Ill. Reg. 16848, effective October 21, 1985; amended at 10 Ill. Reg. 13657, effective August 4, 1986; amended at 10 Ill. Reg. 13987, effective August 11, 1986; amended at 14 Ill. Reg. 683, effective December 27, 1989; amended at 16 Ill. Reg. 10248, effective June 16, 1992; emergency amendment at 17 Ill. Reg. 13805, effective August 10, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1939, effective January 21, 1994; amended at 22 Ill. Reg. 3854, effective February 4, 1998; amended at 23 Ill. Reg. 1355, effective January 15, 1999; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL RULES

Section 310.101 Authority

~~The~~[These](#) Rules [in this Part](#) are authorized by and made pursuant to Sections 7.2, 7.19, 7.24b, 7.24e, 8, 9, 10, 11, 12 and 14 of the Act and shall govern the Program.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.102 Purpose and Objectives

[The Rules in this Part](#)~~These Rules~~ are established to accomplish the general purposes of the Act and in particular the making of Mortgage Loans for the construction or rehabilitation of multifamily rental housing in accordance with the Program.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.103 Definitions

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

["Application": An application for a Mortgage Loan for a proposed Development.](#)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

"Authority": The Illinois Housing Development Authority.

"Bonds": Bonds issued by the Authority from time to time to finance the Program.

~~"Builders'/Sponsors' Profit and Risk Allowance" ("BSPRA"): The allowance given to an Owner against the Equity requirements for a Mortgage Loan. BSPRA shall not exceed an amount equal to 10% of the total estimated replacement cost of a Development (see Section 310.401).~~

"Chairman": The Chairman of the Authority.

~~"Change Order": Any written order evidencing a change in construction plans, specifications, or a contractor's work which is executed by an Owner and general contractor and approved by the Authority in writing.~~

"Clearinghouse": A State, regional, or metropolitan agency designated by the Governor [of the State](#) or the Authority or established by State statute to provide notice to appropriate State and local agencies of proposed Developments and to review such Developments.

"Code": The Internal Revenue Code of 1986 (26 USC), as amended from time to time, and the regulations promulgated thereunder.

"Commercial Tenant": Any entity leasing commercial facilities in a Development.

"Conduit Bonds": Bonds issued by the Authority for which another party assumes the risk of default, including but not limited to a default arising out of a default on the Mortgage Loan financed with the proceeds of the Bonds.

"Conduit Loan": A Mortgage Loan or other similar financing arrangement made with the proceeds of Conduit Bonds.

~~"Construction Completion Date": The date that construction of a Development is substantially completed, as approved by the Authority in writing.~~

"Cost Certification Cutoff Date": The last day of the month in which the

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Construction Completion Date falls.

"Cost of Development": The costs of the acquisition and the construction or rehabilitation of a Development, including the design architect's fees; engineering fees; the supervisory architect's fees; legal and accounting fees; marketing and consulting fees; land costs; interest and financing charges to be paid during construction; the Authority's origination fee; application fees paid to other lenders; funding of reserves for real estate and other taxes; funding of reserves for replacement and other reserves; title and recording fees; financial contingency and construction contingency; a developer's fee; costs associated with the issuance of Bonds; relocation costs; the cost of landscaping and off-site improvements; carrying charges; and any other costs approved by the Authority, whether or not such costs have been paid in cash or provided in a form other than cash. For an existing Development that is being refinanced or being acquired, the cost of development shall be the appraised value of the Development, as determined on or after the date of the Application for refinancing, and the costs of rehabilitation.

~~"Cumulation Date": The date from which an Owner's right to make Distributions shall begin cumulating, which shall be the Initial Closing Date.~~

"Cumulative Distribution": A Distribution of Surplus Cash and/or Residual Receipts representing all or part of a Distribution unpaid but cumulated by an Owner in a prior fiscal year.

"Current Distribution": A Distribution of Surplus Cash and/or Residual Receipts representing all or part of a Distribution earned in a current fiscal year.

"Deputy Director": The Deputy Executive Director of the Authority.

"Development": The Real Estate, together with all buildings and other improvements; constructed on it, and the buildings; equipment, and personal property appurtenant ~~to the Real Estate~~hereto.

"Development Funds": All cash, rent subsidies, gross Development income, bank accounts, certificates of deposit, trust funds, reserves, escrows, accounts receivable, and other such assets of a Development.

"Director": The Executive Director of the Authority.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

"Distribution": Any withdrawal or taking of cash from Surplus Cash and/or Residual Receipts, including segregation of cash for subsequent withdrawal, for payment to or on behalf of an Owner pursuant to the Authority's written authorization of ~~thesueh~~ Distribution.

"Eligible Mortgagor": Any Limited-Profit Entity or Nonprofit Corporation or any Illinois land trust the beneficiary of which is a Limited-Profit Entity or Nonprofit Corporation, but only if ~~thesueh~~ Mortgagor's ownership of the Development (including any partnership interest or stock ownership interest in ~~thesueh~~ Mortgagor), or ~~thesueh~~ beneficiary's interest in ~~ansueh~~ Illinois land trust (including the ownership of any partnership interest or stock ownership interest in ~~thesueh~~ beneficiary), shall not cause any Tax-exempt Bonds used to finance the Development to become taxable for federal income tax purposes. ~~The and the~~ organizational documents of ~~thesueh~~ Mortgagor or ~~sueh~~ beneficiary referred to in Section 310.303 of this Part ~~shall~~ at all times ~~bear~~ in compliance with the requirements of Section 310.303.

"Equity": The difference between the amount of a Mortgage Loan ~~and all other loans and grants for the Development~~ and the total ~~Costeost~~ of a Development, except as otherwise provided for in Section 310.403(f) ~~below~~.

"FAF Funds": Funds received from HUD pursuant to certain refunding agreements between the Authority and HUD as authorized by the Stewart B. McKinney Homeless Assistance Act of 1988, which provided for the sharing of savings resulting from the reduction of HUD subsidies provided to certain Developments financed under the Program.

"Final Closing Date": The date on which the Authority ~~issues its final closing memorandum~~ makes the final distribution of the proceeds of a Mortgage Loan.

"HOME Program": The Home Investment Partnerships Program for the State of Illinois established pursuant to Title II of the National Affordable Housing Act of 1990 (42 USC 12701), as amended from time to time, and the regulations promulgated under that Act.

"HUD": the United States Department of Housing and Urban Development.

"Initial Closing Date": The date on which the Authority determines that funds for

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

a Mortgage Loan may be disbursed for the construction or rehabilitation of the Development~~The date on which the Authority issues its initial closing memorandum.~~

"Limited-Profit Entity": Any individual, joint venture, partnership, limited partnership, limited liability company, trust, or corporation organized or existing under the laws of the State of Illinois or authorized to do business in the State and having either articles of incorporation, articles of organization or comparable documents of organization or a written agreement with the Authority ~~that which~~, in addition to meeting other requirements of law, meets the requirements of Section 7.2(k) of the Act.

"Low Income": An income adjusted for family size that is less than or equal to 80% of the Median Income.

"Median Income": The median income of the county or the metropolitan statistical area, as applicable, in which the Development is located, adjusted for family size. The median income is determined from time to time by HUD for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437a).

"Members": The Members of the Authority.

"Moderate Income": An income adjusted for family size that is less than or equal to 120% of the Median Income.

"Mortgage": The mortgage or other instrument in the nature of a mortgage, together with any supplements, ~~thereto and~~ amendments or modifications ~~thereof~~, executed as security for a Mortgage Loan.

"Mortgage Loan": ~~A~~The loan under the Program from the Authority to a Mortgagor to be used for the acquisition ~~of the Real Estate and for the planning, construction or, rehabilitation and permanent, development, completion or~~ financing of a Development or the refinancing of a Mortgage Loan that provided financing for an existing Development.

"Mortgage Note": The document executed as evidence of a Mortgagor's indebtedness under a Mortgage Loan and any supplements, ~~thereto and~~ modifications or amendments ~~thereof~~.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

"Mortgagor": The Limited-Profit Entity, Nonprofit Corporation, or Trustee holding title to a Development.

"Nonprofit Corporation": A ~~not-for-profit~~~~nonprofit~~ corporation incorporated pursuant to the provisions of the Illinois General Not-for-Profit Corporation Act of 1986 [805 ILCS 105] or the State Housing Act of 1932 and having articles of incorporation ~~that~~~~which~~, in addition to meeting other requirements of law, meet the requirements of [Section 7.2\(m\) of the Act](#).

"Notes": ~~The~~ Notes issued by the Authority from time to time to finance [Mortgage Loans under](#) the Program.

"Owner": The Limited-Profit Entity or Nonprofit Corporation holding title to Real Estate or a Development or, when the Real Estate or the Development is held in ~~a Trust, an Illinois land trust~~, the Limited-Profit Entity or Nonprofit Corporation owning the beneficial interest in ~~the a~~-Trust. Under no circumstances shall "~~owner~~~~Owner~~" mean the Authority or a Trustee.

"Program": The Authority's multifamily rental housing mortgage loan program, [including, without limitation, Mortgage Loans made under the HOME Program, Risk Sharing Loans, loans made with FAF Funds and Mortgage Loans insured by HUD \(other than Risk Sharing Loans\), Ambac Assurance Corporation or any other entity that insures mortgage loans.](#)

"Real Estate": The real property upon which a [multifamily housing development](#)~~Development~~ is to be or has been constructed.

"Regulatory Agreement": [The regulatory agreement or other instrument in the nature of a regulatory agreement, together with any supplements, amendments or modifications, governing a Mortgage Loan or a Conduit Loan. The agreement shall, among other things, establish the income and rental restrictions on the Development and the method of determining the permissible Distribution to the Owner.](#)

"Reserve Fund for Replacements": [The account that the owner of a Development must establish to provide a source of funds for capital repairs or improvements for the Development.](#)

"Residual Receipts": [That part of Development income remaining](#)~~Any cash~~

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

~~remaining~~ at the end of an annual fiscal ~~yearperiod~~ after the ~~deduction of the amount of all Distributions~~ Authority, if applicable, ~~deducts from Surplus Cash the amount of all Distributions.~~

"Risk Sharing Loans": Mortgage Loans insured by HUD under the Housing Finance Agency Risk-Sharing Program for Insured Affordable Multifamily Project Loans, as authorized by Section 542(c) of the Housing and Community Development Act of 1992 (42 USC 3535(d)) and the regulations promulgated under that Act.

"Rules": The Rules and Regulations of the Authority as supplemented and amended from time to time, including, without limitation, the Rules in this Part.

"Staff": The Director, ~~the and~~ Deputy Director and the employees of the Authority.

"State": The State of Illinois.

"Surplus Cash": That part of gross Development income remaining at the end of a fiscal year after Development Funds, if applicable, have been disbursed in accordance with ~~the established~~ priorities established in the Regulatory Agreement for the Development.

"Tax-exempt Bonds": Bonds issued under the provisions of the Code, the interest on which is not taxable to the holders of the Bonds.

"Tenant": ~~A~~The person or family leasing a dwelling unit in a Development.

"Tenant Selection Plan": The tenant selection plan approved by the Authority for a Development that sets forth the criteria and procedures for selecting Tenants for a Development.

"Trust": ~~An~~The Illinois land trust of which an Owner is the sole beneficiary and ~~that which~~ holds legal title to a Development.

"Trustee": The ~~trustee~~Trustee of an Illinois land trust holding legal title to a Development, the beneficiary of which is a Limited-Profit Entity or a Nonprofit Corporation.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

"Very Low Income": An income adjusted for family size that is less than or equal to 50% of the Median Income.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.105 Compliance with Federal Law

Notwithstanding anything herein to the contrary, this Part shall be construed in conformity and compliance with applicable federal law, including, without limitation, the Code and the federal regulations governing the HOME Program and Risk Sharing Loans.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.106 Standards

In administering the Program, the Authority, the Chairman, the Director, and the Staff shall in the exercise of discretion consider, in addition to the criteria specifically set forth in ~~these Rules~~ this Part, the purposes of the Program to provide decent, safe, and sanitary multifamily rental housing; the requirements of applicable State and federal law; the financial condition and previous experience of potential and participating developers; the Authority's ability to purchase or redeem any Bonds and to comply with the requirements of the resolutions authorizing any Bonds; the Authority's ability to comply with the terms and provisions of any Notes; the financial integrity of the Program; the housing needs of the State; architectural and construction quality; the preservation of the value of the Development as security for a Mortgage Loan; the ability of the Owner to repay a Mortgage Loan out of gross Development income; the potential prepayment of a Mortgage Loan; the desirability of achieving a reasonable geographic distribution of Developments throughout the State; the standards and practices of a prudent lender; the requirements of local housing codes and zoning laws; specific standards set forth in Authority agreements and documents; or any other factors relevant under the circumstances.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART B: NOTICE OF PROPOSED DEVELOPMENTS

Section 310.201 Applicability and Purpose of Notification

- a) Purpose
This Subpart is established to provide for notification to~~notify~~ certain persons and agencies pursuant to Section 7.24b of the Act that a developer proposes to

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

construct or rehabilitate a Development in their district, county or municipality.

- b) Applicability
~~The provisions of this Subpart shall apply only to Developments subject to Part 310.~~
- e) Compliance
A developer's Application conditional commitment application shall not be deemed to be complete until the provisions of this Subpart have been complied with. A developer's failure to comply with the provisions of this Subpart shall relieve the Authority of all obligations to provide a Mortgage Loan for the proposed~~regarding the~~ Development.
- c)d) Developer's Acts
In responding to comments, attending hearings, or undertaking any other activities pursuant to this Subpart, a developer shall not hold itself out to represent the Authority and shall not take or suffer any act ~~that~~which would incur any obligation on behalf of the Authority.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.202 Notification by Authority

- a) Notice of Development
When the Authority accepts an Application~~At the time a feasibility letter is issued~~ for a Mortgage Loan for a proposed Development, the Authority shall give written notice of the proposed Development to the following persons and agencies:
- 1) the chairman of the county board of the county in which the Development is proposed to be located;
 - 2) the mayor or other chief executive of the municipality (means cities, villages and incorporated towns), if any, in which the Development is proposed to be located;
 - 3) in municipalities with a population of more than 1,500,000 persons, the alderman of the ward in which the Development is proposed to be located;

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 4) appropriate Clearinghouses; and
 - 5) each member of the General Assembly from the legislative district in which the Development is proposed to be located.
- b) Forms
Notice under this Section shall be made on Authority forms.
- c) Contents
The notice shall set forth the name and address of the proposed Development; the name, address and telephone number of the developer; the estimated amount of the proposed Mortgage Loans; ~~the type of any subsidies~~; the total number of units; the total number of ~~any subsidized~~ units for Low Income and Very Low Income Tenants; the type of Development (for example, elderly, family or mentally or physically disabledhandicapped); and any other information ~~which~~ the Authority deems relevant.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.203 Comments and Responses

- a) Comments
The persons and agencies receiving notice of a proposed Development pursuant to Section 310.202 shall have 30 days from the date of mailing of the notice to submit written comments to the developer or the Authority.
- b) Developer's Response
The developer shall respond in writing to all comments in connection with the proposed Development received under this Section.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.204 Submissions to the Authority~~Conditional Commitment Application~~

- a) Documents
~~The~~With a conditional commitment application for a proposed Development, the developer shall submit to the Authority the following documents in connection with the proposed Development:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) a copy of every written comment and a written summary of every oral comment received pursuant to Section 310.203(a);
 - 2) a copy of every response made pursuant to Section 310.203(b);
 - 3) a history of conferences, hearings and other activities undertaken in relation to comments on the proposed Development;
 - 4) a brief summary of what the developer has done in response to comments; and
 - 5) a certification that the information provided under this Section is accurate and complete.
- b) Information
Sufficient information shall be provided under this Section to enable the Authority to determine whether comments received pursuant to Section 310.203 have been adequately considered and responded to.
- c) Denial
The Authority may deny a developer's ~~Application~~~~conditional commitment application~~ for, among other reasons, failure to comply with the conditions of ~~the feasibility letter, which conditions shall include evidence of compliance with the provisions of~~ this Subpart. ~~The~~~~Said~~ denial shall be in writing and shall state the reasons ~~for the denial~~~~therefore~~. If the Authority determines that it must cease ~~with processing an Application, a conditional commitment application,~~ the ~~Authority will inform the developer in writing of the~~ conditions necessary for continued processing ~~will be communicated to the developer in writing~~ and the time period in which the conditions must be met ~~will be set forth~~.
- d) Assistance of Authority
~~The Developer shall have the~~~~In the interval between the Authority's issuance of a feasibility letter for a Development and the developer's submission of its conditional commitment application for such Development, it shall be the~~ ~~developer's~~ responsibility to seek the assistance of the Authority, if needed, in addressing comments received pursuant to Section 310.203.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Section 310.205 Hearings

The developer shall provide written notice to the Authority of any public or adjudicatory hearing ~~that~~^{which} may be held in connection with the proposed Development. The developer shall mail ~~the~~^{such} notice to the Authority within 2 days ~~after~~^{ref} receiving notice or otherwise becoming aware of ~~the~~^{such} hearing. It shall be the developer's responsibility to prepare for and attend ~~the~~^{such} hearings and to respond to any inquiry made at or in connection with ~~the~~^{such} hearings regarding the proposed Development.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.206 Notice of Issuance of Conditional Commitment Letter (Repealed)

~~When the Authority issues a conditional commitment letter for a Development subject to this Subpart, it shall at the same time notify the persons and agencies named in Section 310.202 of such issuance.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

SUBPART C: OWNER

Section 310.302 Land Trusts

Whenever Real Estate or a Development is held in an Illinois land trust, the agreement creating the Trust and establishing the respective rights, powers, and duties of the Trustee and Owner shall be in a format approved by the Authority. ~~The~~^{Sueh} format shall be approved if ~~examination by the Authority discloses that~~ it meets the legal requirement necessary to create a valid Illinois land trust ~~and complies with the Act and this Part as determined by the Authority.~~ ~~The deed in trust and trust agreement shall be in compliance with the Act and this Part as determined by the Authority.~~ Any trust agreement shall not be amended or revoked without the prior written approval of the Authority. ~~If the Authority determines that Section 310.105 and 310.106 are complied with, such approval shall be granted.~~ Upon either the request of the Owner or the Authority, the Trustee shall furnish the Authority with copies of the trust agreement and all records in its possession relating to the trust agreement, the Real Estate and the Development. ~~The Authority may request such documents when it believes there is non-compliance with the Act or this Part. The trust agreement, the Mortgage Loan documents and the organizational documents of Owner described in Section 310.303 of this Part shall require such Authority approvals of, and impose such restrictions on, the conveyance, assignment, leasing, mortgaging, pledging or other transfer, directly or indirectly, by operation of law (for~~

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

~~example, bankruptcy proceedings), or otherwise, of the Development, and the beneficial interest in, and power of direction over, the Trust or any partnership interest or stock ownership interest in the beneficiary of the Trust.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.303 Organizational Documents

The organizational documents of a joint venture, partnership, limited partnership, limited liability company or corporation ~~having articles of incorporation~~ shall contain provisions to qualify and maintain the Owner as a Limited-Profit Entity or Nonprofit Corporation, as defined in the Act and this Part, ~~to qualify and maintain the Trustee or the Owner, as the case may be, as Eligible Mortgagors as defined in this Part,~~ and to insure that the Owner, and each person or entity ~~that~~which has an ownership interest in the Owner ~~and/or Trustee,~~ are required to comply with the Act and this Part and shall not cause the underlying Bonds used to finance the Development, if any, to become taxable for federal income tax purposes. The Owner may, upon the approval of the Authority, meet the requirements of this Section by entering into an agreement with the Authority rather than incorporating the necessary provisions in its organizational documents. The provisions of ~~thesueh~~ documents of organization or agreement, as ~~are~~ required by this Section, shall not be amended without prior written Authority approval. Amendment of the provisions of ~~thesueh~~ documents or agreement shall be allowed so long as the Authority determines that ~~the amendments they~~ they comply with Section 310.106 of this Parts 310.103, 310.106 and this Section.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.305 Audits

The Development and the offices, architectural plans and specifications, apparatuses, books and records, contracts, documents and other papers relating to the development~~thereto~~ shall at all times be maintained in reasonable condition for proper audit and shall be subject to inspection, examination and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires. All audits, certifications and financial reports ~~that~~which the Owner is required by contract with the Authority to allow, undertake or prepare shall be made by an independent certified public accountant acceptable to the Authority.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.306 Annual Financial Report

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Within ~~90~~^{sixty} days after the end of ~~the~~ Development's fiscal year, the Owner shall be required to furnish the Authority with a complete annual financial report based upon the books and records of the Development and the Owner, prepared in accordance with Authority requirements, and certified by the Owner and an independent certified public accountant acceptable to the Authority.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.308 Purchase of Authority Bonds and Notes (Repealed)

~~No Owner, including any "related person," as defined in Section 103(b)(6)(C) of the Internal Revenue Code of 1954 as amended from time to time, shall pursuant to any arrangement, formal or informal, direct or indirect, agree to purchase the Bonds, Notes, or other obligations of the Authority in an amount related to the aggregate principal amount of the Mortgage Loan to be made to the Owner or such related person.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.309 Standards for Approval of Conveyance and Amendment of Documents

In determining whether to approve and/or impose restrictions on the conveyance, assignment, leasing, mortgaging, pledging or other transfer of all or any part of the Development, or any partnership interest, stock ownership interest or member interest in the Owner of a Development, or the ~~and~~ beneficial interest in, and power of direction over, the Trust, or any partnership interest, ~~or~~ stock ownership interest or member interest in the beneficiary of ~~the~~ Trust, ~~under Section 310.302~~ and in determining whether to approve amendments to the documents of organization of an Owner under Section 310.303 of this Part, the Authority shall grant ~~such~~ approval, with any necessary restrictions, if the Authority determines that ~~the proposed action~~^{the proposed} will not have an adverse impact upon the financial stability or the economic viability of the Development or the tax-exempt status of the Bonds, if any.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART D: MORTGAGE LOAN

Section 310.401 Maximum Mortgage Loan Amount

- a) Establishing Amount. The maximum Mortgage Loan amount available to an

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Owner ~~that~~which is a Limited-Profit Entity is ~~90% of the total estimated replacement cost of the Development or~~ 90% of the ~~Cost~~total cost of the Development, as ~~those costs may be~~ determined and approved by the Authority in its sole discretion, ~~whichever cost is less~~. The maximum Mortgage Loan amount available to an Owner ~~that~~which is a Nonprofit Corporation is ~~100% of the total estimated replacement cost of the Development or~~ 100% of the ~~Cost~~total cost of the Development, as ~~those costs may be~~ determined by the Authority in its sole discretion, ~~whichever cost is less~~. ~~In calculating the total estimated replacement cost of the Development, the Authority shall consider the design architect's fees; the supervisory architect's fees; legal, accounting and other organizational fees; marketing, consulting and purchasing agent fees; construction interest; the Authority's service and Development fees; real estate and other taxes; title and recording fees; financial contingency and construction contingency; the Development Cost Escrow, if any; BSPRA; relocation costs; off-site improvements; land costs; carrying charges; and any other costs approved by the Authority. In calculating the total cost of the Development, the Authority shall consider trade payments to contractors and subcontractors, general overhead, bond premiums, insurance, builder's profit (if any), change orders, discounts, rebates and any other costs approved by the Authority.~~

- b) Mortgage Loan Increase. ~~After the Authority has made a Mortgage Loan for a Development, nothing~~Nothing contained in this Section shall prohibit the Authority from increasing the amount of ~~the~~a Mortgage Loan ~~in excess of~~above the limitations specified ~~in Section 310.401 of this Part~~herein if the Authority, in its sole discretion, determines that ~~the~~such increase is necessary ~~to maintain the financial stability or economic viability of the Development~~. In deciding whether to approve a Mortgage Loan increase, the Authority shall consider the physical condition of the Development, the value of the Development as security for the Mortgage Loan, the Authority's ability to provide ~~the~~such Mortgage Loan increase, the ability of the Owner to repay the Mortgage Loan out of gross Development income, the financial status of the Development, and any other relevant factors.
- c) Refinancing Mortgage Loans in Foreclosure or Default. Nothing contained in this Section shall prohibit the Authority from settling defaults under any existing Mortgage Loan or restructuring a defaulted Mortgage Loan pursuant to settlement terms that the Authority deems appropriate, including making a new Mortgage Loan to pay all or a portion of the amounts due and owing under the defaulted Mortgage Loan and any costs, fees and expenses of the Authority in connection

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

with the defaulted Mortgage Loan and the restructuring of the Mortgage Loan thereof. Any new Mortgage Loan that is made in settlement and/or restructuring of a defaulted Mortgage Loan may be in an amount that exceeds the amount due and owing under the defaulted Mortgage Loan, and shall include only such amounts as the Authority deems necessary and appropriate for the financial rehabilitation of the Development and to mitigate any loss to the Authority, including, without limitation, the following: the costs of redeeming any Bonds bonds issued to finance the defaulted Mortgage Loan, including any premium payable in connection with thesueh redemption; the costs of issuance of any Bonds bonds issued to finance athe new Mortgage Loan; the costs of audits of the Development or the debt service payments on the defaulted Mortgage Loan; the costs of appraisals of the Development and assessments of the physical condition of the Development, including, without limitation, environmental studies required by the Authority or any third party in connection with the settlement; the costs of repair, maintenance or improvement of the Development; legal and accounting fees and expenses (including the fees and expenses of counsel to the Authority) to the Authority relating to the exercise of remedies by the Authority under the defaulted Mortgage Loan; the Authority's work-out fees, or other charges made by the Authority against the Development; defaulted debt service payments, delinquency payments and other amounts due and owing under the defaulted Mortgage Loan; title insurance premiums and recording fees; and the Authority's administrative expenses relating to the defaulted Mortgage Loan.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.402 TermMaturity of Mortgage Loans

The maximum termmaturity of a Mortgage Loan to be made by the Authority for permanent financing of multifamily rental housing under this Program shall not exceed 65 years and may be shorter at the sole discretion of the Authority. In determining the term of a Mortgage Loan, the Authority shall take into account its ability to pay when due the principal (including any sinking fund installments) and interest on any Bonds or Notes, its ability to purchase or redeem any Bonds and to comply with the requirements of the resolutions authorizing any Bonds, its ability to comply with the terms and provisions of any Notes, the feasibility of the proposed Development, the financial integrity of the Program, the requirements of applicable State and federal law, and any other relevant factors.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Section 310.403 Equity and Distributions

- a) Right to Distributions. As provided in the Act, an Owner shall have the right, commencing on the Initial Closing Date~~as provided in subsection (b) of this Section~~, to make annual Distributions in an amount not to exceed 6% of its Equity in a Development, except as otherwise provided pursuant to Sections 310.801 through 310.805~~-inclusive~~, except that, if a Distribution cannot be made as provided in subsections ~~(be)~~ and ~~(cd)~~ of this Section, an Owner may cumulate the right to make a Distribution. An Owner's right to a Distribution shall begin to cumulate on the Initial Closing Date. In any partial fiscal year in which an Owner is entitled to make a Distribution~~years following the Cumulation Date~~, the amount of a Distribution shall be ~~calculated~~deumulated pro rata based on the number of days since the closing of the Mortgage Loan.
- b) ~~Cumulation Date. An Owner's right to a Distribution shall begin to cumulate on the Initial Closing Date, which shall also be known as the Cumulation Date.~~
- e) Source of Distributions. An Owner may make Current and Cumulative Distributions out of Surplus Cash and/or Residual Receipts. If Surplus Cash or Residual Receipts are unavailable in a given fiscal year, an Owner shall make no Current Distribution, but the right to make ~~asuch~~ Distribution shall cumulate. If Surplus Cash and/or Residual Receipts are insufficient in a given fiscal year to make a Distribution in an amount equal to 6%, or as otherwise permitted in Sections 310.801 through 310.805~~-inclusive~~, of an Owner's Equity in a Development, an Owner may distribute all available Surplus Cash and/or Residual Receipts and cumulate the right to make the rest of the Distribution in future years when and if Surplus Cash and/or Residual Receipts are available.
- ~~cd~~) Timing of Distributions. No Distribution shall be made until after the Final Closing Date, ~~even if such date is later than the Cumulation Date.~~ Even if Surplus Cash and/or Residual Receipts are available, the initial and all subsequent Distributions, including Cumulative Distributions, may be made only after the Authority has approved the Development's annual financial report (see Section 310.306); the Development has an approved Development budget for the next fiscal year; the Owner has complied with all outstanding notices of requirements for proper maintenance and operation of the Development; the Owner has cured any defaults or breaches of applicable ~~Authority~~-Rules, contracts and agreements; and the Authority has issued its written authorization of ~~thesuch~~ Distribution.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- de) Amount of Equity. As required by the Act, the Authority shall establish an Owner's Equity in a Development on or after the Final Closing Date at the time of making the final Mortgage Loan advance. In no event shall the amount of thesueh Equity be calculated to include any grants or other funds not originating with the Owner. Once established by the Authority, the amount of an Owner's Equity shall remain constant so long as the Mortgage Note and Mortgage are outstanding on the Development, unless adjusted by resolution of the Members based on the criteria set forth in subsection (e)(f) below.
- ef) Increase in Amount of Equity:
- 1) If an Owner agrees either to preserve the existing income and rental restrictions of a the Development as affordable to persons and families of low and moderate income for a period not less than five years (starting from the later of the date on which the owner acquires the right to prepay its Mortgage Loan or the date on which the increase in Equity is granted) or create an equivalent number of additional units of housing with similar income and rental restrictions affordable to persons or families of low and moderate income, the Authority, by resolution of its Members, may increase Owner's Equity to an amount not to exceed the difference between the unpaid balance of the Mortgage Loan and the Development's appraised value at the time of the request by the Owner for an Equity increase. The appraisal shall be based on the Development's highest and best use and be conducted by an appraiser acceptable to the Authority. For purposes of the increase in Owner's Equity, the Development's appraised value may be updated by the Owner no more frequently than every five years after an increase is granted under this subsection (ef) and the amount of Owner's Equity may be adjusted to reflect the updated appraisal. The cost of the appraisal shall not be a Development expense.
 - 2) It shall be a condition of the Authority increasing Owner's Equity that:
 - A) the Authority give its prior written consent to any increase in the rental charges for the Development; and
 - B) the Authority determine, in its sole discretion, that:
 - i) the Reserve Fund for Replacements for the Development is sufficient to pay the costs set forth in Section 310.405

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- ~~below~~ for the ~~subsequent~~ five years (starting from the later of the date on which the owner acquires the right to prepay its Mortgage Loan or the date on which the increase in Equity is granted), as determined by a physical needs assessment performed by a company acceptable to the Authority; the cost of such physical needs assessment shall not be a Development expense; and
- ii) the amount needed to complete any deferred maintenance on the Development is less than one year's funding requirement for the Reserve Fund for Replacements.
- 3) The Authority shall require the Owner to execute an agreement evidencing the increase in Equity and containing the Owner's agreement either to preserve the existing income and rental restrictions of the Development as affordable for low and moderate income for a period not less than five years (starting from the later of the date on which the owner acquires the right to prepay its Mortgage Loan or the date on which the increase in Equity is granted) or create an equivalent number of additional units of housing with similar income and rental restrictions~~affordable to persons or families of low and moderate income~~.
- 4) Any increase in Owner's Equity approved pursuant to this Section shall conform ~~to~~with any relevant federal statutes, rules or regulations.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.404 Development Funds and Property

All Development Funds received by an Owner or its agent shall be deposited to and maintained, as the Authority directs, in appropriate accounts with the Authority, or in a federally insured bank or savings and loan association or other financial institution located and qualified to do business in Illinois and whose deposits are insured by the federal government, or in other fiduciaries acceptable to the Authority. The Authority shall, in the Regulatory Agreement for the Development, by contract with the Owner establish priorities for the disbursement and use of Development Funds, including the funding of reserves and escrows, and require that the Owner have personal liability for Development Funds or Development property ~~that~~which comes into its hands or the hands of its agents ~~that~~which by contract with the Authority the Owner is not entitled to retain or has disbursed or used in violation of Authority requirements. In establishing

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

~~thesueh~~ priorities, the Owner and Authority shall take into account the purposes of the Program, the financial stability of the Development, the physical condition of the Development, the value of the Development as security for the Mortgage Loan, and other relevant factors. It shall be a violation of the Rules for the Owner or its agent to disburse, use or retain Development Funds or Development property other than in accordance with the requirements or priorities established pursuant to this Section and set forth in ~~the Regulatory Agreement~~~~Authority contracts~~ or other Mortgage Loan documents.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.405 Reserve Fund for Replacements

The Owner of a Development shall set aside out of gross Development income and shall deposit with the Authority such sums as the Authority shall specify, or ~~that~~ applicable federal statutes, regulations, or agreements require to be deposited to ~~an account known as~~ the Reserve Fund for Replacements. No proceeds of the Reserve Fund for Replacements may be withdrawn, disbursed, or applied without written Authority approval. The sums set aside, together with any income earned ~~thereon~~, shall be used to pay the costs of replacing structural elements and mechanical equipment of the Development and for such other Development expenses as the Authority in its sole discretion may approve. In determining the amounts to be set aside or deposited to the Reserve Fund for Replacements, the Authority shall consider the nature and condition of any structural elements or mechanical equipment ~~that~~~~which~~ may have to be replaced, the estimated useful life of any such structural elements or mechanical equipment, the estimated cost of replacements, applicable federal requirements, construction costs, potential gross Development income, and any other relevant factors. In determining whether to approve disbursements from the Reserve Fund for Replacements, the Authority shall consider the benefit to the Development of the proposed disbursement, the amount to be disbursed, the amount on deposit in the Reserve Fund for Replacements, whether the Owner is delinquent in making deposits to the Reserve Fund for Replacements or is otherwise delinquent in making payments or deposits under the Mortgage Loan documents, other uses for which the Reserve Fund for Replacements is likely to be needed, and any other relevant factors.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.406 Other Reserve Funds

The Authority may require the Owner or developer of a Development to deposit with the Authority, on the Initial Closing Date or on the Final Closing Date of a Mortgage Loan, funds for such other reserves as the Authority deems to be necessary to provide adequate security for the

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Mortgage Loan. The reserves may include, without limitation, tax and insurance reserves, debt service reserves and operating deficit reserves.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 310.407 Assignment or Sale of Mortgage Loan

If the Authority assigns or sells a Mortgage Loan, Section 8.1 of the Act, which requires that the owner of a Development give notice to the tenants of its intent to prepay the Mortgage Loan on the Development at least nine months in advance of the prepayment, as well as give them an opportunity to form an organization to purchase the Development, shall cease to apply to the Mortgage Loan as of the date of the sale or assignment of the Mortgage Loan.

(Source: Added at 31 Ill. Reg. _____, effective _____)

SUBPART E: CONSTRUCTION

Section 310.501 Design and Construction Standards

Developments financed by Mortgage Loans under the Program shall be designed and constructed or rehabilitated to conform with applicable federal, State, and local statutes, regulations, ordinances, standards, and codes, with industry practices in Illinois, and, except for Developments financed with the proceeds of Conduit Bonds, with the requirements of applicable Authority Rules, contracts, agreements, guides, and other documents.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART F: MARKETING AND MANAGEMENT

Section 310.602 Marketing and Management Plans

- a) Approval. Before the Authority makes a Mortgage Loan other than a Conduit Loan and at other times required by the Authority, the Owner shall submit for the Authority's approval a marketing planMarketing Plan and a management planManagement Plan for the Development. In deciding whether to approve the marketing planMarketing Plan and the management planManagement Plan, the Authority shall consider the purposes of the Program, the provisions of the Tenant Selection Plan, and any other relevant matters.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- b) Compliance. The ~~marketing plan~~Marketing Plan and the ~~management plan~~Management Plan shall comply with all applicable federal and State statutes and regulations and with the terms and conditions of all applicable contracts and agreements providing for federal subsidies or assistance relating to the Development.
- c) Contents of Marketing Plan. The ~~marketing plan~~Marketing Plan shall set forth the policies and procedures to be used by the marketing agent in marketing the Development and shall address the qualifications of the marketing agent; the nature of the market to be served by the Development; the dates of availability of occupiable units by type and location; the dates of availability and locations of Development facilities essential to the marketing campaign, including any model units, rental office or community building; the promotion of the Development, including the use of mass media, public relations, brochures, signs, equipment and furnishings for model units and the rental office, and marketing staff; the intended mix of family, elderly and ~~disabled~~handicapped Tenants; where appropriate, the intended Tenant income mix and method of achieving such a mix; the method of processing prospective tenants; the criteria upon which ~~prospective tenants'~~ applications ~~of prospective Tenants~~for occupancy are to be approved or disapproved; preference for occupancy in the Development for persons and families displaced by urban renewal, slum clearance, other governmental action or natural disaster; rent schedules; and any other relevant matters.
- d) Contents of Management Plan. The ~~management plan~~Management Plan shall set forth the policies and procedures to be used by the managing agent in operating the Development and shall address the qualifications of the managing agent; procedures for recruiting and supervising management personnel; physical maintenance of the Development; procedures for tenant selection; preference for occupancy in the Development for persons and families displaced by urban renewal, slum clearance, other governmental action or natural disaster; tenant/landlord relations; eviction procedures; marketing; financial reporting; books and records of the Development; the intended mix of family, elderly and ~~disabled Tenants~~handicapped Tenants; where appropriate, the intended Tenant income mix and method of achieving such a mix; the method of processing prospective Tenants; the criteria upon which ~~prospective tenants'~~ applications ~~of prospective Tenants~~for occupancy are to be approved or disapproved; and any other relevant matters.
- e) Owner's Responsibility. The Owner shall be responsible for ensuring the

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

marketing agent's and the managing agent's compliance with all applicable ordinances, regulations, statutes, ~~and Authority~~ Rules, agreements and requirements.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.604 Cost of Services

The Owner shall not pay more for administrative, operating and maintenance expenses than is reasonable given the location and size of the Development, the level of administration, operation and maintenance required by the applicable Authority Rules and agreements, the requirements of the Regulatory Agreement or other Mortgage Loan documents, the requirements of the marketing planMarketing Plan, management planManagement Plan, and Tenant Selection Plan, the uniqueness or quality of available services or supplies, the presence of an emergency or other time constraint, the creditworthiness of suppliers and contractors and any other relevant factors. The Owner shall solicit bids for certain contracts in accordance with Authority agreements.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART G: OCCUPANCY

Section 310.701 Tenant Selection Plan

- a) Approval. Before making a conditional commitment for a Mortgage Loan ~~conditional commitment~~ under the Program, the Authority shall approve a Tenant Selection Plan submitted by the Owner that shall setand setting forth the income limits for Tenants of the Development. In approving the Tenant Selection Plan, the Authority shall consider whether the selection procedures will be equitable, considering the size and circumstances of the Tenant family; promote a heterogeneous mix of income levels to the extent appropriate; maintain the financial stability of the Development; and comply with the ~~Authority's~~ Rules, agreements and requirements.
- b) Compliance. The Tenant Selection Plan shall comply with all applicable State and federal statutes and regulations, with the terms and conditions of all applicable contracts and agreements providing for federal subsidies or assistance relating to the Development, and with the affirmative fair housing marketing plan approved by the Authority for the Development.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- c) Requirement for Developments for which a Conditional Commitment Letter Has Been Issued on or after August 9, 1984. With respect to Developments for which a conditional commitment letter has been issued on or after August 9, 1984, the Tenant Selection Plan submitted by the Owner and approved by the Authority shall specify how many units in the Development shall be held available to persons and families of ~~Low~~ or ~~Moderate Income~~moderate income, as defined in Sec. 2(g) of the Act and Treas. Reg. Sec. 1.103-8(b)(8)(v)(1984) and set forth the rental charges for those units. In determining the number of units ~~that~~which shall be ~~so~~ held available for ~~such~~ rentals, the Authority shall require that the number of dwelling units reserved for persons and families of ~~Very Low, Low~~ and ~~Moderate Income~~moderate income in each Development shall not be less than the number required by applicable federal and State law.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.702 Income and Rental Limits

- a) General. A person's or family's initial occupancy of a unit held available for rental to persons and families of ~~Very Low, Low~~ or ~~Moderate Income~~moderate income, as defined in Section 2(g) of the Act, Treas. Reg. Sec. 1.103-8(b)(8)(v)(1984) (24 CFR 889.103 (1984)), shall be limited to persons and families initially meeting the income limits set forth in ~~subsection (b) of this Section 310.103~~. If a person or family meeting income requirements at the time of initial occupancy subsequently fails to continue to meet ~~those~~such requirements, that failure shall not constitute non-compliance by that Tenant.
- b) ~~Determination of~~ Income Limits:
- 1) For all Developments ~~financed by the Authority before January 1, 1987, an income limitation is established equal to 80% of the median family income for the metropolitan statistical area in which the Development is located for~~ that proportion of the units (20%, or 15% in certain targeted areas) as is required by the Treasury Regulations under Section 103(b) of the United States Internal Revenue Code ~~of 1954~~ (26 ~~USCU.S.C.~~ 103(b)) ~~shall be reserved for Low Income Tenants, as amended.~~
 - 2) For Developments that have not or will not receive subsidies from HUD or mortgage insurance through the Federal Housing Administration, a minimum of 20% of the units shall be reserved for Low Income Tenants.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 32) ~~For Developments that are financed with the proceeds of Tax-exempt Bonds after January 1, 1987, either 20% of the units must be reserved for Very Low Income Tenants or 40% of the units must be reserved for Low Income Tenants whose income is no greater than 60% of the Median Income. Provided, however, for Developments with Assisted Mortgage Financing, as that term is defined in the Act, involving programs of the United States Department of Housing and Urban Development (HUD), income limitations shall be established (at levels higher or lower than otherwise would be established) which shall be consistent with applicable regulations and/or feasibility criteria of HUD or the Federal Housing Administration programs under the National Housing Act mortgage insurance or co-insurance programs under Sections 207, 220, 221, 236 and 255 of the National Housing Act (24 CFR 207.1 et seq. (1984); 24 CFR 220.1 et seq. (1984); 24 CFR 221.1 et seq. (1984); 24 CFR 236.1 et seq. (1984); 24 CFR 255.1 et seq. (1984)). The limitations may be established as a percentage of median income or as a dollar amount. No such income limitations shall be established for such Developments unless the Authority shall determine that, without the Authority mortgage loans and the HUD related Assisted Mortgage Financing, rentals for such Developments would be required to be at levels which would equal or exceed 30% of the income of the Tenants.~~
- c) ~~Rental Limits. Rents for units in Developments shall not exceed 30% of the maximum income permitted for a Very Low or Low Income Tenant in the Development, as applicable, unless otherwise required by applicable federal and State law. Areas of Determination. Determination of income limits for persons and families of low and moderate income shall be made for metropolitan statistical areas (or segments thereof), as defined in Section 103A(1)(4)(B) of the Internal Revenue Code (26 U.S.C. 103(1)(4)(B)(1984)), in the State and for that portion of the State not within any metropolitan statistical area (or segments thereof).~~
- d) Certification. The Owner shall obtain from each prospective ~~Tenant~~tenant intending to occupy a unit held available for rental to persons and families of ~~Very Low, Low~~low or ~~Moderate Income~~moderate income a certification of income ~~that~~which shall be submitted by letter to the Authority from the Owner.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- e) In determining the number of units in a Development that shall be held available for rental to Very Low, Low and Moderate Income Tenants, the Authority shall require that the number of units be not less than the number required by applicable federal and State law.
- g) The Owner of each Development shall enter into a Regulatory Agreement with the Authority setting forth, among other things, the income and rental restrictions governing the Development.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.703 Commercial Facilities

- a) Facilities. The Owner shall rent commercial facilities, if any, only to such Commercial Tenants, at ~~such~~ rentals and for ~~such~~ purposes ~~that~~as have been approved by the Authority. In approving commercial facilities and Commercial Tenants, the Authority shall consider the Tenant Selection Plan, the ~~marketing plan~~Marketing Plan, the ~~management plan~~Management Plan, the nature of the prospective business, the credit history of the prospective Commercial Tenant, the benefit of the prospective business to Tenants of the Development, the prospective Commercial Tenant's ability to comply with applicable licensing and zoning requirements, the purposes of the Program, and any other relevant matters.
- b) Compliance. The Owner shall be responsible for ensuring the Commercial Tenant's compliance with all applicable ordinances, zoning codes, licensing requirements, regulations, statutes and ~~Authority~~ Rules, and agreements.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART H: RATE OF RETURN ON EQUITY FOR
LIMITED-PROFIT ENTITIES**Section 310.801 Statutory Authorization**

Pursuant to ~~Section 8~~Paragraph 308 of the Act, the Authority is required to establish the Owner's Equity on each Mortgage Loan provided to a Limited-Profit Entity at the time of final Mortgage disbursement. The Act provides that the maximum rate of return on Owner's Equity shall be 6% unless the Authority, pursuant to ~~these Rules~~ this Part, establishes criteria by which a higher rate is established. It is the purpose of this Subpart to set the criteria by which a rate of return higher

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

than 6% will be established.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.802 Developments Eligible for Increased Rate of Return

- a) Subject to applicable federal law, any ~~Any~~ Development for which the Authority has issued a conditional commitment letter effective on or after August 9, 1984 is eligible for the establishment of an alternate basic rate of return in excess of 6% if, either:
- 1) the Director or, in his or her absence, the Deputy Director determines it to be necessary in order to attract private enterprise to construct, rehabilitate, operate and maintain housing for Very Low, Low~~low~~ and Moderate Incom~~moderate income~~ persons. The standard or test for determining whether a higher rate of return is necessary is that, but for the higher rate of return, private enterprise would be unable to acquire, construct, rehabilitate, operate and maintain housing for Very Low, Low~~low~~ and Moderate Incom~~moderate income~~ persons. In making this determination, the Director or, in his or her absence, the Deputy Director shall consider but not be limited to the competing market interest rates, the alternative lending sources, financial projections based upon anticipated rents, debt service, utilities, taxes and other expenses and the comparative severity of the housing needs; or
 - 2) the Authority determines, pursuant to resolution of its Members, that an increase in the basic rate of return is necessary to preserve the Development as affordable for persons or families of Very Low, Low~~low~~ and Moderate Incom~~moderate income~~ or that the increase provides for the creation of additional units of housing affordable to persons or families of Very Low, Low~~low~~ and Moderate Incom~~moderate income in the Development or otherwise~~ in the State. It shall be a condition to an increase in the basic rate of return pursuant to this subsection (a)(2) that:
 - A) the Authority give its prior written consent to any increase in the rental charges for the Development; and
 - B) the Authority determine, in its sole discretion, that:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- i) the Reserve Fund for Replacements is sufficient to pay the costs set forth in Section 310.405 ~~above~~ for the subsequent five years; and
 - ii) the amount needed to complete any deferred maintenance on the Development is less than one year's funding requirement for the Reserve Fund for Replacements.
- b) If the Authority makes a determination pursuant to subsection (a) ~~(2)(ii)-above~~, then, prior to the Authority increasing the basic rate of return, the Authority shall require that the Owner execute an agreement evidencing the increase in the basic rate of return and containing the Owner's agreement either to preserve the Development as affordable for persons or families of ~~Very Low, Low~~ and ~~Moderate Income~~ ~~moderate income~~ for a period not less than five years (starting from the later of the date on which the owner acquires the right to prepay its Mortgage Loan or the date on which the increase in Equity is granted) or increase the number of units affordable to persons or families of ~~Very Low, Low~~ and ~~Moderate Income~~ ~~moderate income~~.
- c) Any increase in the basic rate of return approved pursuant to this Section shall conform ~~to~~ ~~with~~ any relevant federal statutes, rules or regulations.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.803 Retroactive Adjustments

- a) Developments for which the Authority has issued a conditional commitment letter effective prior to August 9, 1984 are not eligible for an alternate basic rate of return in excess of 6%, unless:
 - 1) the Development is a troubled Development as determined by the Director or, in his ~~or her~~ absence, the Deputy Director. A "troubled Development" for purposes of this Section is one for which a delinquency of more than 60 days exists for replacement reserve, tax and insurance reserve, or principal or interest payments and/or an alternate basic rate of return is necessary, as determined by the Director or, in his ~~or her~~ absence, the Deputy Director, to encourage a new Owner to acquire the Development, or to encourage an existing Owner to invest monies into the Development, or to assist an existing Owner to meet its financial obligations. In regard

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

to the delinquencies, it shall be established to the satisfaction of the Director or, in his or her absence, the Deputy Director, that the increase in the rate of return is essential for the Development to meet these delinquency obligations. The standard to be applied shall be that but for the increased rate of return the Development would not be able to make these past due payments current. In making the determination whether one or more delinquencies exist, the Director or, in his or her absence, the Deputy Director shall consider, but not be limited to, an examination of all books and records the Authority has in regard to the delinquencies as well as all documentation submitted by or on behalf of the Development, and anticipated rents, debt service, utilities, taxes and other expenses of the Development; or

- 2) the Authority determines, pursuant to resolution of its Members, that an increase in the basic rate of return is necessary to preserve the Development as affordable for persons or families of Very Low, Low~~low~~ and Moderate Income~~moderate income~~ or that the increase provides for the creation of additional units of housing affordable to persons or families of Very Low, Low~~low~~ and Moderate Income~~moderate income~~ in the Development or otherwise in the State. It shall be a condition to an increase in the basic rate of return pursuant to this subsection (a)(2) that:
 - A) the Authority give its prior written consent to any increase in the rental charges of the Development; and
 - B) the Authority determine, in its sole discretion, that:
 - i) the Reserve Fund for Replacements is sufficient to pay the costs set forth in Section 310.405 ~~above~~ for the subsequent five years; and
 - ii) the amount needed to complete any deferred maintenance on the Development is less than one year's funding requirement for the Reserve Fund for Replacements.
- b) In regard to an alternate basic rate of return to encourage a new Owner to acquire the Development, it shall be established to the satisfaction of the Director or, in his or her absence, the Deputy Director that, but for the increase in the rate of return, a new Owner could not be found to acquire the Development. In making

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

this determination, the Director or, in his or her absence, the Deputy Director shall consider but not be limited to competing market interest rates, alternative lending sources, financial projections based upon anticipated rents, debt service, utilities, taxes and other expenses and the comparative severity of the housing needs.

- c) If the Authority makes the determination pursuant to subsection (a)(2) ~~above~~, the Authority, prior to increasing the basic rate of return pursuant to subsection (a)(2) ~~above~~, shall require that the Owner execute an agreement evidencing the increase in the rate of return and containing the Owner's agreement either to preserve the Development as affordable for persons or families of Very Low, Low ~~low~~ and Moderate Income ~~moderate income~~ for a period not less than five years (starting from the later of the date on which the owner acquires the right to prepay its Mortgage Loan or the date on which the increase in rate of return ~~Equity~~ is granted) or to increase the number of units affordable to persons or families of Very Low, Low ~~low~~ and Moderate Income ~~moderate income~~.
- d) Any increase in the basic rate of return approved pursuant to this Section shall conform to ~~with~~ any relevant federal statutes, rules or regulations.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.804 Calculation of Alternate Basic Rate of Return

- a) For Developments ~~that~~ which are eligible for an alternate basic rate of return in excess of 6%, pursuant to Section 310.802(a)(1) or 310.803(a)(1) ~~above~~, the Authority may establish an alternate basic rate of return in an amount not to exceed, except as provided in Section 310.805 ~~below~~, 200% ~~two hundred percent~~ of the yield paid on 30-year Government National Mortgage Association (GNMA) mortgage certificates as of the date of the issuance of the conditional commitment letter or, if a conditional commitment letter is not issued, a loan agreement for ~~to~~ that Development. In order for an alternate basic rate of return higher than 6% to be approved, it shall be established to the satisfaction of the Director or, in his or her absence, the Deputy Director that, but for increase in the rate of return, private enterprise would not be attracted to acquire, construct, rehabilitate, operate and maintain the Development. The Authority will establish an alternate basic rate of return if the Director or, in his or her absence, the Deputy Director determines and certifies that, but for a higher rate of return, private enterprise would not acquire, construct, rehabilitate, operate and maintain housing for Very Low, Low ~~low~~ and Moderate Income ~~moderate income~~ persons.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

In making the determination and certification whether an alternate basic rate of return will be approved and in determining and certifying the amount of the rate increase, the Director or, in his ~~or her~~ absence, the Deputy Director shall consider, but not be limited to, the competing market interest rates, alternative lending sources, financial projections based upon anticipated rents, debt service, taxes, utilities and other expenses and the comparative severity of the housing needs. The Chief Fiscal Officer of the Authority shall certify to the GNMA rate as of the date of the conditional commitment letter ~~or the loan agreement, if a conditional commitment letter is not issued, for the Development~~, and the rate shall be fixed at that level.

- b) For Developments ~~that~~~~which~~ are eligible for an alternate basic rate of return in excess of 6% pursuant to ~~Section~~~~Sections~~ 310.802(a)(2) or 310.803(a)(2) ~~above~~, the Authority may establish an annual alternate basic rate of return ~~that~~~~which~~ shall not exceed, except as provided for in Section 310.805 ~~below~~, ~~200%~~~~two hundred percent~~ of the yield paid on 30-year GNMA mortgage certificates as of December 1~~st~~ of the year for which the alternate basic rate of return is to be applied. The Chief Fiscal Officer of the Authority shall certify to the GNMA rate as of December 1~~st~~ of the year for which the alternate basic rate of return is to be applied and the rate shall be fixed at that level.
- c) Any increase in the basic rate of return approved pursuant to this Section shall conform with any relevant federal statutes, rules or regulations.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.805 Risk Premium for Special Needs

In addition to the increase to the alternate basic rate of return established pursuant to Sections 310.802 and 310.803, the Authority, through its Director or, in his ~~or her~~ absence, the Deputy Director may establish additional incentives in the form of additional return on equity in excess of the alternate basic rate of return if the criteria specified in subsections (a), (b) and (c) ~~below~~ are met and if it is determined that the alternate basic rate of return is necessary. ~~The~~~~Such~~ additional return will be limited to one additional percentage point of return on Owner's Equity to be paid for each of the following factors:

- a) For each additional 5% ~~Low Income Tenant~~~~low income tenant~~ occupancy above the limits set forth in Section ~~142~~~~103~~(b)(4) of the ~~Internal Revenue Code~~ ~~(26 U.S.C. 103(b)(4)(1984))~~;

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- b) Provision of housing for a special housing need, such as elderly facilities, handicapped facilities, or other qualified special needs, as specified in the Act, approved by the Director or, in his or her absence, the Deputy Director;
- c) Location of the Development within a specially designated Targeted Area (as defined by the U.S. Department of the Treasury under Section 6a.103A-2(b)(5) of the Treasury Regulations issued under section 142103(b)(4) of the Internal Revenue Code of 1954(26 CFR 6a.103A-2(b)(5)(1984)) and 47 Ill. Adm. Code 220.103 or within a State of Illinois Enterprise Zone established pursuant to 20 ILCS 655Ill. Rev. Stat.1991, ch. 67 1/2, pars. 601 et seq.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.806 Increases in the Basic Rate of Return

The Basic Rate of Return shall not be increased or decreased during the term of the Mortgage Loan, except as provided in Sections 310.802 through Section 310.805 of this Part, inclusive.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART I: ENERGY EFFICIENCY STANDARDS FOR NEW AND REHABILITATED DEVELOPMENTS**Section 310.901 Statutory Authorization**

Pursuant to Section 7.24e of the Act, the Authority is required to establish rules governing minimum energy efficiency standards in Developments financed by the Authority. It is the purpose of this Subpart to set forth those minimum energy standards. After July 1, 1986, no Mortgage Loan conditional commitment for assisted mortgage financing shall be made by the Authority for the construction of a any new or rehabilitated Development unless the Director or, in his absence, the Deputy Director of the Authority determines that the plans and specifications for the proposed Development are inertifies compliance with the minimum energy efficiency standards set forth in this Partherein. Subject to Section 310.903 herein Compliance shall be certified when all proposed construction documents comply with this Part. Unless otherwise stated herein, the same standards apply to both new and rehabilitated Developments.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Section 310.902 Definitions (Repealed)

~~As used in this Subpart, the following words or terms mean:~~

~~"A.A.M.A.": Architectural Aluminum Manufacturers Association.~~

~~"A.H.A.M.": Association of Home Appliance Manufacturers.~~

~~"A.N.S.I.": American National Standards Institute.~~

~~"A.R.I.": Air Conditioning and Refrigeration Institute.~~

~~"A.S.H.R.A.E.": The American Society of Heating, Refrigerating and Air Conditional Engineers, Inc. as computed by the procedures set forth in the ASHRAE Handbook and Product Directory Systems Volume (1976).~~

~~"A.S.T.M.": American Society for Testing and Materials.~~

~~"BTU": (British Thermal Unit) is the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.~~

~~"COP": (Coefficient of Performance— Heating) This is the ratio of the rate of net heat output by the heat pump to the rate of total on-site energy input to the heat pump, expressed in consistent units and under designated rating conditions.~~

~~"EER": (Energy Efficiency Ratio) is the ratio of net equipment cooling capacity in BTU per hour, to total rate of electric input in watts, under designated operating conditions.~~

~~"H.D.D.": (Heating Degree Day) is a unit, based upon temperature difference and time, used in estimating fuel consumption and specifying nominal heating load of a building in winter as computed in the procedures set forth in the ASHRAE Handbook and Product Directory, Systems Volume (1976).~~

~~"H.V.A.C.": Heating, Ventilating and Air Conditioning.~~

~~"High Rise Building": is a building which is eighty feet or more above grade.~~

~~"Low Rise Building": is a building which is less than eighty feet above grade.~~

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

~~"N.E.C.": National Electrical Code.~~

~~"Northern Illinois": is that portion of the State of Illinois north of the southern boundaries of the Illinois counties of Vermilion, Champaign, Piatt, Dewitt, Logan, Menard, Cass, Brown and Adams.~~

~~"R-Value": (Assembly Insulation Value) is defined as thermal resistance, i.e. the reciprocal of thermal conductance as set forth in ASHRAE Standard 90A-1980.~~

~~"Southern Illinois": is that portion of the State of Illinois south of the southern boundaries of the Illinois counties of Vermilion, Champaign, Piatt, DeWitt, Logan, Menard, Cass, Brown and Adams.~~

~~"U.L.": Underwriters Laboratories located at 333 Pfingsten Road, Northbrook, Illinois 60062.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.903 Incorporation of National Standards

~~All Developments shall be constructed or rehabilitated in compliance with the energy efficiency standards set forth in the International Energy Efficiency Code in effect at the time of the making of the Mortgage Loan for that Development. These energy efficiency standards are also published in the Authority's Architectural and Construction Guidelines.~~

~~Where standards are incorporated in this Part, they are incorporated by date and do not include any later editions or amendments.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.904 Thermal Requirements (Repealed)

~~The prescriptive assembly insulation requirements are as follows:~~

<u>Section</u>	<u>R-Value Northern Illinois</u>	<u>R-Value Southern Illinois</u>
Walls	R-19	R-19

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Attic/Ceiling/Roof (low rise building)	R-38	R-30
Reinforced Concrete Roof (high rise building)	R-19	R-19
Floors over unheated spaces	R-22	R-19
Perimeter of slab on grade (which shall extend 2'-0" from interior edge)	R-10	R-10
Walls below grade	R-10	R-10

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.905 Air Infiltration Requirements (Repealed)

- ~~a) All joints shall be caulked.~~
- ~~b) Plastic vapor barrier a minimum 6 mil in the thickness shall be installed on the warm side of insulation in walls, ceilings, and under slab on grade with seams sealed and lapped a minimum of 16". The membrane must not be punctured during construction.~~
- ~~c) Sill sealers, other than of fiberglass materials, shall be used below all exterior sill plates.~~
- ~~d) Foam insulation and/or caulk shall be applied around all exterior windows and door frames.~~
- ~~e) Electrical outlets, water, taps, exhaust vents and all other penetrations in exterior walls and ceilings shall be taped or sealed to the membrane vapor barrier.~~
- ~~f) Storm doors with a wood or metal threshold and thermal break shall be installed at all exterior doorways unless revolving doors are installed.~~
- ~~g) Combustion air ducts with automatic motorized dampers shall be installed on all furnaces, boilers and water heaters where fossil fired equipment is used.~~
- ~~h) Attic access doors shall be insulated and weatherstripped.~~

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- i) ~~The edges of concrete slabs shall have thermal breaks.~~
- j) ~~Ventilation of the ceiling/roof area shall be in ratios in accordance with local building codes. Vents shall be equally distributed between ridge and eave locations.~~
- k) ~~Continuous soffit and/or ridge vents shall be required.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.906 Doors, Windows and Glass (Repealed)

- a) ~~Exterior doors shall be weatherstripped at jambs, head, and sill where the door is in contact with the threshold. Compressible filler shall be installed under threshold, except in handicapped units where flat sills are required.~~
- b) ~~Exterior metal doors shall be insulated to meet or exceed R-6 and shall be installed in frames of thermal break construction.~~
- c) ~~Windows and sliding glass doors shall be at least double glazed with a minimum of ¼" air space between glazing set in frames of thermal break construction.~~
- d) ~~All windows, curtain walls and storefronts shall be of thermal break construction with a listed condensation resistance factor (CRF) of not less than 45 as computed in Voluntary Test Method for Condensation Resistance of Windows, Doors and Glazed Wall Sections, AAMA 1502.7 (1981).~~
- e) ~~Air infiltration rates shall be determined by A.N.S.I./A.S.T.M. E283-73 (1973), Standard Method of Test for Rate of Air Leakage through Exterior Windows, Curtain Walls and Doors. Window air infiltration rate shall not exceed 0.5 cubic feet per minute per foot of sash crack. Swinging and Sliding doors used for entrance or exit from residential living units air infiltration rate shall not exceed 0.5 cubic feet per minute per square foot of door area. Air to air heat exchangers shall be used if there is less than ½ air changes per hour.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.907 Mechanical Work (Repealed)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- a) ~~All hot water heaters shall meet or exceed A.S.H.R.A.E. Standard 90A-1980 energy efficiency requirements for water heaters.~~
- b) ~~A separate hot water storage tank with boiler shall be provided in multifamily developments where the storage tank serves more than one unit.~~
- e) ~~A recirculating pump for domestic hot water system shall be provided with return line aquastat control and all circulating lines shall be insulated.~~
- d) ~~Low flow showerheads and flow restrictors shall be installed in new and/or existing plumbing fixtures with a maximum flow of three (3) gallons per minute.~~
- e) ~~Heat pumps must meet or exceed A.S.H.R.A.E. Standard 90A-1980 energy efficiency requirements and there shall not be less than a 2.5 coefficient of performance (COP).~~
- f) ~~Room air conditioning units shall meet or exceed A.N.S.I./A.H.A.M. Standard Z23A.1-1972 "Standard for Room Air Conditioners" and have an EER of at least 9.0. The electrical outlet for each unit shall be on a separate branch circuit and located directly below the unit. Wall mounted units shall be located no lower than 2'-6" above baseboard heating elements.~~
- g) ~~Central air conditioners shall meet or exceed ARI Standards 210-78 (1978), "Standard for Unitary Air Conditioning Equipment," energy efficiency requirements and have an EER of no less than 11.0.~~
- h) ~~Building exhaust fans shall be on clocktimers with a backdraft damper. The size, number and location of exhaust fans shall be determined by local building code.~~
- i) ~~Clock thermostats, unless prohibited by local code, shall be installed in all dwelling units where the tenant controls the heating and/or cooling system.~~
- j) ~~New furnaces and boilers shall meet or exceed A.S.H.R.A.E. Standard 90A-1980 efficiency requirement for H.V.A.C. equipment, the efficiency of which shall not be less than 82%.~~
- k) ~~Central boiler or furnace shall be provided with a setback thermostat and an outdoor reset control shall be provided for hot water systems.~~

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- l) ~~Each kitchen exhaust fan shall be on a springback timer, unless prohibited by local code, and shall be vented to the outside.~~
- m) ~~Each bathroom exhaust fan shall be on a springback timer, unless prohibited by local code, and shall be vented to the outside.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.908 Insulation (Repealed)

- a) ~~Batt insulation shall have integral nailing flanges. Friction fit insulation shall not be installed in exterior walls.~~
- b) ~~Guards and vent chutes shall be installed adjacent to eave vents to prevent blockage of vents by blown in or batt insulation and passage of air from eave vents to attic roof vents.~~
- e) ~~Rigid roof insulation shall be installed in a minimum two layers with all joints staggered.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.909 Mechanical Work Insulation (Repealed)

~~Insulation meeting or exceeding A.S.H.R.A.E. Standard 90A-1980 shall be provided for the following mechanical work:~~

- a) ~~For all plumbing and hot water lines located along perimeter walls or in unheated or uncooled spaces.~~
- b) ~~All heating and cooling supply and return piping.~~
- e) ~~All air conditioning supply ductwork and where returns pass through unconditioned spaces.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.910 Electrical Work (Repealed)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- a) ~~All corridor and public space lighting shall be fluorescent.~~
- b) ~~All materials and devices shall conform to N.E.C. standards and be UL approved.~~
- e) ~~Electric service shall be individually metered for each dwelling unit.~~
- d) ~~Exterior security lighting shall be high intensity discharge.~~
- e) ~~Electrical outlet plate gaskets shall be installed on all receptacle, switch or other electrical boxes in exterior walls.~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.911 Energy Audit Analysis

- a) If a proposed ~~Development~~development is a rehabilitation project, ~~the Authority may require that~~ an energy audit ~~shall~~ be performed and the results ~~shall~~ be provided to the Authority showing ~~(1)~~ heat loss-gain analysis of building without energy conservation measures; ~~(2)~~ projected savings for proposed energy conservation measures; ~~and~~~~(3)~~ life-cycle cost analysis of the proposed heating and cooling system and energy source showing they are the most cost-effective considering front-end capital investment and operating costs over their life time. This life-cycle analysis shall utilize: useful equipment life, operating and maintenance costs, inflation and fuel escalation factors.
- b) ~~For a new construction project, a~~ heat load analysis and cooling load analysis shall be performed and the results shall be provided to the Authority showing the savings and cost projections for ~~the Development~~new developments. Both the energy audit and analysis shall show that the selected heating system, cooling system and energy source are the most cost effective, from the point of view of front-end capital investment and operating cost over its lifetime.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 310.912 Rehabilitation Guidelines (Repealed)

- a) ~~All rehabilitation work shall conform to the levels of quality established by local building codes for new construction.~~

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- b) ~~Where double hung replacement windows are specified for high wind loading conditions, replacement windows shall be provided at quality level A-2.5HP (A.A.M.A. grade specifications) or greater. All metal windows shall be of thermal break construction. All windows shall be at least double glazed with a minimum ¼" air space between glazing, unless a storm window is provided. If existing windows can be repaired, storm windows rather than replacement windows are acceptable. Existing windows shall be rebuilt, repaired and caulked.~~
- e) ~~The most cost effective heating and cooling system shall be provided taking into account both front end capital investment and long term operating costs, as determined by a life cycle analysis (See Section 310.912(a)).~~

(Source: Repealed at 31 Ill. Reg. _____, effective _____)

Section 310.913 Rehabilitation Waiver

The Authority shall waive compliance with the minimum energy efficiency standards for a rehabilitation Development if:

- a) The Owner and/or developer submits a cost benefit analysis ~~that~~^{which} demonstrates that compliance with minimum energy efficiency standards would increase the costs of the rehabilitation of the Development to the extent that it would be impossible for the Development to meet the costs of debt service and operating expenses while providing housing ~~for Very Low, Low~~^{at low} and ~~Moderate Income Tenants~~^{moderate rentals as those terms are defined in Sections 2(i) and (h) of the Act,} and the Director or, in his ~~or her~~ absence, the Deputy Director certifies that there is a serious shortage of decent, safe and sanitary housing available to persons of ~~Very Low, Low~~^{low} and ~~Moderate Income~~^{moderate income} in that community and that, but for the waiver of compliance, the property would not be rehabilitated; or
- b) The minimum energy efficiency standards are in conflict with the energy efficiency requirements, rules, regulations, practices or procedures of any federal, State or local governmental entity through which a grant, loan, subsidy, insurance, underwriting or guarantee is provided for the rehabilitation of a development by any such entity; or
- c) The minimum energy efficiency standards are in conflict with any federal, State or local law, code or ordinance; or

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- d) The Development does not meet the specific energy efficiency standards set forth above, but a licensed consulting architect, retained by the Authority, certifies to the Authority that the Development meets standards ~~that~~**which** are functionally equivalent to the specific energy efficiency standards of this Subpart.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART J: CONDUIT BOND ISSUANCES**Section 310.1001 Conduit Bonds**

From time to time, the Authority may issue Conduit Bonds to obtain financing for a Conduit Loan for a Development. This Subpart governs the making of Conduit Loans.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 310.1002 Applications

Applicants for a Conduit Loan must apply to the Authority in the same manner as all other applicants for Mortgage Loans, and must adhere to the notification requirements of Subpart B.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 310.1003 Eligible Mortgagor

The recipient of a Conduit Loan must be an Eligible Mortgagor.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 310.1004 Regulatory Agreement

Each recipient of a Conduit Loan shall enter into a Regulatory Agreement with the Authority.

(Source: Added at 31 Ill. Reg. _____, effective _____)

Section 310.1005 Applicable Rules

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

All provisions of this Part shall apply to Conduit Loans, except the following: Section 310.404, Section 310.405, Section 310.601 and Section 310.602.

(Source: Added at 31 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.65 Proposed Action: Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104; 625 ILCS 5/6-507 and 625 ILCS 5/6-521
- 5) A Complete Description of the Subjects and Issues Involved: Requirements for obtaining an instruction permit. This amendment is necessary in order to come into compliance with the Federal Motor Carrier Safety Regulations.
- 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 amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1030.11	Amendment	30 Ill. Reg. 11334; 06/30/2006
1030.81	Amendment	30 Ill. Reg. 16262, 10/13/2006
1030.82	Amendment	30 Ill. Reg. 16262, 10/13/2006
1030.85	Amendment	30 Ill. Reg. 16262, 10/13/2006
1030.96	Amendment	30 Ill. Reg. 16895, 10/27/2006
1030.98	Amendment	30 Ill. Reg. 16895, 10/27/2006

- 11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the prepared amendments are posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Office of the Secretary of State

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Driver Services Department
JoAnn Wilson, Legislative Liaison
C/o Director's Office
2701 South Dirksen Parkway
Springfield, IL 62723

217/785-1441

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1030
ISSUANCE OF LICENSES

Section	
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.12	Driver's License Medical Advisory Board
1030.13	Denial of License or Permit
1030.15	Cite for Re-examination
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.83	Hazardous Material Endorsement
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Licenses
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person/Handicapped Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses
1030.94	Duplicate or Corrected Driver's License or Instruction Permit

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1030.95 Consular Licenses (Repealed)
- 1030.96 Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License
- 1030.100 Anatomical Gift Donor
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 11365, effective June 15, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 1030.65 Instruction Permits

- a) For purposes of this Section, the following definitions shall apply:
- ⊕ "Applicant" – person applying for an instruction permit.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

"Approved Driver Education Course" –

any course of driver education approved by the State Board of Education, offered by public or private schools maintaining grades 9 through 12, and meeting at least the minimum requirements of the Driver Education Act [105 ILCS 5/27-24 through 27-24.8], or

any course of driver education offered by a school licensed to give driver education instructions under the Vehicle Code that meets at least the minimum educational requirements of the Driver Education Act and is approved by the State Board of Education, or

any course of driver education given in another state to an Illinois resident attending school in that state and approved by the state administrator of the driver education program of the other state. [625 ILCS 5/1-103]

- 2) ~~"Certificate of Completion (Blue Slip)" – a Certificate of Completion a document issued by the Illinois State Board of Education or the office which regulates education in another state to students who have successfully completed their driver education course. The blue slip in Illinois is issued by the Illinois Secretary of State's Office if the student has successfully completed his/her driver education course behind the wheel instruction at an approved commercial driving school as provided in Art. IV of the Illinois Driver License Law (Commercial Driver Training Schools) [625 ILCS 5/Ch. 6, Art. IV] and 92 Ill. Adm. Code 1060 and Section 6-411(g) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-114(g)].~~
- 3) "Class D Instruction Permit" – permit to operate any single vehicle with a GVWR of 16,000 pounds or less that is not designed to transport 16 or more people or not used in the transportation of hazardous materials that would require placarding or when towing any vehicle providing the gross combination weight rating is less than 26,001 pounds.
- 4) "Class L Instruction Permit" – permit to operate a motor driven cycle with less than 150 cc displacement.
- 5) "Class M Instruction Permit" – permit to operate any motorcycle or any

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

motor driven cycle.

- 6) "Commercial Driver Instruction Permit" – a driving permit that authorizes an individual to operate a commercial motor vehicle, as defined in 625 ILCS 5/6-500, issued pursuant to Sections 6-103, 6-105, 6-107.1, 6-507(a) and 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-103, 6-105, 6-107.1, 6-507(a) and 6-508].
- 7) "Competent Medical Specialist" – a person licensed under Section 3 of the Medical Practice Act [225 ILCS 60/3] or similar law of another jurisdiction to practice medicine in all of its branches.
- 8) "Department" – Department of Driver Services within the Office of the Secretary of State.
- 9) "Driver Education Course" – a course of instruction in the use and operation of cars, including instruction in the safe operation of cars, rules of the road and the law of the State relating to motor vehicles, which meets the minimum requirements of the Driver Education Act [105 ILCS 5/27-24] and Section 1-103 of the Illinois Vehicle Code [625 ILCS 5/1-103].
- 10) "Driver Rehabilitation Specialist" – a person who possesses an undergraduate degree in rehabilitation, education, health, safety, therapy or a related profession (or equivalent of 8 years of experience in driver rehabilitation); possesses a current Association of Driver Educators for the Disabled (ADED) Certification as a Driver Rehabilitation Specialist (consisting of successful completion of 100 clock hours of educational experience, in combination with safety and medical aspects of disabilities; a minimum of 30 clock hours must be gained from attending ADED approved courses or workshops).
- 11) "Driving Evaluation" – Assessment of an applicant's ability to safely operate a motor vehicle performed by a driver education specialist at a rehabilitation institution.
- 12) "Favorable Medical Report" – a current medical report which has been completed in its entirety which does not require additional information and/or clarification or is not medically questionable. A favorable medical report specifies a professional opinion from the competent medical

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

specialist that the driver is medically fit to safely operate a motor vehicle.

- 13) "Foreign National" – a non-citizen of the United States of America who has been granted temporary, legal entry into this country by the U.S. Citizenship and Immigration Services (USCIS), who is temporarily residing in this State and is ineligible to obtain a social security number through the Social Security Administration, and who is not required to obtain a driver's license issued by the U.S. Department of State, Office of Foreign Missions.
- 14) "Illinois Medical Restriction Card" – a card which specifies special limitations to a person's driving privileges as provided in Section 6-113 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-113].
- 15) "In Loco Parentis" – person who is acting in place of a minor's parent with a parent's rights, duties, and authority.
- 16) "Instruction Permit" – a driving permit issued pursuant to Sections 6-103, 6-105 and 6-107.1 of the Illinois Vehicle Code [615 ILCS 5/6-103, 6-105 and 6-107.1].
- 17) "Medical Report" – a confidential medical questionnaire designed by the Department and approved by the Illinois Medical Advisory Board or a statement on letterhead made by a competent medical specialist containing the same information as the form designed by the Department. The medical report shall be directed to the Department and contain the date the competent medical specialist completed the report and the name, address, signature and professional license number of the competent medical specialist. The report must also contain the name, address, date of birth and driver's license number, if known, of the driver. A medical agreement as defined in Section 1030.16 of this Part, upon execution by the driver, shall be incorporated into and maintained on file with the driver's medical report.
- 18) "Minor" – a person under 18 years of age.
- 19) "Rehabilitation Institution" – any hospital, center, institute or facility engaged in a program to provide driver training for the disabled.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- ~~20)~~ "Temporary Visitor's Instruction Permit" – a driving permit issued to a foreign national pursuant to this Section and Sections 6-103, 6-105 and 6-107.1 of the Illinois Vehicle Code [625 ILCS 5/6-103, 6-105 and 6-107.1].
- b) A person who wishes to practice driving before obtaining his/her driver's license shall obtain an instruction permit from a Secretary of State's Driver Services facility. Upon receipt of an instruction permit, the holder may operate a motor vehicle upon the highways of this State when accompanied by an adult instructor of a driver education program or when practicing with a parent, legal guardian, family member or a person in loco parentis, who is 21 years of age or more and has a license classification to operate such vehicle and at least one year of driving experience, and who is occupying a seat beside the driver.
- c) Any foreign national wishing to practice driving before obtaining his/her driver's license shall obtain a temporary visitor's instruction permit, class D, L or M only, from one of the selected Secretary of State Driver Services facilities located throughout the State. Upon receipt of a temporary visitor's instruction permit, the holder may operate a motor vehicle upon the highways of this State when accompanied by an adult instructor of a driver education program or when practicing with a parent, legal guardian, family member, or a person in loco parentis who is 21 years of age or more, has a license classification to operate such vehicle, has at least one year of driving experience, and who is occupying a seat beside the driver.
- d) An instruction permit issued to any foreign national shall only be in a class D, L or M as established in Section 1030.30 of this Part.
- e) The fees collected for the issuance of an original, renewal, duplicate or corrected temporary visitor's driver's license shall be in accordance with Section 6-118 of the Illinois Vehicle Code [625 ILCS 5/6-118].
- f) A minor who wishes to receive an instruction permit shall be at least 15 years old and enrolled in a driver education course. Any minor who has been enrolled in an approved driver education program out-of-state shall provide proof of such enrollment before he/she shall be issued an Illinois instruction permit. Proof shall consist of a letter from the minor's school on the school's letterhead or other proof deemed acceptable by the Secretary of State. The minor shall complete a driver education course if he/she wants to apply for a driver's license before he/she is 18 years of age. If the minor is 16 years of age or older and has in his/her possession a certificate of completion or the equivalent, from another state's driver education

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

program, he/she shall be eligible to receive an Illinois driver's license upon successful completion of the vision, written and/or road tests. The equivalent for Illinois of a certificate of completion from an out-of-state driver education course shall include but is not limited to, transcripts from the out-of-state attendance center indicating successful completion of the course of instruction or a letter from the state's driver's licensing authority on agency letterhead, attesting to the minor's successful completion of a driver education course approved by the office ~~that in the state which~~ regulates education.

g) Permit Prior to Enrollment

- 1) A minor who is at least 15 years and 6 months of age may obtain an Illinois instruction permit prior to being enrolled in a driver education course provided he/she:
 - ~~A1)~~ Submits written documentation on a form prepared or approved by the Secretary of State stating that the minor is enrolled in school and proof that the student has received a passing grade in at least 8 courses during the previous 2 semesters as required by the Driver Education Act, or submits a written waiver, pursuant to Section 6-103(1) of the Vehicle Code, from a superintendent or chief school administrator;
 - ~~B2)~~ Submits a written waiver on a form prepared or approved by the Secretary of State from a superintendent or chief administrator stating that, through no fault of the minor, he/she will be unable to be enrolled in a driver education course until after his/her 16th birthday and the school would have no objection to the issuance of the instruction permit; and
 - ~~C3)~~ Successfully completes the written and vision examinations administered either by an approved driver education instructor or the Secretary of State.
- 2) An Illinois instruction permit issued to a minor under this subsection (g) may be canceled upon receipt of a report from the minor's school on the school's letterhead or other proof deemed acceptable by the Secretary of State stating that the minor has failed to enroll in a driver education course.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- h) The minor who is not legally emancipated by marriage or court order shall have his/her application signed by a parent, guardian, or person in loco parentis and the driver education instructor. The minor shall then be allowed to take the vision and written exams.
- i) The instruction permit shall be issued to a minor for a period of 2 years upon successful completion of the written and vision exams. If an instruction permit has expired prior to the applicant completing the road test, a second fee as established for driver's instruction permits in Section 6-118(a) of the Illinois Vehicle Code [625 ILCS 5/6-118(a)] must be submitted and the written and vision exams must be successfully completed. The applicant shall present another application to the Secretary of State signed by the parent, guardian, or person in loco parentis. The driver's education instructor shall also sign the application unless the applicant presents a certificate of completion (blue slip).
- j) Applicants who are not minors shall also be issued instruction permits by the Secretary of State. The permit shall be issued for 1 year upon successful completion of the written and vision exams.
- k) Applicants whose driving privileges have been canceled based upon receipt by the Department of a medical report indicating the applicant has a medical condition which impairs his/her ability to safely operate a motor vehicle may apply for an instruction permit. The Department shall receive a favorable medical report from a competent medical specialist describing the applicant's needs to undergo a driving evaluation with a driver rehabilitation specialist. The Department shall issue to the applicant an authorization for examination to appear at a Driver Services facility to take the written examination, vision test and submit the required fee as provided in Section 6-118 of the Illinois Vehicle Code [625 ILCS 5/6-118]. Upon successful completion of the written and vision tests, he/she shall be issued, if not otherwise disqualified, an instruction permit, but shall be canceled upon receipt of a written statement from a competent medical specialist that the instruction permit holder has failed to successfully complete the driving evaluation or is otherwise unable to safely operate a motor vehicle. A medical restriction card shall be issued by the Department and must be carried with the instruction permit. Upon successful completion of the driving evaluation, the rehabilitation institution and a competent medical specialist shall notify the Department. The Department shall send the applicant an authorization form instructing him/her to appear at a Driver Services facility to take the drive portion of the examination. Upon the applicant's successful completion of the drive examination, a driver license shall be issued.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- l) An applicant must be at least 16 years old to obtain a class L instruction permit. He/she shall have obtained his/her blue slip at the time he/she applies for the L instruction permit. If he/she is at least 18 years old, a blue slip is not necessary.
- m) The class M instruction permit is issued by the Secretary of State to a person 18 years old or older for a period of 1 year. Class M instruction permits shall be issued for period of 2 years to persons 16 or 17 years old who has obtained his/her blue slip at the time he/she applies for the class M instruction permit and if they have completed a motorcycle training course approved by the Illinois Department of Transportation as provided by 92 Ill. Adm. Code 455. A certificate of completion card issued by the Illinois Department of Transportation must be furnished to the Secretary of State's Office before an instruction permit shall be issued.
- n) An applicant who is 17 years and 9 months of age or older may obtain an Illinois instruction permit without being enrolled in a driver education course, provided he/she has successfully completed the vision and written exams.
- o) Prior to renewing a commercial driver instruction permit, an applicant is required to successfully complete the appropriate CDL knowledge tests specific to that classification of permit being renewed.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits
- 2) Code Citation: 92 Ill. Adm. Code 1040
- 3) Section Number: 1040.115 Proposed Action: New
- 4) Statutory Authority: 625 ILCS 5/2-104 and 625 ILCS 5/6-205.2
- 5) A Complete Description of the Subjects and Issues Involved: PA 09-0700, which became effective June 1, 2006, gave the Secretary of State authority to suspend the drivers license and/or privileges upon conviction of the offense of theft of motor fuel as defined in 720 ILCS 5/16J-15.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1040.33	Amendment	30 Ill. Reg. 13846; 8/18/2006
1040.20	Amendment	30 Ill. Reg. 15917; 10/6/2006

- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the prepared amendments are posted on Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Office of the Secretary of State
 Driver Services Department
 JoAnn Wilson, Legislative Liaison
 c/o Director's Office

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

2701 South Dirksen Parkway
Springfield, IL 62723

217/785-1441

- 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 proposed rulemaking was not previously included on the most recent regulatory agenda because: the need for this rulemaking was not anticipated at the time the agenda was prepared.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1040
CANCELLATION, REVOCATION OR SUSPENSION
OF LICENSES OR PERMITS

Section	
1040.10	Court to Forward Licenses and Reports of Convictions
1040.20	Illinois Offense Table
1040.25	Suspension or Revocation for Driving Without a Valid Driver's License
1040.29	2 or More Traffic Offenses Committed within 24 Months by a Person Under the Age of 21 Years
1040.30	3 or More Traffic Offenses Committed Within 12 Months
1040.31	Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32	Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33	Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device
1040.35	Commission of an Offense Requiring Mandatory Revocation Upon Conviction, and Suspension or Revocation Upon a Local Ordinance Conviction
1040.36	Suspension for Violation of Restrictions on Driver's License
1040.37	Suspension for Violation of Restrictions on Instruction Permit
1040.38	Commission of a Traffic Offense in Another State
1040.40	Repeated Convictions or Collisions
1040.41	Suspension of Licenses for Curfew Violations
1040.42	Fleeing and Eluding
1040.43	Illegal Transportation
1040.46	Fatal Accident and Personal Injury Suspensions or Revocations
1040.48	Vehicle Emission Suspensions
1040.50	Suspension of License of Commercial Vehicle Driver
1040.52	Driver Remedial Education Course
1040.55	Suspension for Driver's License Classification Violations
1040.60	Release of Information Regarding a Disposition of Court Supervision
1040.65	Offenses Occurring on Military Bases
1040.66	Invalidation of a Restricted Driving Permit
1040.70	Problem Driver Pointer System
1040.80	Cancellation of Driver's License Upon Issuance of a Handicapped Identification

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

	Card
1040.100	Rescissions
1040.101	Reinstatement Fees
1040.102	Bankruptcy for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
1040.105	Suspension for 5 or More Tollway Violations and/or Evasions
1040.107	Suspension for Violation of 625 ILCS 5/11-907, Approaching a Stationary Emergency Vehicle
1040.108	Suspension for Failure to Make Report of Vehicle Accident Violations
1040.109	Two or More Convictions for Railroad Crossing Violations
1040.110	Bribery
1040.111	Suspension for Violation of 625 ILCS 5/11-908(a-1) for Failure to Yield upon Entering a Construction or Maintenance Zone When Workers Are Present
1040.115	Suspension for Theft of Motor Fuel

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782,

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994; amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at 21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective August 28, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. 13892, effective September 1, 2005; amended at 29 Ill. Reg. 15968, effective October 7, 2005; amended at 30 Ill. Reg. 1896, effective January 26, 2006; amended at 30 Ill. Reg. 2557, effective February 10, 2006; amended at 30 Ill. Reg. 11299, effective June 12, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 1040.115 Suspension for Theft of Motor Fuel

- a) Defined Terms – For purposes of this Section, the following terms have the meanings ascribed in this subsection (a):

"Conviction" – a final adjudication of guilty by a court of competent jurisdiction either after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default [625 ILCS 5/6-100].

"Department" – Department of Driver Services within the Office of the Secretary of State.

"Open Suspension" – a suspension that appears on the driving record and that is in effect.

"Pending Suspension" – a suspension that appears on the driving record but that is not yet in effect.

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

"Suspension of Driver's License" – the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary [625 ILCS 5/1-204].

"Terminated Suspension" – a suspension that is no longer in effect.

- b) A person who has been convicted of theft of motor fuel as defined in Section 5/16J-15 of the Criminal Code of 1961 [720 ILCS 5/16J-15] shall have his/her driving privileges suspended by the Department.
- c) Upon notice of conviction, the Department shall take the following action:

ACTION TABLE

1st conviction

6 month suspension

2nd or subsequent conviction

12 month suspension

- d) A conviction for theft of motor fuel may be considered with prior convictions only if the arrest date falls within 7 years of any previous conviction for theft of motor fuel.

(Source: Added at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Airport Hazard Zoning
- 2) Code Citation: 92 Ill. Adm. Code 16
- 3) Section Number: Proposed Action:
16.APPENDIX A Amend
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to amend Section 16.Appendix A to add numerous publicly-owned airports to the Part. This Part prescribes requirements for administration and enforcement that restrict the height of structures, equipment, and vegetation, and that regulate the use of property, on or in the vicinity of publicly-owned airports. The following airports will be covered under this Part upon adoption of this proposed rulemaking: Greater Beardstown Airport (K06), Olney-Noble Airport (OLY), Lawrenceville-Vincennes Airport (LWV), Carmi Municipal Airport (CUL), Dixon Municipal Airport (C73), and Chicago O'Hare International Airport (ORD).
- 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 will not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed amendment. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Any future development, business, or small municipality located in the vicinity of those airports being added to this Part may be affected by this rulemaking. Additionally, other proposed objects situated under the surfaces described in Sections 16.40 - 16.110 such as farm ground, grain elevators, power companies, cell towers, radio towers, TV towers, etc., may also be impacted by this rulemaking. However, this proposed rulemaking has no impact on pre-existing businesses per Section 16.140.
- B) Reporting, bookkeeping or other procedures required for compliance: The Division must be notified concerning objects on airport property. (See Section 16.160.) For objects off airport property, the person or sponsor will be directed by the Division to notify the FAA. No bookkeeping requirements are anticipated.
- C) Types of professional skills necessary for compliance: If supplemental information (certified engineering/survey data) from a professional engineer,

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

architect or surveyor concerning the proposed site location and height is requested under Section 16.160(c)(2)(C), compliance with this request will be necessary.

- 14) Regulatory Agenda on which this rulemaking was summarized: This proposed amendment was not included on either of the 2 most recent regulatory agendas because: the Department could not anticipate the timing of the need for the amendment.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 16
AIRPORT HAZARD ZONING

Section

16.10	Purpose and Scope
16.20	Applicability
16.30	Definitions
16.35	Public Hearings
16.40	Surfaces and Height Limitations
16.50	Horizontal Surface
16.60	Conical Surface
16.70	Primary Surface
16.80	Approach Surface
16.90	Transitional Surfaces
16.100	Circling Approach Surface
16.110	Instrument Approach Obstruction Clearance Surface
16.120	Heliport/Vertiport Surfaces
16.130	Use Restrictions
16.140	Pre-Existing, Non-Conforming Uses (Grandfather Clause)
16.150	Pre-Existing, Non-Conforming Structures, Uses, or Vegetation Abandoned or Destroyed
16.160	Notice of Construction or Alteration of Any Structure
16.170	Permits
16.180	Variances
16.190	Administrative and Judicial Review
16.200	Penalties
16.210	Conflicting Regulations
16.220	Severability
16.APPENDIX A	Applicable Airports
16.ILLUSTRATION A	Airports Imaginary Surfaces
16.ILLUSTRATION B	Airports (Public- or Private-Use) Minimum Dimensional Standards
16.ILLUSTRATION C	Obstruction Standards (\leq 6 Nautical Miles)
16.ILLUSTRATION D	Obstruction Standards ($>$ 6 Nautical Miles)
16.ILLUSTRATION E	Public- or Private-Use Heliport/Vertiport Minimum Dimensional Standards

AUTHORITY: Implementing and authorized by the Airport Zoning Act [620 ILCS 25].

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted at 28 Ill. Reg. 2421, effective January 26, 2004; amended at 29 Ill. Reg. 12529, effective July 27, 2005; amended at 30 Ill. Reg. 14117, effective August 10, 2006; amended at 31 Ill. Reg. _____, effective _____.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENT

Section 16.APPENDIX A Applicable Airports

Airport	City	County	ARP Latitude	ARP Longitude	Fed Std.	State Std.	Applicable Date
SPI	Springfield	Sangamon	39-50.64	89-40.66	X		Jan. 26, 2004
MLI	Moline	Rock Island	41-26.91	90-30.45	X		July 29, 2005
SQI	Sterling-Rock Falls	Whiteside	41-44.57	89-40.58	X		July 29, 2005
SLO	Salem	Marion	38-38.57	88-57.85	X		July 29, 2005
H96	Benton	Franklin	38-00.41	88-56.07	X		Sept. 15, 2006
CIR	Cairo	Alexander	37-03.87	89-13.18	X		Sept. 15, 2006
CTK	Canton	Fulton	40-34.15	90-04.49	X		Sept. 15, 2006
DEC	Decatur	Macon	39-50.08	88-51.94	X		Sept. 15, 2006
DKB	DeKalb	DeKalb	41-56.02	88-42.34	X		Sept. 15, 2006
GBG	Galesburg	Knox	40-56.28	90-25.87	X		Sept. 15, 2006
HSB	Harrisburg	Saline	37-48.69	88-32.95	X		Sept. 15, 2006
IJX	Jacksonville	Morgan	39-46.48	90-14.30	X		Sept. 15, 2006
JOT	Joliet	Will	41-31.08	88-10.52	X		Sept. 15, 2006
EZI	Kewanee	Henry	41-12.31	89-57.83	X		Sept. 15, 2006
IGQ	Lansing	Cook	41-32.09	87-31.77	X		Sept. 15, 2006
MWA	Marion	Williamson	37-45.30	89-00.67	X		Sept. 15, 2006
MTO	Mattoon	Coles	39-28.68	88-16.75	X		Sept. 15, 2006
PRG	Paris	Edgar	39-42.01	87-40.17	X		Sept. 15, 2006
3MY	Peoria	Peoria	40-47.72	89-36.80	X		Sept. 15, 2006
PIA	Peoria	Peoria	40-39.86	89-41.60	X		Sept. 15, 2006
VYS	Peru	LaSalle	41-21.11	89-09.19	X		Sept. 15, 2006
LOT	Romeoville	Will	41-36.44	88-05.77	X		Sept. 15, 2006
DPA	West Chicago	DuPage	41-54.47	88-14.92	X		Sept. 15, 2006
<u>K06</u>	<u>Beardstown</u>	<u>Cass</u>	<u>39-58.40</u>	<u>90-24.22</u>	<u>X</u>		<u>Feb. 28, 2007</u>
<u>OLY</u>	<u>Olney</u>	<u>Richland</u>	<u>38-43.31</u>	<u>88-10.59</u>	<u>X</u>		<u>Feb. 28, 2007</u>
<u>LWV</u>	<u>Lawrenceville</u>	<u>Lawrence</u>	<u>38-45.86</u>	<u>87-36.33</u>	<u>X</u>		<u>Feb. 28, 2007</u>
<u>CUL</u>	<u>Carmi</u>	<u>White</u>	<u>38-05.38</u>	<u>88-07.38</u>	<u>X</u>		<u>Feb. 28, 2007</u>
<u>C73</u>	<u>Dixon</u>	<u>Lee</u>	<u>41-50.02</u>	<u>89-26.77</u>	<u>X</u>		<u>Feb. 28, 2007</u>
<u>ORD</u>	<u>Chicago</u>	<u>Cook</u>	<u>41-58.72</u>	<u>87-54.29</u>	<u>X</u>		<u>Feb. 28, 2007</u>

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Carmi Municipal Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 26
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
26.5	Repeal
26.10	Repeal
26.20	Repeal
26.30	Repeal
26.40	Repeal
26.50	Repeal
26.60	Repeal
26.70	Repeal
26.80	Repeal
26.90	Repeal
26.100	Repeal
26.110	Repeal
26.120	Repeal
26.130	Repeal
26.140	Repeal
26.150	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15 ½, par. 48.1 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Carmi Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule 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 have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
 - 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 proposed repealer was not included on either of the 2 most recent agendas because: the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 26
CARMI MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

26.5	Introduction
26.10	Short Title
26.20	Definitions
26.30	Surfaces and Height Limitations
26.40	Use Restrictions
26.50	Non-Conforming Uses
26.60	Permits
26.70	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
26.80	Variances
26.90	Notice of Construction or Alteration
26.100	Enforcement
26.110	Appeal and Judicial Review
26.120	Penalties
26.130	Conflicting Regulations
26.140	Severability
26.150	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective March 15, 1975; codified at 6 Ill. Reg. 15259; repealed at 31 Ill. Reg. _____, effective _____.

Section 26.5 Introduction

- a) These zoning regulations are adopted at the request of the City of Carmi, a municipal corporation of the State of Illinois, as owner and operator of the Carmi Municipal Airport, pursuant to the authority conferred by an Act entitled the Airport Zoning Act, (Ill. Rev. Stat., 1975, ch 15½, par. 48.1 et seq.) It is hereby found that an airport hazard endangers the lives and property of users of Carmi Municipal Airport and of occupants of land or to property in its vicinity, and also,

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

if the obstruction type, in effect, reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Carmi Municipal Airport and the public investment therein.

Accordingly, it is declared:

- 1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Carmi Municipal Airport;
 - 2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and
 - 3) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.
- b) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Carmi Municipal Airport be adopted as follows:

Section 26.10 Short Title

These zoning regulations shall be known and may be cited as "Carmi Municipal Airport Hazard Zoning Regulations".

Section 26.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Carmi Municipal Airport located near Carmi, beginning at the Southwest corner of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 17, Township 5 South, Range 10 East of the Third Principal Meridian, White County, Illinois; thence S 88° 44' 30" W 300' along the South line of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section; thence S 1° 11' 04" E 3923.84' parallel to the West line of the East $\frac{1}{2}$ of the east $\frac{1}{2}$ of the said Section to the South line of said Section; thence N 89° 26' 15" W along said South line 845.79'; thence N 1° W

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

4999.29' parallel to the North/South centerline of said Section; thence S 89° 22' 45" E parallel to the North line of said Section 99.99'; thence N 1° W 300' to the North line of said Section; thence S 89° 22' 45" E along said North line 1364.67'; thence S 1° 1350.47' to the South line of the Northeast ¼ of the Northeast ¼ of Section 17, thence S 88° 44' 30" W along said South line 330.87' to the point of beginning, and containing 120 acres more or less.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 384' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38° 05' 24" N and Longitude 88° 07' 21" W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" - The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this State and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 26.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 26.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 26.30 Surfaces and Height Limitations

- a) Establishment and Creation
 - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.
 - 2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Map for Carmi, Municipal Airport consisting of two (2) sheets, prepared by William J. Murray & Associates and dated September 26, 1975, and referred to hereinafter as the zoning map (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

- 3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
 - b) Horizontal Surface
 - 1) A horizontal plane 150' above the established airport elevations of 384.0' above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.
 - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.
 - c) Conical Surface
 - 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150' above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
 - 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- d) Primary Surface
- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200' beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
 - A) 250' for utility runways having only visual approaches;
 - B) 500' for utility runways having non-precision instrument approaches;
 - C) For other than utility runways, the width is:
 - i) 500' for visual runways having only visual approaches;
 - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
 - iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
 - 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- A) 1,250' for that end of a utility runway with only visual approaches;
 - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
 - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
 - D) 3,500' for that end of a non-precision instrument visibility minimums greater than three-fourths of a statute mile;
 - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - F) 16,000' for precision instrument runways.
- 2) The approach surface extends for a horizontal distance of:
- A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;
 - B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and
 - C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of for feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 384.0 feet above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.

- g) Circling Approach Surface – This is a surface 200' above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Carmi Municipal Airport and this surface increases in height in the proportion of 100' for each additional nautical mile of distance from the airport reference point up to a maximum of 500'.
- h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50' above the surface of the land.

Section 26.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 26.50 Non-Conforming Uses

- a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 26.50 (a), the

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Carmi.

Section 26.60 Permits

- a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
 - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75' of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200' from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.
 - 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75' of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
 - 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75' of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 26.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may issue an order, in cases where the remaining structure or use or growth constitutes a violation of these zoning regulations, compelling the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 26.80 Variances

- a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 26.90 Notice of Construction or Alteration

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 26.30 hereof with respect to Carmi Municipal Airport:
- 1) Any construction or alteration of more than 200' in height above the ground level at its site.
 - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
 - A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3200' in actual length.
 - B) 50 to 1 for a horizontal distance of 10,000' from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200' in actual length.
 - 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.
 - 4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.

- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Carmi Municipal Airport:
 - 1) Any antenna structure of 20' or less in height except one that would increase the height of another antenna structure.
 - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.
- c) Form and Time of Notice
 - 1) Each person who is required to notify the Department under Paragraph a) shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.
 - 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
 - 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in Paragraph (2) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.
- d) Acknowledgement of Notice
 - 1) The Department will acknowledge in writing the receipt of such notice submitted under Paragraph a) above within 30 days of receipt of such notice.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 2) The acknowledgement will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
 - A) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or
 - B) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or
 - C) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or
 - D) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
 - E) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 26.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 26.110 Appeal and Judicial Review

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.

- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of White County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law, (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et. seq.).

Section 26.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a petty offense, and such hazard shall be removed by proper legal proceedings and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of White County, Illinois, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 26.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 26.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 26.150 Effective Date

- a) Whereas, the immediate application of the provisions of these zoning regulations

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, Concurrence by the Illinois Commerce Commission and the filing with the Secretary of State.

- b) Adopted by the Division of Aeronautics on the 28th day of January, 1976.
- c) Concurred in by the Illinois Commerce Commission on the 3rd day of March, 1976.
- d) Certified copy filed with the Secretary of State's Office on the 15th day of March, 1976.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Chicago-O'Hare International Airport Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 28
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
28.5	Repeal
28.10	Repeal
28.20	Repeal
28.30	Repeal
28.40	Repeal
28.50	Repeal
28.60	Repeal
28.70	Repeal
28.80	Repeal
28.90	Repeal
28.100	Repeal
28.110	Repeal
28.120	Repeal
28.130	Repeal
28.140	Repeal
28.150	Repeal
28.160	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15 ½, par. 48.1 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Chicago O'Hare International Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule 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 have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
 - C) 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 proposed repealer was not included on either of the 2 most recent agendas because the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 28
CHICAGO-O'HARE INTERNATIONAL AIRPORT
ZONING REGULATIONS (REPEALED)

Section

28.5	Introduction
28.10	Short Title
28.20	Definitions
28.30	Zones
28.40	Height Limitations
28.50	Use Restrictions
28.60	Non-Conforming Uses
28.70	Spacing Adjacent Airports, Restricted Landing Areas, Restricted Landing Areas – Heliports
28.80	Permits
28.90	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
28.100	Variances
28.110	Enforcement
28.120	Judicial Review
28.130	Penalties
28.140	Conflicting Regulations
28.150	Severability
28.160	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective November 22, 1965; codified at 6 Ill. Reg. 15261; repealed at 31 Ill. Reg. _____, effective _____.

Section 28.5 Introduction

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Chicago-O'Hare International Airport by creating airport approach zones, transition zones, horizontal zones and conical zone, and establishing the

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

boundaries thereof; providing for changes in the restrictions and boundaries of such zones; defining certain terms used herein; referring to the Chicago-O'Hare International Airport approach plan and zoning map (Note: this zoning map can be viewed at the Department of Transportation, 2300 S. Dirksen Parkway, Springfield, Illinois, 62764. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) ; providing for enforcement; and imposing penalties in the interest of public safety and welfare.

- b) These zoning regulations are adopted at the request of the City of Chicago, a municipal corporation of the State of Illinois, as owner and operator of Chicago-O'Hare International Airport, pursuant to the authority conferred by an Act entitled the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1). It is hereby found that within the zones hereinafter described an airport hazard area exists in connection with the maintenance and operation of Chicago-O'Hare International Airport and, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Chicago-O'Hare International Airport and the public investment therein. Accordingly, it is declared:
- 1) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Chicago-O'Hare International Airport;
 - 2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
 - 3) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- c) It is hereby determined by the Department of Aeronautics, State of Illinois, that the zoning regulations for Chicago-O'Hare International Airport be adopted as follows:

Section 28.10 Short Title

These zoning regulations shall be known and may be cited as "Chicago-O'Hare International Airport Zoning Regulations".

Section 28.20 Definitions

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – means Chicago-O'Hare International Airport, located in Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 20, Township 40 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois; Sections 25, 35, 36, Township 41 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois; Sections 30, 31, 32, Township 41 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois; and Sections 1, 12, 13, Township 40 North, Range 11 East of the Third Principal Meridian in DuPage County, Illinois.

"Airport Elevation" – means the established elevation of the highest point on the useable landing area; the established airport elevation shall be 667' above mean sea level.

"Airport Hazard" – means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at the airport or is otherwise hazardous to such landing or taking-off of aircraft or to the area surrounding the airport

"Airport Reference Point" – means the point established as the approximate geographic center of the airport landing area and so designated.

"Alteration" – means any construction which would result in a change in height of lateral dimensions of an existing structure.

"Construction" – means the erection or alteration of any structure either of a permanent or temporary character.

"Department" – means the Department of Transportation, Division of Aeronautics of the State of Illinois.

"Height" – means the overall height of the top of a structure including any appurtenance installed thereon, the city datum is the datum of the City of Chicago which shall be 579.0 feet above mean sea level elevation unless otherwise specified.

"Instrument Runway" – means a runway equipped or having the potential of being equipped with electronic or visual air navigation aids adequate to permit the landing of aircraft under restricted visibility conditions.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Landing Area" – means the area of the airport used for the landing, taking-off or taxiing of aircraft.

"Non-Conforming Use" – means any structure, tree, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Instrument Runway" – means a runway other than an instrument runway.

"Permit" – means a permit issued by an affected political subdivision where referred to herein.

"Person" – means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

"Political Subdivision" – means any municipality, city, incorporation town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the zones established by Sections 28.3, and 28.50 hereof.

"Runway" – means the paved surface of an airport landing strip.

"Slope Ratio" – means a numerical expression of a stated relationship of height to horizontal distance, e.g., 1 to 100 means one foot vertically for each one hundred feet of horizontal distance.

"State" – means the State of Illinois.

"Structure" – means any form of construction or apparatus of a permanent or temporary character, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Tree" – means any object of natural growth.

"Variance" – means a grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 28.100.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 28.30 Zones

In order to carry out the provisions of these zoning regulations, there are hereby created and established certain zones which include all of the land lying within the Instrument Approach Zones, Non-Instrument Approach Zones, Transition Zones, Horizontal Zones and Conical Zones. Such areas and zones are shown on the Chicago-O'Hare International Airport Approach Plan and Zoning Map consisting of one (1) sheet, prepared by the Department of Aeronautics, and dated December 16th, 1964 (Revision 1 to O'Hare Field Airport Approach Plan) (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). The various zones are hereby established and defined as follows:

- a) Instrument Approach Zone – an instrument approach zone is hereby established at each end of each instrument runway for instrument landings and take-offs. The instrument approach zones shall have a width of 1000 feet at a point 200 feet from the end of the runway widening thereafter uniformly to a width of 16,000 feet at a distance of 50,200 feet from the end of the runway, its centerline being the continuation of the centerline of the runway.
- b) Non-Instrument Approach Zone – a non-instrument approach zone is hereby established at each end of each non-instrument runway for non-instrument landings and take-offs. The non-instrument approach zone shall have a width of 1000 feet at a point 200 feet from the end of the runway widening thereafter uniformly to a width of 4000 feet at a distance of 10,200 feet from the end of the runway, its centerline being the continuation of the centerline of the runway.
- c) Transition Zones – transition zones are hereby established adjacent to each instrument and non-instrument runway and approach zone as indicated on the zoning map. Transition zones located normal to and at the elevation of the centerline of instrument and non-instrument runways, have variable widths as shown on the zoning map. Transition zones extend outward from a line 500 feet normal to and at the elevation of the centerline of the non-instrument runway, for the length of such runway plus 200 feet on each end; and 500 feet normal to and at the elevation of the centerline of the instrument runway, for the length of such runway plus 200 feet on each end, and are parallel and level with such runway centerlines. The transition zones along such runways slope upward and outward one (1) foot vertically for each seven (7) feet horizontally to the point where they intersect the surface of the inner horizontal zone. Further, transition zones are established adjacent to both instrument and non-instrument approach zones, having variable widths, as shown on the zoning map. Such transition zones flare

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

symmetrically with either side of the runway approach zones from the base of such zones and slope upward and outward at the rate of one (1) foot vertically for each seven (7) foot horizontally to the points where they intersect the surface of the inner horizontal zone. Additionally, transition zones are established adjacent to each instrument approach zone where it projects through and beyond the limits of the outer horizontal zone, extending a distance of 5000 feet measured horizontally from the edge of the instrument approach zones at right angles to the continuation of the centerline of the runway.

- d) Inner Horizontal Zone – an inner horizontal zone is hereby established as the area within a circle with its center at the Airport Reference Point and having a radius of 20,200 feet.
- e) Conical Zone – a conical zone is hereby established as the area that commences at the periphery of the inner horizontal zone and extends outward therefrom a distance of 8000 feet.
- f) Outer Horizontal Zone – an outer horizontal zone is hereby established as the area that commences at the periphery of the conical zone and extends outward therefrom a distance of 6000 feet.

Section 28.40 Height Limitations

- a) Except as otherwise provided in these zoning regulations, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by these zoning regulations to a height in excess of the height limit herein established for such zone. Such height limitations are computed from the established airport elevation and are hereby established for each of the zones in question as follows:
 - 1) Instrument Approach Zone – One (1) foot in height for each sixty (60) feet in horizontal distance beginning at a point 200 feet from the end of the instrument runway and extending to the distance of 10,200 feet from the end of the runway; thence one (1) foot in height for each fifty (50) feet in horizontal distance to a point 50,200 feet from the end of the runway.
 - 2) Non-Instrument Approach Zone – One (1) foot in height for each fifty (50) feet in horizontal distance beginning at a point 200 feet from the end of the non-instrument runway and extending to a point 10,200 feet from the end of the runway.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 3) Transition Zones – One (1) foot in height for each seven (7) feet in horizontal distance beginning at a point 500 feet normal to and at the elevation of the centerline of non-instrument runways, extending 200 feet beyond each end thereof and 500 feet normal to and at the elevation of the centerline of the instrument runway, extending 200 feet beyond each end thereof, extending upward to a maximum height of 150 feet above the established airport elevation which is +237.1 feet above city datum. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edges of all approach zones and extending upward and outward to the points where they intersect the inner horizontal surface. Further, where the instrument approach surface projects through and beyond the outer horizontal zone, a height limit at the rate of one (1) additional foot for each seven (7) feet of horizontal distance shall be maintained beginning at the edge of the instrument approach zone and extending a distance of 5000 feet from the edge of the instrument approach zone measured normal to the continuation of the centerline of the runway extended.
 - 4) Inner Horizontal Zone – Thirty-five (35) feet above the established airport elevation which is +122.1 feet above city datum, measured at the periphery of Chicago-O'Hare International Airport, thence extending upward and outward at the rate of one (1) additional foot in height for each sixty (60) feet in horizontal distance to a height of one-hundred-fifty (150) feet above the established airport elevation which is +237.1 feet above city datum, which height is then constant to the outer end of the inner horizontal zone.
 - 5) Conical-Zone – One (1) foot in height for each forty (40) feet of horizontal distance beginning at the periphery of the inner horizontal zone and at the elevation established therein, extending to a height of 350 feet above the established airport elevation which is +437.1 feet above city datum; and
 - 6) Outer Horizontal Zone – Three hundred-fifty (350) feet above the established airport elevation which is +437.1 feet above city datum.
- b) Where a zone is covered by more than one (1) height limitation, the more restrictive limitation shall prevail.

Section 28.50 Use Restrictions

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- a) General – Notwithstanding any other provisions of these zoning regulations, no use may be made of land within any zone in such a manner as to create electrical or electronic interference with radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for flyers because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of flyers using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of flyers and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

- b) Land Use Restriction Zone – In that portion of the approach zone at each end of each instrument and non-instrument runway as indicated on the zoning map, is hereby established an area hereinafter referred to as the land use restriction zone. The land use restriction zone shall have a width of 1000 feet at a point 200 feet from the end of each runway widening thereafter uniformly to a width of 4000 feet at a distance of 10,200 feet from the end of each runway. Any land use established within the land use restriction zone subsequent to the effective date of these zoning regulations shall be subject to the control of the affected political subdivision. To the extent where feasible, such political subdivision shall discourage further development of residential buildings and places of public assembly involving educational, institutional, amusement, and recreational uses. Any repeal or application for an amendment, variation, or special use to a zoning ordinance or other ordinance of a political subdivision affecting land use within the land use restriction zone shall require a public hearing and notice to be made to the City of Chicago, the Department, and the Federal Aviation Agency, at least thirty (30) days prior to the public hearing.

Section 28.60 Non-Conforming Uses

- a) Regulations Not Retroactive – These zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to these zoning regulations as of the effective date, or otherwise interfere with the continuance of any non-conforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations, and is diligently prosecuted.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- b) Marking and Lighting – Notwithstanding the provisions of Section 28.60(a), the owner of any existing non-conforming structure or tree is hereby required to permit the trimming of trees or the installation, operation and maintenance on such structures of such markers and lights as shall be deemed necessary by the Department to indicate to flyers in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the City of Chicago.

Section 28.70 Spacing Adjacent Airports, Restricted Landing Areas, Restricted Landing Areas – Heliports

No airport or restricted landing area or restricted landing area-heliport shall be established within the zones hereinbefore described.

Section 28.80 Permits

After the effective date of these zoning regulations, the plans and specifications submitted by any person in connection with the application to any political subdivision for a building permit must be in compliance with the regulation as herein set forth and with the requirements of Objects Affecting Navigable Airspace (14 CFR 77) of the Federal Aviation Regulation issued by the Federal Aviation Agency and, if applicable, with the requirements of Part 15, Radio Frequency Devices (47 CFR 15); Part 17, Construction, Marking and Lighting of Antenna Structures, (47 CFR 17); and Part 18 Industrial, Scientific and Medical Equipment, (47 CFR 18) Rules and Regulations of the Federal Communication Commission. Any permit issued in contravention of these zoning regulations shall be void.

Section 28.90 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use has been abandoned or more than 80 per cent torn down, destroyed or deteriorated:

- a) No permit shall be granted that will allow such structure or use to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use, at his own expense, to lower, remove, reconstruct, or equip such structure or use as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use shall neglect or refuse to comply with such order within 10 days after notice thereof, the Department may proceed to have such structure or use so lowered, removed, reconstructed or equipped and shall have a

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 28.100 Variances

- a) General – Any person wishing to erect or increase the height of any structure, or permit any growth of any tree, or use his property, not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of the structure to permit, at the expense of the City of Chicago, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to flyers the presence of such structure.

Section 28.110 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for variances required by these zoning regulations to be submitted to the Department shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 28.120 Judicial Review

Any person aggrieved by any decision of the Department may appeal in accordance with the provisions of an Act entitled "The Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, par. 3-101 et seq.).

Section 28.130 Penalties

- a) Each violation of these zoning regulations or of any order or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

punished by a fine of not more than two hundred dollars (\$200) and each day a violation continues to exist shall constitute a separate offense.

- b) In addition, the Department may institute in the Circuit Court of Cook or DuPage County, in whichever county the airport hazard area is located, in whole or in part, in connection with which these zoning regulations were adopted, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 28.140 Conflicting Regulations

Where there exists a conflict between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 28.150 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end the provisions of these zoning regulations are declared to be severable.

Section 28.160 Effective Date

- a) Whereas, the immediate application of the provisions of these zoning regulations are necessary for the preservation of the public health, public safety, and general welfare, an EMERGENCY is hereby declared to exist, and these regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.
- b) Adopted by the Department of Aeronautics this 16th day of December, 1964.
- c) Concurred in by the Illinois Commerce Commission this 6th day of January, 1965.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- d) Certified copy filed with the Secretary of State this 20th day of January, 1965.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Lawrenceville-Vincennes Municipal Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 56
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
56.5	Repeal
56.10	Repeal
56.20	Repeal
56.30	Repeal
56.40	Repeal
56.50	Repeal
56.60	Repeal
56.70	Repeal
56.80	Repeal
56.90	Repeal
56.100	Repeal
56.110	Repeal
56.120	Repeal
56.130	Repeal
56.140	Repeal
56.150	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15 ½, par. 48.1 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Lawrenceville-Vincennes Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule 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 have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
 - D) 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 proposed repealer was not included on either of the 2 most recent agendas because the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 56
LAWRENCEVILLE-VINCENNES MUNICIPAL AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

56.5	Introduction
56.10	Short Title
56.20	Definitions
56.30	Surfaces and Height Limitations
56.40	Use Restrictions
56.50	Non-Conforming Uses
56.60	Permits
56.70	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
56.80	Variances
56.90	Notice of Construction or Alteration
56.100	Enforcement
56.110	Appeal and Judicial Review
56.120	Penalties
56.130	Conflicting Regulations
56.140	Severability
56.150	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Emergency rule adopted December 14, 1973; codified at 6 Ill. Reg. 15275; repealed at 31 Ill. Reg. _____, effective _____.

Section 56.5 Introduction

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Lawrenceville-Vincennes Municipal Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Lawrenceville-Vincennes Municipal Airport zoning map (Note: this zoning map

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) ; providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of the Bi-State Authority, a municipal corporation of the State of Illinois, as owner and operator of Lawrenceville-Vincennes Municipal Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Lawrenceville-Vincennes Municipal Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Lawrenceville-Vincennes Municipal Airport and the public investment therein.
 - 1) Accordingly, it is declared:
 - A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Lawrenceville-Vincennes Municipal Airport;
 - B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
 - C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
 - 2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.
- c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Lawrenceville-Vincennes Municipal Airport be adopted as follows:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 56.10 Short Title

These zoning regulations shall be known and may be cited as "Lawrenceville-Vincennes Municipal Airport Hazard Zoning Regulations".

Section 56.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Lawrenceville-Vincennes Municipal Airport located near Lawrenceville, in Sections 22, 23, 24, 25, 26 and 27, Township 4 North, Range 11 West of the Second Principal Meridian, Lawrence County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 429 feet above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 38° 45' 52" and Longitude 87° 36' 19".

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs or foliage.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on a Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including the Bi-State Authority, Lawrenceville-Vincennes Municipal Airport, this State and the Department of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 56.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and so indicated by an Federal Aviation Administrator (FAA) Approved Layout Plan.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Runway" – The prepared surface of an airport landing strip.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 1 to 100 means one foot vertically for each one hundred feet of horizontal distance.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 56.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedures and no instrument designation indicated on an FAA Approved Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 56.30 Surfaces and Height Limitations

- a) Establishment and Creation
 - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.
 - 2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision non-instrument approach and visual approach, transitional

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

surface and circling approach surface. These surfaces are shown on the Airport Zoning Plan for Lawrenceville-Vincennes Municipal Airport consisting of two (2) sheets, prepared by William J. Murray and Associates, and dated April 23, 1973, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

- 3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
 - b) Horizontal Surface
 - 1) A horizontal plane 150' above the established airport elevations of 429.00 feet above mean sea level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.
 - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.
 - 3) The horizontal surface does not include the approach and transitional surfaces.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- c) Conical Surface
 - 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
 - 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

- d) Primary Surface
 - 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
 - A) 250' for utility runways having only visual approaches;
 - B) 500' for utility runways having non-precision instrument approaches;
 - C) For other than utility runways, the width is:
 - i) 500' for visual runways having only visual approaches;
 - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
 - iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
 - 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - A) 1,250' for that end of a utility runway with only visual approaches;
 - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
 - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
 - D) 3,500' for that end of a non-precision instrument runway, other than utility, having visibility minimums greater than three-fourths of a statute mile;
 - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - F) 16,000' for precision instrument runways.
 - 2) The approach surface extends for a horizontal distance of:
 - A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;
 - B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and
 - C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
 - 3) The outer width of an approach surface to an end of a runway will be that

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

width prescribed in this subsection for the most precise approach existing or planned for that runway end.

- f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 579 feet above mean sea level (AMSL). Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
- g) Circling Approach Surface – This is a surface 200' above ground level (AGL) and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Lawrenceville-Vincennes Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
- h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land, providing the growth or structure does not penetrate the approach surface..

Section 56.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and other, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

Section 56.50 Non-Conforming Uses

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 56.50 (2) the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Lawrenceville-Vincennes Municipal Airport.

Section 56.60 Permits

- a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
 - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.
 - 2) In the areas lying within the limits of visual, precision instrument and non-

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

precision instrument approach surfaces, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.

- 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 56.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

Section 56.80 Variances

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a Variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 56.90 Notice of Construction or Alteration

- a) Construction or Alteration Requiring Notice - The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitation established herein by Section 56.30 hereof with respect to Lawrenceville-Vincennes Municipal Airport:
 - 1) Any construction or alteration of more than 200' in height above the ground level at its site.
 - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
 - A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least one runway more than 3,200 feet in actual length.
 - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.
 - 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a) (1) or (a) (2) of this Section.

- 4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department of these zoning regulations.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Lawrenceville-Vincennes Municipal Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
 - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.
- c) Form and Time of Notice
- 1) Each person who is required to notify the Department under paragraph (a) of this section shall forward one (1) executed form set (in four copies) of the Department's Form No. DA-39 to the Division of Aeronautics, Capital Airport, Springfield, Illinois 62706. Copies of this form may be obtained from the Department.
 - 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
 - 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration,

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

the thirty (30) day requirement in paragraph (c)(1) above does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

- d) Acknowledgment of Notice. The Department will acknowledge in writing the receipt of such notice submitted under paragraph (c)(1) above. The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
- 1) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or
 - 2) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or
 - 3) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or
 - 4) Would require lighting or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
 - 5) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 56.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied by the Department.

Section 56.110 Appeal and Judicial Review

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Lawrence County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, "The Administrative Review Law" (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et. seq.).

Section 56.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Lawrence County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 56.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 56.140 Severability

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application,

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

and to this end, the provisions of these zoning regulations are declared to be severable.

Section 56.150 Effective Date

- a) Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.
- b) Adopted by the Department of Aeronautics this 21st day of June, 1973.
- c) Concurred in by the Illinois Commerce Commission this 5th day of December, 1973.
- d) Certified copy filed with the Secretary of State this 13th day of December, 1973.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Olney-Noble Airport Hazard Zoning Regulations
- 2) Code Citation: 92 Ill. Adm. Code 72
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
72.5	Repeal
72.10	Repeal
72.20	Repeal
72.30	Repeal
72.40	Repeal
72.50	Repeal
72.60	Repeal
72.70	Repeal
72.80	Repeal
72.90	Repeal
72.100	Repeal
72.110	Repeal
72.120	Repeal
72.130	Repeal
72.140	Repeal
72.150	Repeal
- 4) Statutory Authority: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15 ½, par. 48.1 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Olney-Noble Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule 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 have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
 - E) 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 proposed repealer was not included on either of the 2 most recent agendas because the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 72
OLNEY-NOBLE AIRPORT
HAZARD ZONING REGULATIONS (REPEALED)

Section

72.5	Introduction
72.10	Short Title
72.20	Definitions
72.30	Surfaces and Height Limitations
72.40	Use Restrictions
72.50	Non-Conforming Uses
72.60	Permits
72.70	Non-Conforming Structures or Uses or Growth Abandoned or Destroyed
72.80	Variances
72.90	Notice of Construction or Alteration
72.100	Enforcement
72.110	Appeal and Judicial Review
72.120	Penalties
72.130	Conflicting Regulations
72.140	Severability
72.150	Effective Date

AUTHORITY: Implementing and authorized by the Airport Zoning Act (Ill. Rev. Stat. 1981, ch. 15½, par. 48.1 et seq.).

SOURCE: Filed and effective March 19, 1974; codified at 6 Ill. Reg. 15576; repealed at 31 Ill. Reg. _____, effective _____.

Section 72.5 Introduction

- a) Zoning provisions regulating and restricting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of the Olney-Noble Airport by creating appropriate surfaces, and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Olney-Noble Airport zoning plans (Note: this zoning map can be viewed at the Department of

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.) ; providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) These zoning regulations are adopted at the request of the Olney-Nobel Airport Authority, a municipal corporation of the State of Illinois, as owner and operator of Olney-Noble Airport, pursuant to the authority conferred by an Act entitled, the Airport Zoning Act as approved July 17, 1945, (Ill. Rev. Stat. 1981, ch. 15½, pars. 48.1 et seq.). It is hereby found that an airport hazard endangers the lives and property of users of Olney-Noble Airport and of occupants of land or to property in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of Olney-Noble Airport and the public investment therein.
- 1) Accordingly, it is declared:
- A) that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Olney-Noble Airport;
 - B) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented, and
 - C) that the prevention of these hazards should be accomplished to the extent legally possible by the exercise of the police power without compensation.
- 2) It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.
- c) It is hereby determined by the Department of Transportation, Division of Aeronautics, State of Illinois, that the zoning regulations for Olney-Noble Airport be adopted as follows:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 72.10 Short Title

These zoning regulations shall be known and may be cited as "Olney-Noble Airport Hazard Zoning Regulations".

Section 72.20 Definitions

As used in these zoning regulations, unless the context otherwise requires:

"Airport" – The Olney-Noble Airport located near Olney-Noble, in the Southwest $\frac{1}{4}$ and the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 15; and the South $\frac{1}{2}$ of the Southeast $\frac{1}{4}$, the Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, the Southwest $\frac{1}{4}$, and the Southwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, and the Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 16; and the Southeast $\frac{1}{4}$ of Section 20; and the Northwest $\frac{1}{4}$, the Southwest $\frac{1}{4}$ and the Northeast $\frac{1}{4}$ of Section 21; and the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 22, all in Township 16 North, Range 3 East of the Third Principal Meridian, Macon County, Illinois.

"Airport Elevation" – The established elevation of the highest point on the useable landing area; the established airport elevation shall be 478' above mean sea level (AMSL).

"Airport Hazard" – Any structure, growth, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking off at the airport.

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude $38^{\circ} 43' 20''$ N and Longitude $88^{\circ} 10' 44''$ W.

"Alteration" – Any construction which would result in a change in height of lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Federal Aviation Regulations, Objects Affecting Navigable Airspace (14 CFR 77).

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Department" – The Department of Transportation, Division of Aeronautics of the State of Illinois.

"Growth" – Any object of natural growth, including trees, shrubs and foliage.

"Height" – The overall height of the top of a structure including any appurtenance installed thereon, and for the purpose of determining the height limits in all zones set forth in these regulations and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

"Landing Area" – The area of the airport used for the landing, taking off or taxiing of aircraft.

"Non-Conforming Use" – Any structure, growth, or use of land which is lawfully in existence at the time these zoning regulations or an amendment thereto becomes effective and does not then meet the requirements of said regulations.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an Federal Aviation Administration (FAA) planning document or military service, military airport planning document.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics.

"Person" – An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including Olney-Noble Airport Authority, Olney-Noble Airport, this State, Department of Transportation, and the Division of Aeronautics.

"Political Subdivision" – Any municipality, city, incorporated town, village, county, township, district, or authority, or any combination of two or more thereof, situated in whole or in part within any of the surfaces established by Section 72.30 hereof.

"Precision Instrument Runway" – A runway having an existing instrument

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR) or a runway for which a precision approach system is planned and is so indicated by an FAA Approved Layout Plan.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of either a specially prepared hard surface or turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance of each one foot vertically.

"State" – The State of Illinois.

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of these zoning regulations, in accordance with Section 72.80.

"Visual Runway" – A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA Approved Airport Layout Plan, or by any planning document, submitted to the FAA by competent authority.

Section 72.30 Surfaces and Height Limitations

- a) Establishment and Creation
 - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 2) Such airport imaginary surfaces are hereby created and established, in order to carry out the provisions of these zoning regulations. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface to include non-precision instrument approach, precision instrument approach and visual approach, transitional surface and circling approach surface. These surfaces are shown on the Airport Zoning Plan for Olney-Noble Airport consisting of three (3) sheets, prepared by William J. Murray and Associates, and dated August 11, 1972, (Note: this zoning map can be viewed at the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois, 62706. For an example of this information see 92 Ill. Adm. Code 18, Exhibits A, B and C.). An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.
- 3) Except as otherwise provided in these zoning regulations, no structure or growth shall be erected, altered, allowed to grow, or maintained in any surface created by these zoning regulations to a height in excess of the height limit herein established for such surfaces.
- 4) The various surfaces are hereby established, and the height limitations are hereby established for each of the surfaces, as follows:
 - b) Horizontal Surface
 - 1) A horizontal plane 150' above the established airport elevations of 478.00 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.
 - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

surface. The horizontal surface does not include the approach and transitional surfaces.

c) Conical Surface

- 1) A surface extending outward and upward from the periphery of the horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.
- 2) The conical surface does not include the precision instrument approach surfaces and the transitional surfaces.

d) Primary Surface

- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
 - A) 250' for utility runways having only visual approaches;
 - B) 500' for utility runways having non-precision instrument approaches;
 - C) For other than utility runways, the width is:
 - i) 500' for visual runways having only visual approaches;
 - ii) 500' for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
 - iii) 1,000' for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.
- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - A) 1,250' for that end of a utility runway with only visual approaches;
 - B) 1,500' for that end of runway other than a utility runway with only visual approaches;
 - C) 2,000' for that end of a utility runway with a non-precision instrument approach;
 - D) 3,500' for that end of a non-precision instrument runway other than utility, having visibility minimums greater than three-fourths of a statute mile;
 - E) 4,000' for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - F) 16,000' for precision instrument runways.
 - 2) The approach surface extends for a horizontal distance of:
 - A) 5,000' at a slope of 20' horizontally for each foot vertically for all utility and visual runways;
 - B) 10,000' at a slope of 34' horizontally for each foot vertically for all non-precision instrument runways other than utility; and
 - C) 10,000' at a slope of 50' horizontally for each foot vertically with an additional 40,000' at a slope of 40 feet horizontally for each foot

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

vertically for all precision instrument runways.

- 3) The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.
- f) Transitional Surface – These surfaces extend outward and upward at right (90°) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150' above the airport elevation which is 478.0 feet above mean sea level. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000' measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
- g) Circling Approach Surface – This is a surface 200' above ground level and above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of Olney-Noble Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
- h) Excepted Height Limitations – Nothing in these regulations shall be construed as prohibiting the growth, construction or maintenance of any growth or structure to a height up to 50 feet above the surface of the land, providing the growth or structure does not penetrate the approach surface.

Section 72.40 Use Restrictions

Notwithstanding any other provisions of these zoning regulations, no use may be made of land or water within any surface established by these zoning regulations in such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft; or to the installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots because of the difficulty in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking off, or maneuvering of aircraft; or which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 72.50 Non-Conforming Uses

- a) Regulations Not Retroactive – Those surface regulations prescribed by these zoning regulations shall not be construed to require the removal, lowering, or other changes or alteration of any structure or growth not conforming to the regulations as of the effective date of these zoning regulations or otherwise interfere with the continuance of any non-conforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these zoning regulations and is diligently prosecuted.
- b) Marking and Lighting – Notwithstanding the provisions of Section 72.50 (a), the owner of any existing non-conforming structure is hereby required to permit the installation, operation and maintenance thereon of such structures of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport, the presence of such airport hazards, all to be performed at the expense of the Olney-Noble Airport.

Section 72.60 Permits

- a) Future Uses – Except as specifically provided in Paragraphs (1), (2), and (3) hereunder, no material change shall be erected, altered, planted, or otherwise established in any surface hereby created unless a permit therefor shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or growth would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
 - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions for primary, transitional and approach surfaces as set forth in these regulations, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when because of terrain, land contour or topographic features such growth or structure would extend above the height limits prescribed for such surface.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any growth or structure less than 75 feet of vertical height above the ground, except when such growth or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
 - 3) In the area lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any growth or structure less than 50 feet of vertical height above the ground except when such growth or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or growth in excess of any of the height limits established by these regulations.

Section 72.70 Non-Conforming Structures or Uses or Growth Abandoned or Destroyed

Whenever the Department determines that a non-conforming structure or use or growth has been abandoned or more than 80 per cent demolished, destroyed, physically deteriorated or decayed:

- a) No permit shall be granted by the Department that will allow such structure or use or growth to exceed the applicable height limit or otherwise deviate from these zoning regulations; and
- b) Whether application is made for a permit, or not, the Department may, by appropriate action, compel the owner of the non-conforming structure or use or growth, at his own expense, to lower, remove, reconstruct, or equip such structure or use of growth as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or growth shall neglect or refuse to comply with such order within ten (10) days after notice thereof; the Department may proceed to have such structure or use or growth so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the State, upon the land whereon it is or was located, in the amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the State by suit in equity for the enforcement thereof as in the case of other liens.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 72.80 Variances

- a) General – Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations.
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or growth to permit, at the expense of the owner, the installation, operation and maintenance thereon of such markers and lights as may be required to indicate to pilots the presence of such structure or growth.

Section 72.90 Notice of Construction or Alteration

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alterations with respect to the surfaces and height limitations established herein by Section 72.30 hereof with respect to Olney-Noble Airport:
 - 1) Any construction or alteration of more than 200' in height above the ground level at its site.
 - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
 - A) 100 to 1 for a horizontal distance of 20,000' from the nearest point of the nearest runway of the airport, with at least 3,200 feet in actual length.
 - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3,200 feet in actual length.
 - 3) Any highway, railroad, or other traverse way for mobile objects, of a height which, if adjusted upward, 17 feet for an Interstate Highway that is

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance, 15 feet for any other public roadway, 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, 23 feet for a railroad, and for a water way or any other traverse way not previously mentioned, an amount equal to the height of the highest mobile object that would normally traverse it, would exceed a standard of subparagraph (a)(1) or (a)(2) of this paragraph.

- 4) When requested by the Department, any construction or alteration that would be in an instrument approach area (defined in the FAA Standards Governing Instrument Approach Procedures) and available information indicates it would exceed a standard of the Statute, rules and regulations of the Department or these zoning regulations.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Olney-Noble Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
 - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device, of a type approved by the Administrator of the FAA, or an appropriate military service on military airports, the location and height of which is fixed by its functional purpose.
- c) Form and Time of Notice
- Each person who is required to notify the Department under paragraph (1) shall forward one (a) executed form set (in four copies) of the Department's Form No. DA-39 to the Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois 62705. Copies of this form may be obtained from the Department.
- 1) Such notice must be submitted at least thirty (30) days before the date the proposed construction or alteration is to begin.
 - 2) In the case of an emergency involving essential public services, public

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

health, or public safety, that requires immediate construction or alteration, the thirty (30) day requirement in paragraph (a) does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five (5) days thereafter.

d) Acknowledgment of Notice

The Department will acknowledge in writing the receipt of such notice submitted under paragraph (a) above. The acknowledgment will state that an aeronautical study of the proposed construction or alteration has resulted in a determination that the construction or alteration:

- 1) Would not exceed any standard of the statute, rules, and regulations of the Department, or these zoning regulations and would not be a hazard to air navigation; or
- 2) Would exceed a standard of the statute, rules and regulations of the Department, or these zoning regulations but would not be a hazard to air navigation; or
- 3) Would exceed a standard of the Statute, rules and regulations of the Department, or these zoning regulations and further aeronautical study is necessary to determine whether it would be a hazard to air navigation, that the sponsor may request within 30 days that further study, and that, pending completion of any further study, it is presumed that construction or alteration would be a hazard to air navigation; or
- 4) Would require lighting and/or marking standards as prescribed by the FAA, and information on how the structure should be marked and lighted in accordance with such FAA standards; or
- 5) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 72.100 Enforcement

It shall be the duty of the Department to administer and enforce these zoning regulations. Applications for permits or variances, required by these zoning regulations to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

and granted or denied by the Department.

Section 72.110 Appeal and Judicial Review

- a) Appeal – Any person aggrieved by any decision of the Department made in the administration of these zoning regulations may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by Statute for proceedings before Boards of Appeal shall govern such application to the Department.
- b) Judicial Review – Any person aggrieved, or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Richland County, Illinois or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of an Act entitled, the Administrative Review Law (Ill. Rev. Stat. 1981, ch. 110, pars. 3-101 et seq.).

Section 72.120 Penalties

Each violation of these zoning regulations or of any regulation, order, or ruling promulgated hereunder shall constitute an airport hazard and a misdemeanor, and such hazard shall be removed by proper legal proceedings and such misdemeanor shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) and each day a violation continues to exist shall constitute a separate offense. In addition, the Department may institute in the Circuit Court of Richland County, or Circuit Court of any County in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the Court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto.

Section 72.130 Conflicting Regulations

Where a conflict exists between any of these zoning regulations and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures, or growths, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 72.140 Severability

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

If any of the provisions of these zoning regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these zoning regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these zoning regulations are declared to be severable.

Section 72.150 Effective Date

Whereas, the immediate application of the provisions of these zoning regulations is necessary for the preservation of the public health, public safety, and general welfare, an emergency is hereby declared to exist, and these zoning regulations shall be in full force and effect from and after its adoption by the Department, concurrence by the Illinois Commerce Commission, and filing with the Secretary of State.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Dixon Municipal Airport Hazard Zoning
- 2) Code Citation: 92 Ill. Adm. Code 97
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
97.10	Repeal
97.20	Repeal
97.30	Repeal
97.40	Repeal
97.50	Repeal
97.60	Repeal
97.70	Repeal
97.80	Repeal
97.90	Repeal
97.100	Repeal
97.110	Repeal
97.120	Repeal
97.130	Repeal
97.140	Repeal
97.EXHIBIT A	Repeal
- 4) Statutory Authority: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15 ½, par. 48.17)
- 5) A Complete Description of the Subjects and Issues Involved: By this Notice, the Department is proposing to repeal this Part in its entirety and, elsewhere in this issue of the *Illinois Register*, is proposing to include the Dixon Municipal Airport under 92 Ill. Adm. Code 16 (Part 16), the Department's generic rule on the administration and enforcement of airport hazard zoning. Part 16 restricts the height of structures, equipment, and vegetation, and regulates the use of property, on or in the vicinity of publicly-owned airports.

It is preferable to have all airports requesting inclusion in the administration and enforcement of airport hazard zoning under one rule rather than duplicating the requirements in separate rules which was the Department's practice several decades ago. Therefore, the Department is proposing to repeal this Part and add the airport to Part 16 which is also being amended at this time.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 7) Will this rulemaking replace any emergency rule 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 have no impact on units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed repealer. Written submissions shall be filed with:

Mr. Robert Hahn, Airspace Specialist
Illinois Department of Transportation
Division of Aeronautics
1 Langhorne Bond Drive
Abraham Lincoln Capital Airport
Springfield, Illinois 62707-8415

217/524-1580

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764

217/782-3215

Comments received within forty-five days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Since the airport will be added to 92 Ill. Adm. Code 16, this proposed repealer will have no impact on small businesses.
 - F) 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 proposed repealer was not included on either of the 2 most recent agendas because the Department could not anticipate the timing of the need for the repealer.

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER b: AERONAUTICSPART 97
DIXON MUNICIPAL AIRPORT
HAZARD ZONING (REPEALED)

Section

97.10	Introduction
97.20	Definitions
97.30	Surfaces and Height Limitations
97.40	Use Restrictions
97.50	Non-Conforming Uses
97.60	Permits
97.70	Non-Conforming Structures or Uses or Trees Abandoned or Destroyed
97.80	Variances
97.90	Notice of Construction or Alteration
97.100	Enforcement
97.110	Appeal and Judicial Review
97.120	Penalties
97.130	Conflicting Regulations
97.140	Severability
97.EXHIBIT A	Proposed Construction Permit Request

AUTHORITY: Implementing and authorized by Section 17 of the Airport Zoning Act (Ill. Rev. Stat. 1991, ch. 15½, par. 48.17).

SOURCE: Adopted at 16 Ill. Reg. 10475, effective June 22, 1992; repealed at 31 Ill. Reg. _____, effective _____.

Section 97.10 Introduction

- a) This Part regulates and restricts the height of structures and trees, and otherwise regulates the use of property in the vicinity of the Dixon Municipal Airport by creating appropriate surfaces and establishing the boundaries thereof; providing for changes in the restrictions and boundaries of such surfaces, defining certain terms used herein; referring to the Dixon Municipal Airport zoning map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

62707-8415); providing for enforcement; imposing penalties in the interest of public safety and welfare; and providing for notice of construction or alteration.

- b) This Part is adopted at the request of the City of Dixon, as owner and operator of Dixon Municipal Airport, pursuant to the authority conferred by the Airport Zoning Act (Act) (Ill. Rev. Stat. 1991, ch. 15½, pars. 48.1 et seq.). *It is hereby found that an airport hazard endangers the lives and property of users of Dixon Municipal Airport and of occupants of land or property in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of Dixon Municipal Airport and the public investment therein.*
- 1) *Accordingly, it is declared:*
- A) *that the creation or establishment of an airport hazard is a public nuisance and an injury to the region served by Dixon Municipal Airport;*
- B) *that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and*
- C) *that the prevention of these hazards should be accomplished to the extent legally possible, by the exercise of the police power, without compensation.*
- 2) *It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and/or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land. (Section 11 of the Act)*

Section 97.20 Definitions

As used in this Part the following terms have the meanings ascribed, unless the context otherwise requires:

"Airport" – The Dixon Municipal Airport located near Dixon, situated in Section 3, Township 21 North, Range 9 East of the Fourth Principal Meridian, Lee County, Illinois; also known as Dixon Municipal Airport.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Airport Elevation" – The established elevation of the highest point on the usable landing strip; the established airport elevation shall be 786 feet above mean sea level (AMSL).

"Airport Hazard" – *Any structure, tree, or use of land which obstructs the airspace required for, or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.* (Section 3 of the Act)

"Airport Reference Point" – The point established as the approximate geographic center of the airport landing area and so designated as at Latitude 41~ 50' 9.0" N and Longitude 89~ 26' 47.0" W.

"Alteration" – Any construction which would result in a change in height or lateral dimensions of an existing structure.

"Approach, Transitional, Horizontal and Conical Surfaces" – These surfaces are defined in Section 97.30.

"Circling Approach Area" – That obstacle clearance area which shall be considered for aircraft maneuvering to land on a runway which is not aligned with the final approach course of the approach procedure.

"Construction" – The erection or alteration of any structure either of a permanent or temporary character.

"Department" – The Department of Transportation, Division of Aeronautics, of the State of Illinois.

"Departure Area" – That area which begins at the departure end of the runway and has a beginning width of 1000' (500' from centerline). The area splays 15~ on each side of the extended runway centerline for a distance of 2 Nautical Miles (NM). Additionally, it includes a second surface that extends radially from a point on the runway centerline located 2,000' from the start end of the runway and extends the distance necessary to provide a 40:1 obstacle identification surface to reach the minimum altitudes authorized for en route operations.

"Final Approach Segment" – That area of an approach where the aircraft makes final alignment and descent for landing.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Flight Safety Coordinator" – An employee of the Department whose duties include, but are not limited to, inspection of airports, review of complaints concerning uses of property in the vicinity of airports and inspection of structures, uses and trees in the vicinity of airports to determine if such structures, uses or trees impair the use of the airport by aircraft.

"Height" – The overall height of the top of a structure, including any appurtenances installed thereon, for the purpose of determining the height limits in all zones set forth in this Part and shown on the zoning map, the datum of which shall be mean sea level elevation unless otherwise specified.

"Initial Approach Segment" – That area of an instrument approach between a point where aircraft departs the en route phase of flight and is maneuvering to enter an intermediate segment. Such approach segments may be made along an arc, radial, course, heading, radar vector or a combination thereof.

"Intermediate Approach Segment" – That area of an approach between the initial and final approach segments where the aircraft adjusts configuration, speed and positioning along positive course guidance such as radial or course.

"Landing Area" – The area of the airport used for the landing, taking-off or taxiing of aircraft including the unprepared surfaces adjacent to the existing runways.

"Minimum Instrument Flight Altitude" – An altitude established for instrument flight between radio fixes that provides obstacle clearance over the terrain and man-made objects, and is adequate for navigational performance and communications requirements.

"Non-Conforming Use" – Any structure, tree, or use of land which is lawfully in existence at the time this Part or an amendment thereto becomes effective and does not then meet the requirements of this Part.

"Non-Precision Instrument Runway" – A runway having an existing instrument approach utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved by the Federal Aviation Administration [FAA], or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military airport planning document.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

"Obstacle Clearance" – The vertical distance between the lowest authorized flight altitudes and a prescribed surface within a specified area.

"Permit" – A permit issued by the Department of Transportation, Division of Aeronautics, pursuant to Section 97.60 of this Part.

"Person" – An *individual, firm, partnership, corporation, company, association, joint stock association, or body politic*, and includes a *trustee, receiver, assignee, administrator, executor, guardian, or other representative, and including this state* and the Division of Aeronautics. (Section 7 of the Act)

"Political Subdivision" – *Any municipality, city, incorporated town, village, county, township, or district, or authority, or any combination of two or more thereof*, situated in whole or in part within any of the surfaces established by Section 97.30. (Section 6 of the Act)

"Precision Instrument Runway" – A precision instrument runway is one which uses an instrument landing system (ILS) or precision approach radar (PAR). A planned precision instrument runway is one for which a precision approach system is indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

"Runway" – An area of the airport designated for the landing or taking off of aircraft and consisting of turf or concrete, asphalt, oil and chip or other composite material that forms an all weather surface other than turf.

"Slope Ratio" – A numerical expression of a stated relationship of height to horizontal distance, e.g. 100 to 1 means one hundred feet of horizontal distance for each one foot vertically.

"State" – *The State of Illinois*. (Section 8 of the Act)

"Structure" – Any form of construction or apparatus of a permanent or temporary character, constructed or installed by man, including any implements or material used in the erection, alteration or repair of such structure, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

"Terminal Obstacle Clearance Area" – That area near an airport that contains the

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

initial, intermediate and final approach segments, circling and departure areas which are a part of an instrument approach procedure.

"Tree" – Any object of natural growth.

"Utility Runway" – A runway that is constructed for and intended to be used for propeller driven aircraft of 12,500 pounds maximum gross weight or less.

"Variance" – A grant of relief by the Department from the requirements of this Part, in accordance with Section 97.80.

"Visibility Minimums" – The lowest forward horizontal distance from the cockpit of an aircraft in flight at which prominent unlighted objects may be seen and identified by day and prominent lighted objects may be seen and identified by night.

"Visual Runway" – A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a Department approved Airport Layout Plan, which is on file at the Department of Transportation, Division of Aeronautics, Bureau of Engineering, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415.

Section 97.30 Surfaces and Height Limitations

- a) Establishment and Creation
 - 1) The following airport imaginary surfaces are established with relation to the airport and to each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.
 - 2) Such airport imaginary surfaces are hereby created and established in order to carry out the provisions of this Part. Such surfaces shall include all of the land lying within the horizontal surface, conical surface, primary surface, approach surface (to include non-precision instrument approach, precision instrument approach and visual approach), transitional surface and circling approach surface. These surfaces are shown on the Airport

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Zoning Map (Note: This zoning map can be viewed at the Department of Transportation, Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415) for Dixon Municipal Airport prepared by Willett, Hofmann, & Associates, Inc., Dixon, Ill. An area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation.

- 3) Except as otherwise provided in this Part, no structure or tree shall be erected, altered, allowed to grow, or maintained in any surface created by this Part to a height in excess of the height limit herein established for such surfaces.
 - 4) The various surfaces described in subsection (b) through (h) are hereby established, and height limitations are established in those subsections for each of the surfaces.
- b) Horizontal Surface
- 1) A horizontal plane 150 feet above the established airport elevation of 786 feet Above Mean Sea Level (AMSL), the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:
 - A) 5,000 feet for all runways designated as utility or visual;
 - B) 10,000 feet for all other runways.
 - 2) The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface. The horizontal surface does not include the approach and transitional surfaces.
- c) Conical Surface
- 1) A surface extending outward and upward from the periphery of the

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

horizontal surface, at 150 feet above the airport elevation, at a slope of 20 feet horizontally for each foot vertically for a horizontal distance of 4,000 feet.

- 2) The conical surface does not include the approach surfaces to the precision instrument runways and the transitional surfaces.
- d) Primary Surface
- 1) A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:
 - A) 250 feet for utility runways having only visual approaches;
 - B) 500 feet for utility runways having non-precision instrument approaches;
 - C) For other than utility runways, the width is:
 - i) 500 feet for visual runways having only visual approaches;
 - ii) 500 feet for non-precision instrument runways having visibility minimums greater than three-fourths statute mile;
 - iii) 1,000 feet for a non-precision instrument runway having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile, and for precision instrument runways.
 - 2) The width of the primary surface of a runway will be the width prescribed in this Section for the most precise approach existing or planned for either end of that runway.
- e) Approach Surface – A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

- 1) The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
 - A) 1,250 feet for that end of a utility runway with only visual approaches;
 - B) 1,500 feet for that end of a runway other than a utility runway with only visual approaches;
 - C) 2,000 feet for that end of a utility runway with a non-precision instrument approach;
 - D) 3,500 feet for that end of a non-precision instrument runway, other than utility, having visibility minimums greater than three-fourths statute mile;
 - E) 4,000 feet for that end of a non-precision instrument runway, other than utility, having a non-precision instrument approach with visibility minimums as low as three-fourths statute mile; and
 - F) 16,000 feet for precision instrument runways.
- 2) The approach surface extends for a horizontal distance of:
 - A) 5,000 feet at a slope of 20 feet horizontally for each foot vertically for all utility and visual runways;
 - B) 10,000 feet at a slope of 34 feet horizontally for each foot vertically for all non-precision instrument runways other than utility; and
 - C) 10,000 feet at a slope of 50 feet horizontally for each foot vertically with an additional 40,000 feet at a slope of 40 feet horizontally for each foot vertically for all precision instrument runways.
- 3) The outer width of an approach surface to an end of a runway will be that

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

width prescribed in this subsection for the most precise approach existing or planned for that runway end.

- f) Transitional Surface – These surfaces extend outward and upward at right (90~) angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each foot vertically beginning at the sides of and at the same elevation of the primary surface and the approach surfaces extending to a height of 150 feet above the airport elevation which is 786 feet AMSL. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right (90°) angles to the runway centerline.
- g) Circling Approach Surface – This is a surface 200 feet above ground level (AGL) or above the established airport elevation, whichever is greater, within three (3) nautical miles of the established reference point of Dixon Municipal Airport and this surface increases in height in the proportion of 100 feet for each additional nautical mile of distance from the airport reference point up to a maximum of 500 feet.
- h) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.
- i) Excepted Height Limitation – Nothing in this Part shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 50 feet above the ground.

Section 97.40 Use Restrictions

Notwithstanding any other provisions of this Part, no use may be made of land or water within any surface established by this Part as follows:

- a) Electrical or Electronic Interference
 - 1) In such a manner as to create electrical or electronic interference with navigational signals or radio or radar communication between the airport and aircraft.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 2) If a complaint of such interference is received by the Department, a Flight Safety Coordinator shall determine if a hazard exists by observing all relevant factors including the type of aircraft using the airport, the traffic patterns at the airport, the time of day and frequency of the interference.
- b) Flashing or Illuminated Structures
- 1) The installation and use of flashing or illuminated advertising or business signs, billboards, or any other type of illuminated structure which would be hazardous for pilots.
 - 2) In determining whether such a hazard exists, a Flight Safety Coordinator shall consider factors which include, but are not limited to, assessing the difficulty pilots have in distinguishing between airport lights and others, or which result in glare in the eyes of pilots using the airport, thereby impairing visibility in the vicinity of the airport or endangering the landing, taking-off or maneuvering of aircraft, the proximity of the illuminated structure to the airport, and the traffic patterns at the airport.
- c) Smoke
- 1) A use which would emit or discharge smoke that would interfere with the health and safety of pilots and the public in the use of the airport, or which would otherwise be detrimental or injurious to the health, safety and general welfare of the public in the use of the airport.
 - 2) In determining if such an emission or discharge of smoke would interfere with the health and safety of pilots and the public, a Flight Safety Coordinator shall consider all relevant factors which include, but are not limited to, the density of the smoke, frequency of the emission or discharge, source of the smoke, general weather patterns in the vicinity, time of day, and volume and type of aircraft which use the airport.

Section 97.50 Non-Conforming Uses

- a) Regulations Not Retroactive – Those surface regulations prescribed by this Part shall not be construed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Part or otherwise to interfere with the continuance of any

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

non-conforming use. Nothing contained in this Part shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Part, and is diligently prosecuted.

- b) Marking and Lighting
 - 1) Notwithstanding the provisions of subsection (a) of this Section, the owner of any existing non-conforming structure is required to permit the installation, operation and maintenance of such markers and lights as shall be deemed necessary by the Department to indicate to operators of aircraft in the vicinity of the airport the presence of such airport hazards, all to be performed at the expense of the City of Dixon.
 - 2) In determining the necessity for such markers and lights, the Department shall consider all relevant conditions, including but not limited to, the traffic patterns, volume and type of aircraft at the airport, the general weather patterns in the vicinity, the topography of the airport and the surrounding area, and the height of the structure and its proximity to the approach and transition slopes of the existing runways.

Section 97.60 Permits

- a) Future Uses – Except as specifically provided in subsections (a)(1), (2), and (3) of this Section, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any surface created unless a permit shall have been applied for and granted by the Department. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit to be determined whether the resulting use, structure or tree would conform to the regulations prescribed in this Part. If such determination is in the affirmative, the permit shall be granted.
 - 1) In the area lying within the limits of the horizontal surface and the conical surface, but which is not in violation of height restrictions of primary, transitional and approach surfaces as set forth in this Part, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground or in any approach and transitional surfaces beyond a horizontal distance of 4,200 feet from each end of the runway, except when, because of terrain, land contour or topographic features, such tree or

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

structure would extend above the height limits prescribed for such surface.

- 2) In the areas lying within the limits of visual, precision instrument and non-precision instrument approach surfaces, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such visual, precision instrument or non-precision instrument approach surfaces.
 - 3) In the areas lying within the limits of the transitional surface beyond the perimeter of the horizontal surface, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground except when such tree or structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such transitional surface.
- b) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits prescribed by this Part.

Section 97.70 Non-Conforming Structures or Uses or Trees Abandoned or Destroyed

Whenever the Department, following a Flight Safety Coordinator's personal inspection, observation and estimation, *determines that a non-conforming structure or use or tree has been abandoned or more than 80 percent demolished, destroyed, physically deteriorated, or decayed:*

- a) *No permit shall be granted by the Department that would allow such structure or use or tree to exceed the applicable height limit or otherwise deviate from these zoning regulations; and*
- b) *Whether application is made for a permit, or not, the department may issue an order pursuant to subsection (c) of this Section, in cases where the remaining structure or use or tree constitutes a violation of this Part, compelling the owner of the non-conforming structure or use or tree, at his own expense, to lower, remove, reconstruct, or equip such structure or use or tree as may be necessary to conform to these zoning regulations. If the owner of the non-conforming structure or use or tree shall neglect or refuse to comply with such order within ten days after notice thereof, the Department may proceed to have such structure or use or tree so lowered, removed, reconstructed or equipped and shall have a lien, on behalf of the state, upon the land whereon it is or was located, in the*

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

amount of the cost and expense thereof. Such lien may be enforced by the Department on behalf of the state by suit in equity for the enforcement thereof as in the case of other liens. (Section 23 of the Act)

- c) The Department shall issue an order if it is determined that the non-conforming structure or use or tree interferes with traffic patterns at the airport. In making such a determination the Department shall consider factors which include, but are not limited to, the type of aircraft using the airport, and whether or not the airport has precision instrument or instrument runways.

Section 97.80 Variances

- a) General – *Any person wishing to erect or increase the height of any structure, or permit any growth, or use his property not in accordance with these zoning regulations, may apply to the Department for a variance from these zoning restrictions. Such variances shall be allowed where it is found that a literal application or enforcement of these zoning regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of these zoning regulations. (Section 24 of the Act)*
- b) Marking and Lighting – Any variance granted by the Department may be so conditioned as to require the owner of such structure or tree to permit, at the expense of the owner, the installation, operation and maintenance of such markers and lights as may be required to indicate to pilots the presence of such structure or tree.
- c) In making the determination to allow variances the Department will consider, but is not limited to considering, the proximity of the hazard to the normal flight path or traffic patterns at the airport, the proximity of other non-conforming uses, structures or trees which would impair the use of the airport, the height of the object, the volume of air traffic at the airport, the type of aircraft using the airport, type of navigational aids used at the airport, the length and width of existing runways, and plans for future expansion of the airport.

Section 97.90 Notice of Construction or Alteration

- a) Construction or Alteration Requiring Notice – The Department shall be notified by each person (sponsor) who proposes any of the following construction or alteration with respect to the surfaces and height limitations established by

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 97.30 with respect to Dixon Municipal Airport:

- 1) Any construction or alteration of more than 200 feet in height above the ground level at its site.
 - 2) Any construction or alteration of greater height than an imaginary surface extending outward and upward at one of the following slopes:
 - A) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of the airport, with at least one runway more than 3200 feet in actual length.
 - B) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport, with the longest runway not more than 3200 feet in actual length.
 - 3) Any highway, railroad, or other traverse way for mobile objects, of a height which would exceed a standard of subsection (a)(1) or (a)(2) of this Section, if adjusted upward: 17 feet for an Interstate Highway that is part of the National System of Military and Interstate Highways where overcrossings are designed for a minimum of 17 feet vertical distance; 15 feet for any other public roadway; 10 feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road; 23 feet for a railroad; and for a waterway or any other traverse way not previously mentioned, an amount equal to the highest mobile object that would normally traverse it.
 - 4) Any construction or alteration that would exceed a standard of the Act or this Part.
- b) Construction or Alteration Not Requiring Notice – No person is required to notify the Department for any of the following construction or alterations with respect to Dixon Municipal Airport:
- 1) Any antenna structure of 20 feet or less in height except one that would increase the height of another antenna structure.
 - 2) Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device less than 50 feet in height.

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

- 3) Any object that would be shielded by permanent and substantial existing structures of equal or greater height or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not obstruct or interfere with aircraft using the airport, or cause any additional adverse effect on airport operations by considering the height and location of the existing uses and structures.
- c) Form and Time of Notice
- 1) Each person who is required to notify the Department under subsection (a) of this Section shall forward one executed form set (in four copies) of the Department's Form No. DA-39 (for an example, see Exhibit A of this Part) to the Division of Aeronautics, One Langhorne Bond Drive/Capital Airport, Springfield, Illinois 62707-8415. Copies of this form may be obtained from the Department.
 - 2) Such notice must be submitted at least 30 days before the date the proposed construction or alteration is to begin.
 - 3) In the case of an emergency involving essential public services, public health, or public safety, that requires immediate construction or alteration, the 30-day requirement in subsection (c)(2) of this Section does not apply and the notice may be sent by telephone, telegraph, or other expeditious means, with an executed Department Form No. DA-39 submitted within five days. For example, an emergency could include breaks in sewer lines, gas mains or power lines.
- d) Acknowledgment of Notice
- 1) The Department will acknowledge in writing the receipt of such notice submitted under subsection (a) of this Section within 30 days after receipt of such notice.
 - 2) The acknowledgment will state that a study of the proposed construction or alteration has resulted in a determination that the construction or alteration:
 - A) Would, under federal rules, require lighting or marking standards

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

as prescribed in Advisory Circular, Department of Transportation, Federal Aviation Administration (FAA), Subject: Obstruction, Marking and Lighting, AC No: 70/7460-1, as provided in 14 CFR 77.11(b)(3), January 1, 1990, not including any later amendment or editions, and information on how the structure should be marked and lighted in accordance with such FAA standards; and/or

- B) Would not exceed any standard of the Act or this Part; or
- C) Would exceed a standard of the Act, Aviation Safety Rules (92 Ill. Adm. Code 14), or this Part; or
- D) Would require supplemental information from the sponsor in order for a determination to be made by the Department.

Section 97.100 Enforcement

It shall be the duty of the Department to administer and enforce this Part. Applications for permits or variances, required by this Part to be submitted to the Department, shall be on forms furnished by the Department and shall be promptly considered and granted or denied.

Section 97.110 Appeal and Judicial Review

- a) *Appeal – Any person aggrieved by any decision of the Department made in administration of this Part may apply to the Department to reverse, wholly or partly, or modify, or otherwise change, abrogate or rescind any such decision. The procedure prescribed by the Act for proceeding before board of appeal shall govern such application to the Department. (Section 29 of the Act)*
- b) **Judicial Review – Any person aggrieved or any taxpayer affected by any decision of the Department may appeal to the Circuit Court of Lee County, Illinois, or Circuit Court of any county in which the airport hazard is wholly or partly located, in accordance with the provisions of The Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, pars. 3-101 et seq.).**

Section 97.120 Penalties

Each violation of this Part or of *any regulations, orders, or rulings promulgated* hereunder shall constitute an airport hazard and a *petty offense*, and such hazard shall be removed by proper legal proceedings and *each day a violation continues to exist shall constitute a separate offense. In*

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

addition, the Department may institute in the Circuit Court of Lee County, Illinois, or circuit court of any county in which the airport hazard is wholly or partly located, an action to prevent and restrain, correct or abate, any violation of these zoning regulations, or of any regulation, order or ruling made in connection with their administration or enforcement, and the court shall adjudge such relief by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of these zoning regulations as adopted and orders and rulings made pursuant thereto. (Section 34 of the Act)

Section 97.130 Conflicting Regulations

Where a conflict exists between this Part and any other regulations or ordinances applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent regulation or ordinance shall govern and prevail.

Section 97.140 Severability

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

Section 97.EXHIBIT A Proposed Construction Permit Request

ILLINOIS DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

Name of Individual or Company
Making Request _____

Address _____
Street City Zip Phone

Nature and Description of Proposed Structure:	New Construction					
	Alteration					
	Nearest Town:					
	Location from Nearest Town					
	Direction			Distance		
	Nearest Airport:					
	From Nearest Point to a Runway					
	Direction			Distance		
	Latitude			Longitude		
	°	'	"		'	"

Proposed Heights and Elevations

Site Elevation (Mean Sea Level)	Feet
Highest Point of Structure Above Ground	Feet
Overall Height above Mean Sea Level	Feet
Estimated Construction Starting Date	
Estimated Construction Completion Date	
Type of Structure:	Permanent Temporary
Will Structure be Obstruction Lighted:	Yes No
Will Structure be Obstruction Marked:	Yes No

Remarks:

Date:	Title or Position:	Signature
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The Illinois Department of Transportation is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Section 1 of the Airport Zoning Act (Ill. Rev. Stat. 1989, ch. 15½, par. 48.1). Disclosure of this information is REQUIRED. Failure to provide any

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED REPEALER

information will result in denial of the construction permit. This form has been approved by the Forms Management Center.

DA-39 (Rev. 1-87) IL 494-0765

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Telephone Assistance Programs
- 2) Code Citation: 83 Ill. Adm. Code 757
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
757.10	Amendment
757.100	Amendment
757.200	Amendment
757.400	Amendment
757.EXHIBIT D	Amendment
757.EXHIBIT E	Amendment
- 4) Statutory Authority: Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1 and 10-101]
- 5) Effective Date of Amendments: November 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 Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 5/12/06; 30 Ill. Reg. 8714
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Commission has adopted Part 757 to administer Lifeline and Link-Up, the universal service programs intended to make basic telephone service available to low-income customers. Under the Lifeline program, an

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

eligible customer is entitled to a discount on basic subscriber line service. Under the Link-up program, an eligible customer is entitled to discounted installation of service. The amendments bring the rules into compliance with recently promulgated federal rules that are binding on Illinois at this time. Eligibility for Lifeline and Link-Up has, since their inception, been based upon eligibility for other federally-mandated programs that assist low-income persons, such as Medicaid and food stamps. These programs are referred to as "proxy programs". The Federal Communications Commission (FCC) has amended its rules governing Lifeline and Link-Up to add certain additional proxy programs, and removing one such program. The FCC further directs state Commissions to adopt rules governing customer certification and verification of eligibility for these programs. The amendments update the Commission's incorporation of FCC rules. The definition of "proxy programs" includes the latest programs included by the FCC. The support level for Lifeline service is amended.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

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

PART 757
TELEPHONE ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

- 757.10 Definitions
- 757.15 Dispute Procedures

SUBPART B: LINK UP PROGRAM

Section

- 757.100 Link Up Service Requirement
- 757.105 Link Up Recovery Mechanism
- 757.110 Link Up Publicity
- 757.115 Link Up Application Procedure and Processing
- 757.120 Link Up Filing Requirements
- 757.125 Link Up Eligibility
- 757.130 Income Certification

SUBPART C: UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAM

Section

- 757.200 Service Requirement
- 757.205 UTSAP Funding
- 757.210 UTSAP Recovery
- 757.215 UTSAP Administrator
- 757.220 UTSAP Contribution Solicitation and Program Publicity
- 757.225 UTSAP Eligibility
- 757.230 UTSAP Application Procedure and Processing
- 757.235 UTSAP Income Certification
- 757.240 Recertification (Repealed)
- 757.245 UTSAP Filing Requirements

SUBPART D: STAFF LIAISON

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section
757.300 Staff Liaison

SUBPART E: LIFELINE SERVICE

Section
757.400 Lifeline Service Requirements
757.405 Lifeline Recovery Mechanism
757.410 Lifeline Publicity
757.415 Lifeline Application Procedures and Processing
757.420 Lifeline Filing Requirements
757.425 Lifeline Eligibility
757.430 Income Certification and Recertification

757.EXHIBIT A LEC Quarterly Report to Commission
757.EXHIBIT B Monthly LEC Supplemental Assistance Charge and Contributions Report
757.EXHIBIT C Quarterly UTSAP Administrator Report to Commission
757.EXHIBIT D Lifeline Recertification Ineligibility Notice
757.EXHIBIT E Link Up/Lifeline Programs Certification Form

AUTHORITY: Implementing Sections 13-301 and 13-301.1 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-301, 13-301.1 and 10-101].

SOURCE: Adopted at 13 Ill. Reg. 14366, effective October 1, 1989; amended at 14 Ill. Reg. 17923, effective October 15, 1990; emergency repealer at 15 Ill. Reg. 5082, effective March 25, 1991, for a maximum of 150 days; Part repealed at 15 Ill. Reg. 11929, effective August 12, 1991; new Part adopted at 16 Ill. Reg. 17981, effective December 15, 1992; amended at 20 Ill. Reg. 15257, effective December 1, 1996; emergency amendments at 21 Ill. Reg. 16416, effective December 10, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8810, effective May 9, 1998; amended at 23 Ill. Reg. 11875, effective October 1, 1999; amended at 28 Ill. Reg. 346, effective January 1, 2004; amended at 30 Ill. Reg. 18196, effective November 1, 2006.

SUBPART A: GENERAL PROVISIONS

Section 757.10 Definitions

For the purpose of this Part:

"Act" means the Public Utilities Act [220 ILCS 5].

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

"Administrator" means the entity that administers the Federal Communications Commission's (FCC) universal service support mechanisms in accord with 47 CFR 54, subpart H, as of [July 22, 2004](#)~~October 1, 1997~~. This incorporation does not include any later amendments or editions.

"Commission" means the Illinois Commerce Commission.

"Customer service center" means any office, operated by a local exchange carrier, where applications for service can be made in person.

"Eligible new subscriber" is an applicant for local exchange service who meets the eligibility guidelines set forth in Section 757.425. As used in this Part, a subscriber who meets the eligibility criteria set forth in Section 757.425 who relocates his principal place of residence is also an eligible new subscriber.

"Eligible subscriber" is any individual currently subscribing to local exchange service who meets the eligibility guidelines set forth in Section 757.425.

"Eligible telecommunications carrier" has the meaning given to it at 47 CFR 54.5 as of [July 22, 2004](#)~~October 1, 1997~~. This incorporation does not include any later amendments or editions.

"Installation charge" means those tariffed charges assessed for connecting an eligible new subscriber to the network. These charges do not include security deposit requirements.

"LEC" means "local exchange carrier", which is a telecommunications carrier providing local service as defined in Section 13-204 of the Act [220 ILCS 5/13-204].

"Lifeline" means the retail local service offering defined and established at 47 CFR 54.401 et seq., as of [July 22, 2004](#)~~October 1, 1997~~, and in which all Illinois eligible telecommunications carriers shall participate as provided in Section 757.400. This incorporation does not include any later amendments or editions.

"Link Up Program" or "Link Up" means the Link Up Assistance program defined and established at 47 CFR 54.411 et seq., as of [July 22, 2004](#)~~October 1, 1997~~, and in which all Illinois eligible telecommunications carriers shall participate as provided in Section 757.100. This incorporation does not include any later amendments or editions.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

"Local exchange service obligation" means those tariffed charges assessed on a monthly basis for access to the network. These charges do not include taxes.

"Program" or "plan" means the telephone assistance programs offered by LECs and eligible telecommunications carriers under this Part.

"Proxy Program(s)" include the following assistance programs, as identified in 47 CFR 54.409(b) as of July 22, 2004~~October 1, 1997~~: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance (Section 8); ~~or~~ Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families. This incorporation does not include any later amendments or editions.

"Qualifying low-income subscriber" has the meaning given to it at 47 CFR 54.400 as of July 22, 2004~~October 1, 1997~~. This incorporation does not include any later amendments or editions.

"Staff" means individuals employed by the Illinois Commerce Commission.

"Toll blocking" is a service provided by carriers that lets consumers elect not to allow the completion of outgoing toll calls from their telecommunications channel and has a meaning consistent with 47 CFR 54.400 as of July 22, 2004~~October 1, 1997~~. This incorporation does not include any later amendments or editions.

"Toll control" is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle, and has a meaning consistent with 47 CFR 54.400 as of July 22, 2004~~October 1, 1997~~. This incorporation does not include any later amendments or editions.

"Toll limitation" means both toll blocking and toll control.

"UTSAP" means the Universal Telephone Service Assistance Program in which all Illinois LECs shall participate as provided in Section 757.200.

"UTSAP Administrator" is the Illinois not-for-profit corporation responsible for the administration of the UTSAP as described in Section 757.215.

"Waiver" means any reduction in a participant's initial telephone service

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

installation charge or local exchange service obligation in the amount established under the provisions of this Part.

(Source: Amended at 30 Ill. Reg. 18196, effective November 1, 2006)

SUBPART B: LINK UP PROGRAM

Section 757.100 Link Up Service Requirement

- a) ~~Each~~ ~~No later than January 1, 1998, each~~ eligible telecommunications carrier shall participate in the "Link Up" program adopted by the FCC in 47 CFR 54.411 et seq. as of ~~July 22, 2004~~ ~~October 1, 1997~~. This incorporation does not include any later amendments or editions.
- b) As part of its participation in the program identified in subsection (a), each eligible telecommunications carrier shall implement a 50% waiver, of up to \$30, of the telephone service installation charge. The waiver shall be applicable to the primary service order, central office and premise visit components of the service connection charges and shall be provided to each qualifying low-income subscriber as specified in Section 757.125.
- c) In addition, each eligible telecommunications carrier shall offer any qualifying low-income subscriber the opportunity to enter into a deferred payment arrangement for the remaining installation charges, up to \$200. Eligible new subscribers shall be given no more than one year to retire the remaining installation charges, and the eligible telecommunications carrier shall refrain from applying interest charges to such amounts for such period.

(Source: Amended at 30 Ill. Reg. 18196, effective November 1, 2006)

SUBPART C: UNIVERSAL TELEPHONE SERVICE ASSISTANCE PROGRAM

Section 757.200 Service Requirement

- a) Each LEC shall participate in the Universal Telephone Service Assistance Program (UTSAP) as required and authorized by Section 13-301.1 of the Public Utilities Act and as ordered by the Commission. All voluntary contributions received by a LEC under Section 757.205 from the date of initial participation until a determination is made by the Commission under Section 757.200(b) shall be forwarded to the UTSAP Administrator consistent with the provisions of

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 757.210(d). The UTSAP Administrator shall invest these funds in:

- 1) Securities backed by the United States government or its agencies;
 - 2) Investment grade bonds with remaining terms to maturity of three years or less;
 - 3) Mutual funds that invest no less than 80% of their assets in bonds backed by the United States government or its agencies;
 - 4) Investment grade bonds, with weighted-average remaining terms to maturity of three years or less; or
 - 5) Federal Deposit Insurance Corporation (FDIC)-insured certificates of deposit, FDIC-insured money market accounts, and other cash equivalent FDIC-insured investments.
- b) On July 1 of each year, the UTSAP Administrator shall file with the Commission a petition requesting the Commission to determine the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section. The petition shall contain recommendations of the UTSAP Administrator as provided in Section 757.215(e)(5). The Commission may enter an order without a hearing; however, a hearing shall be held if requested by a party or by Staff within 30 days after the date the petition is filed, and a hearing may also be held on the Commission's or the Hearing Examiner's own motion. The Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.
- c) The UTSAP may provide assistance or, in the case of customers of eligible telecommunications carriers, supplement the assistance provided by the Link Up Program as described in Subpart B and/or the Lifeline Program as described in Subpart D through:
- 1) a waiver of the telephone service installation charges for eligible new subscribers, which, in the case of eligible telecommunications carriers, is in addition to that provided in Section 757.100(b);
 - 2) a waiver of all or a portion of the local exchange service obligation of

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

eligible subscribers or eligible new subscribers, which, in the case of eligible telecommunications carriers, is in the form of State Lifeline service support; or

- 3) a combination of both subsections (c)(1) and (2) above as ordered by the Commission under subsections (b), (d), and (e).
- d) Limitation of eligibility
- 1) If the Commission determines that a waiver of all or a portion of the local exchange service obligation should be provided by the UTSAP, in the form of State Lifeline service support or otherwise, the Commission may, if it deems necessary, limit eligibility under Section 757.425(a) to:
 - A) one or more of the individual Proxy Programs identified in the definition of "Proxy Programs" in Section 757.10, or
 - B) one or more subprograms within, or components of, an individual Proxy Program.
 - 2) Any proposals to limit eligibility pursuant to this subsection (d) shall be made as part of the petition filed annually under subsection (b) of this Section.
 - 3) The Commission shall adopt a proposal that limits eligibility for the Lifeline Program to one or more Proxy Programs or subprograms or components thereof pursuant to this subsection (d) only if it finds that:
 - A) participation in the Proxy Program, subprogram, or component thereof can be verified;
 - B) the funds available to the UTSAP from voluntary contributions are sufficient and predictable, so as to permit the UTSAP to provide State Lifeline support to all subscribers or all new subscribers within the Proxy Program, subprogram, or component on an ongoing basis;
 - C) the proposal will increase accessibility to telephone service;
 - D) the proposal adequately considers the needs of and potential

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

benefits to participants in the Proxy Programs; and

- E) the proposal establishes narrowly targeted qualification criteria that are based solely on income or factors directly related to income, consistent with 47 CFR 54.409 as of July 22, 2004~~October 1, 1997~~. This incorporation does not include any later amendments or editions.
- e) The Commission, on its own motion, or based upon a petition filed by the UTSAP Administrator, may order the LECs to temporarily suspend payment of or temporarily reduce the amount of the supplemental assistance provided under the programs set forth in Section 757.200(c), if the total program costs exceed, or will exceed, the funds available from contributions specified in Section 757.205. If the Commission suspends or reduces the amount of payments under this Section, the Commission shall determine, subject to the availability of funds, the amount of supplemental assistance, if any, the LECs shall provide each eligible new subscriber or eligible subscriber under the programs set forth in subsection (c) of this Section.

(Source: Amended at 30 Ill. Reg. 18196, effective November 1, 2006)

SUBPART E: LIFELINE SERVICE

Section 757.400 Lifeline Service Requirements

- a) ~~Each~~No later than January 1, 1998 ~~each~~ eligible telecommunications carrier shall participate in the Lifeline Program adopted by the FCC in 47 CFR 54.400 et seq. as of July 22, 2004~~October 1, 1997~~. This incorporation does not include any later amendments or editions.
- b) As part of its participation in the program identified in subsection (a) of this Section, each eligible telecommunications carrier shall implement a low-income assistance program characterized by a reduction of \$1.75 in access line charges for qualifying low-income subscribers. Unless the Commission enters an order under Section 757.200 determining that UTSAP funds shall be used as State Lifeline service support, eligible low-income subscribers of eligible telecommunications carriers will receive monthly support of \$1.75 plus the amount of the carrier's end user common line charge, as determined by the FCC.~~\$5.25.~~

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- c) Eligible telecommunications carriers shall offer toll limitation without charge to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation, where available, that service shall become part of the consumer's Lifeline service.
- d) Each eligible telecommunications carrier shall file information with the Administrator demonstrating that its Lifeline plan meets the criteria set forth in 47 CFR 54.400 et seq. as of ~~July 22, 2004~~October 1, 1997, and stating the number of qualifying low-income individuals and the amount of State assistance. This incorporation does not include any later amendments or editions.
- e) Eligible telecommunications carriers may not collect a service deposit in order to initiate the Lifeline service, if the qualifying low-income consumer voluntarily elects toll ~~limitation service~~blocking from the carrier, where available. If toll ~~limitation services are~~blocking is unavailable, the carrier may charge a service deposit.
- f) Eligible telecommunications carriers may not disconnect Lifeline service for non-payment of toll charges.
- g) Eligible telecommunications carriers may not charge Lifeline customers a monthly number-portability charge.

(Source: Amended at 30 Ill. Reg. 18196, effective November 1, 2006)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 757.EXHIBIT D Lifeline Recertification Ineligibility Notice

NOTICE OF REMOVAL FROM THE LIFELINE WAIVER PROGRAM

LEC (UTILITY) NAME _____

LEC PHONE # _____

Customer Name _____

Address _____

City, State, Zip _____

Phone Number _____

Account Number _____

Records show that you are not receiving benefits under one of the following programs:

- Food Stamps
- Medicaid
- Supplemental Security Income
- Federal Public Housing Assistance
- Low-Income Home Emergency Assistance Program
- [National School Lunch Free Lunch Program](#)
- [Temporary Assistance to Needy Families](#)

You will therefore be removed from the Lifeline Program.

TO AVOID REMOVAL IF YOU ARE STILL RECEIVING BENEFITS

1. If you are still receiving benefits under one of the above listed programs, call the applicable agency.
2. If the agency has your name on their master list, then call your LEC.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

IF YOU NEED TO REAPPLY

1. If you reapply for benefits under one of the programs listed above and the agency grants your application before (Date) _____, call your LEC to have your eligibility checked.
2. If your application is granted by the agency after (Date) _____, you can reapply for the Lifeline benefits by calling your LEC.
3. There will be no retroactive Lifeline benefits between the time that your benefits are discontinued and the time that your application is approved.

REMOVAL IN ERROR

If you believe that the agency has improperly terminated you from one of the listed programs, you must resolve this with the applicable agency.

If your benefits are continued while the dispute is pending, your Lifeline benefits will also be continued.

If your benefits are not continued while the dispute with the applicable agency is pending, you will not receive Lifeline benefits until you have won your appeal.

Call your LEC to let them know if your benefits are being continued and/or if you have won your appeal.

There will be no retroactive Lifeline benefits between the time that your benefits are discontinued and the time that your application is approved.

(Source: Amended at 30 Ill. Reg. 18196, effective November 1, 2006)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 757.EXHIBIT E Link Up/Lifeline Programs Certification Form

ELIGIBLE TELECOMMUNICATIONS CARRIERS LINK UP/LIFELINE PROGRAMS
CERTIFICATION FORM

NAME _____ DATE ISSUED ____ / ____ / ____

ADDRESS _____ APARTMENT _____

CITY _____ ZIP CODE _____

COUNTY _____ AGE _____

SOCIAL SECURITY NO. _____

PUBLIC AID CASE NUMBER _____

~~For which benefits do you wish to apply?~~

- ~~Link up Connection Fee Assistance (waiver of up to 50% of the initial telephone connection fee)~~
- ~~Lifeline Local Exchange Service Assistance (Assistance) with monthly telephone bills)~~
- ~~UTSAP Connection Assistance (Supplemental Telephone Connection Fee Assistance)~~
- ~~UTSAP Monthly Assistance (Supplemental Assistance with Monthly Telephone Bills)~~

Are you a participant as of this date of application in one of the programs listed below?

In which program(s) do you currently participate?

- Food Stamps
- Medicaid
- Supplemental Security Income (SSI)
- Federal Housing Assistance Program
- Low-Income Home Energy Assistance Program (IHEAP)
- National School Lunch Free Lunch Program
- Temporary Assistance to Needy Families

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Under penalty of perjury, I confirm that I participate in the above stated program(s). I will notify my provider of local exchange service in the event I cease to participate in the program(s). By my signature below, I give the Social Security Administration permission to inform my local exchange telephone company whether or not I am entitled to Supplemental Security Income benefits as of the date of this application.

SIGNED _____ DATE _____

(Source: Amended at 30 Ill. Reg. 18196, effective November 1, 2006)

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Regulations under Illinois Securities Law of 1953
- 2) Code Citation: 14 Ill Adm Code 130
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
130.280	Amended
130.821	Amended
- 4) Statutory Authority: 815 ILCS 5
- 5) Effective Date of Amendments: October 31, 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: July 28, 2006; 30 Ill. Reg 12729
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Non-substantive grammatical corrections suggested by JCAR staff.
- 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? Yes. 30 Ill. Reg. 13009; July 28, 2006
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments replace the current definition of branch office with a new uniform definition that was jointly developed and agreed to by the NASD, the NYSE and the North American Securities Administrators Association (NASAA). The amendments also coordinate with new forms and filings required for registration of branch offices under the new definition.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Tanya Solov, Director
Illinois Securities Department
69 W. Washington St.
Suite 1220
Chicago, IL 60602

Vickie Moseley
Illinois Securities Department
Jefferson Terrace Suite 300A
300 W. Jefferson St.
Springfield, IL 62702

312/793-3384

217/782-2256

A full text of the Adopted Amendments begins on the next page:

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 130
REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953

SUBPART A: RULES OF GENERAL APPLICATION

Section	
130.100	Business Hours of the Securities Department
130.101	Computation of Time
130.110	Payment of Fees
130.120	Place of Filing
130.130	Date of Filing
130.135	Registration of Securities under Section 5 or 7 of the Act Utilizing the SRD
130.140	Requirements as to Proper Form
130.141	Additional Information
130.142	Additional Exhibits (Repealed)
130.143	Information Unknown or Not Reasonably Available
130.144	Requirements as to Paper, Printing, and Language
130.145	Number of Copies – Signatures
130.190	Provisions for Granting of Variance from Rules

SUBPART B: DEFINITIONS

Section	
130.133 .200	Definitions of Terms Used in the Act and the Rules
130.201	Definition of the Term "Investment Contract", as Used in Section 2.1 of the Act
130.202	Definition of the Term "Fractional Undivided Interest", as Used in Section 2.1 of the Act with Reference to Oil and/or Gas Leases, Rights or Royalties
130.205	Definition of the Term "Issuer" as Used in Section 2.2 of the Act as Applied to Fractional Interests in Oil, Gas and Other Mineral Leases, Rights or Royalties
130.210	Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 or 2.5a of the Act
130.211	Definition of Acts Not Constituting an "Offer" of Securities under Section 5, 6, 7 or 8 of the Act
130.212	Definition of Acts Not Constituting an "Offer" Under Section 2.5a of the Act (Testing the Waters)
130.215	Definition of "Commission From an Underwriter or Dealer Not in Excess of the

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- Usual and Customary Distributors' or Sellers' Commissions", as Used in Section 2.6 of the Act for Certain Transactions
- 130.216 Definition of "Participates" and "Participation", as Used in Section 2.6 of the Act in Relation to Certain Transactions
- 130.220 Definition of "Regularly Engaged in Securities Sales Activities", as Used in Section 2.9 of the Act
- 130.221 Exclusion of Certain Persons from the Definition of Investment Adviser in Section 2.11 of the Act
- 130.225 Definition of "Investment Fund Shares", as Used in Section 2.15 of the Act in Relation to Certain Issuers
- 130.233 Definition of the Phrase "Promissory Note or Draft, Bill of Exchange or Bankers' Acceptance" as Used in Section 3(L) of the Act
- 130.234 Definition, For Certain Purposes, of the Terms "Employee Security-Purchase Plan", "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.N and Section 3.O of the Act (Repealed)
- 130.235 Definition, For Certain Purposes, of the Terms "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.O of the Act (Repealed)
- 130.241 Definition of the Term "Institutional Investor" under Sections 4C and 4D of the Act
- 130.242 Definition of the Term "Financial Institution" under Section 4.C of the Act
- 130.244 Definition of "Issuer Required to File Reports Pursuant to the Provisions of Section 13 or Section 15(d) of the Federal 1934 Act" with Respect to Certain Foreign Private Issuers and "Reports Required to be Filed at Regular Intervals Pursuant to the Provisions of Section 13 or Section 15(d)" as Used in Section 4(F)(1) of the Act
- 130.245 Definition of the Terms "Balance Sheet" and "Income Statement", as Used in Section 4.F of the Act
- 130.246 Definition of the Terms "Residents of this State", "Aggregate Sales Price" and "Sales Made in Reliance Upon the Exemption" Under Section 4.G of the Act and "General Advertising or General Solicitation" Under Sections 4.G, 4.H, 4.M and 4.R of the Act
- 130.247 Definition of the Term "Public" as Used in Section 4(G)(4) of the Act
- 130.248 Definition of the Terms "Offers for Sale" and "Solicitations of Offers to Buy", as Used in Section 4.L of the Act
- 130.250 Definition, For Certain Purposes, of the Terms "Commissions, Remuneration or Discounts", as Used in Section 4 and Section 5 of the Act
- 130.251 Definition of the Term "Maximum Aggregate Price", as Used in Section 5 of the Act
- 130.270 Definition of Certain Persons Not Considered to Be Dealers Under Section 2.7 of

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- the Act
- 130.280 Definition of the Term "Branch Office" of a Registered Dealer, as Used in Section 8 of the Act
- 130.281 Definition of the Term "Branch Office" of a Registered Investment Adviser, as Used in Section 8 of the Act
- 130.282 Definition, For Certain Purposes, of the Term "Officers", as Used in Section 2.9 and Section 8.B.(6) of the Act
- 130.285 Definition, For Certain Purposes, of the Terms "Inequitable", "Tend to Work a Fraud or Deceit", "Inequitable Practice in the Sale of Securities", and "Fraudulent Business Practices", as Used in Section 8 and Section 11 of the Act
- 130.291 Definition of the Terms "Fraudulent" and "Work or Tend to Work a Fraud or Deceit" as Used in Sections 11.E and 12.F of the Act for Purposes of the Payment of Completion Costs in Connection with the Offer or Sale of Securities involving an Oil, Gas or Other Mineral Lease, Right or Royalty

SUBPART C: FEDERAL COVERED SECURITIES AND TRANSACTIONS

- Section
- 130.293 Issuers of Covered Securities Required to File Notifications and Pay Fees and the Refusal to File Notifications or Pay Fees
- 130.370 Automated Quotation System Deemed to Have Substantially Equivalent Standards for Designation as Required By One or More Exchanges Set Forth in Section 3(G) of the Act (Repealed)

SUBPART D: EXEMPT TRANSACTIONS

- Section
- 130.420 Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act
- 130.436 Procedures for Applying for Trading Authorization Pursuant to Section 4(F)(2) of the Act
- 130.440 Procedures for Filing Reports of Sale under Section 4.G of the Act
- 130.441 Calculation of Number of Persons Under Section 4.G or 4.M of the Act
- 130.442 Report of Sale of Securities pursuant to Section 4.G of the Act
- 130.490 Procedures for Filing Reports of Sale under Section 4.P of the Act
- 130.491 Report of Sale of Securities Pursuant to Section 4(P) of the Act
- 130.492 Exemption from Registration for Certain Canadian Broker-Dealers and Agents and for Transactions Effected by Certain Canadian Broker-Dealers

SUBPART E: REGISTRATION OF SECURITIES

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

Section	
130.501	Title of Securities
130.502	Financial Statement Requirements
130.503	Disclaimer of Control
130.505	Formal Requirements as to Consents
130.506	Consents Required in Special Cases
130.507	Application to Dispense with Consent
130.508	Consent to Use of Material Incorporated by Reference
130.510	Procedures for Registration of Securities by Coordination under Section 5.A of the Act
130.520	Procedures for Registration of Securities by Qualification under Section 5.B of the Act
130.525	Procedures for Registration of Securities by Qualification under Section 5.B(7) of the Act, Small Company Offering Registration ("SCOR") on Form U-7
130.530	Renewal of Registration of Securities Under Section 5.E of the Act
130.531	Computation of Fees
130.532	Registration of Additional Securities Pursuant to Section 5(C)(2) of the Act
130.533	Formal Requirements for Amendments Under Section 5 of the Act
130.534	Powers to Amend or Withdraw Registration Statement
130.535	Signatures of Amendments
130.536	Delaying Amendments
130.538	Withdrawal of Registration Statement, Amendment or Exhibit Filed Under the Federal 1933 Act
130.540	Procedure with Respect to Abandoning Registration Statements, Applications for Trading Authorizations and Post-Effective Amendments
130.550	Additional Fees Under Section 5 of the Act
130.570	Legibility of Prospectuses
130.571	Presentation of Information in Prospectuses
130.572	Summaries or Outlines of Documents
130.573	Preparation of Application for Registration
130.574	Incorporation of Certain Information by Reference
130.575	Form of and Limitation Upon Incorporation by Reference
130.576	Statement Required in Prospectuses
130.577	Prospectuses Supplementing Preliminary Material Supplied Previously
130.578	Application of Amendments to this Part Governing Contents of Prospectuses
130.581	Statement as to Stabilizing Required in Prospectuses Filed Under Section 5.B of the Act
130.582	Contents of Prospectus When Two or More Registrations Are in Effect Under Section 5.B of the Act
130.590	Identifying Statements

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 130.591 Requirements as to Appraisals
- 130.592 Omission of Substantially Identical Documents
- 130.593 Incorporation of Exhibits by Reference

SUBPART F: FACE AMOUNT CERTIFICATE CONTRACTS

- Section
- 130.600 Preamble
- 130.610 Procedures for Registration of Face Amount Certificate Contracts by Coordination under Section 6.A of the Act
- 130.630 Renewal of Registration of Face Amount Certificate Contracts Under Section 6.F of the Act
- 130.650 Additional Fees Under Section 6 of the Act

SUBPART G: INVESTMENT FUND SHARES

- Section
- 130.700 Preamble
- 130.701 Title of Investment Fund Shares Registered Under Section 5 or 7 of the Act
- 130.710 Procedures for Registration of Investment Fund Shares by Coordination under Section 7.A of the Act
- 130.715 Amendatory Statement for the Registration of Additional Class or Classes or the Reporting of a Change in Organization or Operations Pursuant to Section 7(D) of the Act
- 130.730 Renewal of Registration of Investment Fund Shares Under Section 7(G) of the Act
- 130.750 Additional Fees Under Section 7 of the Act
- 130.771 Acts Which "Work or Tend to Work a Fraud or Deceit", in Connection with Offers, Sales or Dispositions of Investment Fund Shares

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS AND INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

- Section
- 130.805 Exemptions From Registration as an Investment Adviser Under Section 8.A of the Act
- 130.806 Acts Not Requiring a Notification Filing of a Federal Covered Investment Adviser or Registration as an Investment Adviser or Investment Adviser Representative Under Section 8 of the Act
- 130.810 Procedures for Registration as a Dealer Under Section 8.B of the Act

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 130.811 Procedures for Perfecting an Investment Adviser Exemption under Section 2.11(6) of the Act (Repealed)
- 130.820 Procedure for Renewal and Withdrawal from Registration as a Dealer
- 130.821 Reporting of Dealer Branch Office ~~Locations~~Location(s) and Required Fees
- 130.822 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge of Each Principal Under Section 8.B(9)(a) of the Act Prior to Registration as a Dealer
- 130.823 Procedure for Requesting Waiver of Dealer, Salesperson, Investment Adviser, Investment Adviser Representative, or Principal Examination Requirements
- 130.824 Financial Statements to be Filed by a Registered Dealer
- 130.825 Records Required of Dealers and Customer Fees
- 130.826 Registered Dealer Net Capital Requirements
- 130.827 Confirmations
- 130.828 Notice of Materially Adverse Financial Condition Required to Be Filed With the Securities Department By a Registered Dealer
- 130.829 Investor Protection Requirement of a Dealer Registered Under Section 8 of the Act
- 130.832 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge Under Section 8.C(7) of the Act for Registration as a Salesperson
- 130.836 Hardship Exemption
- 130.837 Transition to Electronic Filing
- 130.838 Procedures for Federal Covered Investment Adviser Notification Filing and Fees Under Section 8.C-5 of the Act
- 130.839 Procedures for Registration as an Investment Adviser Representative Under Section 8.D-5 of the Act
- 130.840 Procedures for Registration as an Investment Adviser Under Section 8.D of the Act
- 130.841 Reporting of Investment Adviser Branch Office Location(s) and Required Fees
- 130.842 Examinations and Education Programs Deemed Satisfactory for Purposes of Determining Sufficient Knowledge for Each Principal Under Section 8.D.(9) of the Act Prior to Registration as an Investment Adviser
- 130.843 Examination and Education Program Requirements for Registration the Act
- 130.844 Statement of Financial Condition to Be Filed By a Registered Investment Adviser Which Retains Custody of Client's Cash or Securities or Accepts Pre-Payment of Fees in Excess of \$500.00 Per Client and Six (6) or More Months in Advance and Interim Financial Statements
- 130.845 Records Required of Investment Advisers
- 130.846 Written Disclosure Statements of a Registered Investment Adviser
- 130.847 Financial and Disciplinary Information That Investment Advisers Must Disclose to Clients

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

130.850	Account Transactions
130.851	Commission, Profit or Other Compensation
130.852	Compensation
130.853	Account Transactions
130.854	Use of the Term "Investment Counsel"
130.860	Additional Fees Under Section 8 of the Act
130.872	Procedure with Respect to Abandoned Dealer Applications
130.873	Procedure with Respect to Abandoned Investment Adviser Applications

SUBPART J: SERVICE OF PROCESS

Section	
130.1001	Service of Process upon the Secretary of State

SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section	
130.1100	Preamble
130.1101	Qualifications and Duties of the Hearing Officer
130.1102	Notice of Hearing
130.1103	Institution of a Contested Case by the Securities Department
130.1104	Requirement to File an Answer
130.1105	Amendment or Withdrawal of the Notice of Hearing
130.1106	Representation
130.1107	Special Appearance
130.1108	Substitution of Parties
130.1109	Failure to Appear
130.1110	Motions
130.1111	Requirements Relating to Continuances
130.1112	Rules of Evidence
130.1113	Form of Papers
130.1114	Bill of Particulars (Repealed)
130.1115	Discovery
130.1116	Examination of Witnesses
130.1117	Subpoenas
130.1118	Pre-Hearing Conferences
130.1119	Record of a Pre-Hearing Conference
130.1120	Hearings
130.1121	Record of Proceedings
130.1122	Record of Hearing

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

130.1123	Orders
130.1124	Burden of Proof
130.1125	Stipulations
130.1126	Open Hearings
130.1127	Corrections to the Transcript
130.1128	Imposition of Fines
130.1129	Application for Hearing to Present Newly Discovered Evidence
130.1130	Failure to Comply With Order or Rules
130.1131	Application to Vacate an Order Issued Due to Default
130.1132	Disqualification of a Hearing Officer

SUBPART O: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section	
130.1520	Request for Non-Binding Statements

SUBPART P: SAVINGS PROVISIONS

Section	
130.1661	Investors Syndicate of America, Inc.
130.1662	State Bond and Mortgage Company

SUBPART Q: PUBLIC INFORMATION

Section	
130.1701	Inspection of Applications
130.1702	Inspection of Dealer, Salesperson and Investment Adviser Records
130.1703	Non-Public Distribution of Information

130.APPENDIX A	Uniform Consent to Service of Process
130.APPENDIX B	Uniform Application to Register Securities
130.APPENDIX C	Uniform Application for Broker-Dealer Registration
130.APPENDIX D	Subordinated Loan Agreement for Equity Capital

AUTHORITY: Implementing and authorized by the Illinois Securities Law of 1953 [815 ILCS 5].

SOURCE: Filed February 23, 1977, effective March 5, 1977; amended at 5 Ill. Reg. 9139, effective August 27, 1981; amended at 6 Ill. Reg. 6455, effective May 19, 1982; codified at 6 Ill. Reg. 12674; emergency amendment at 7 Ill. Reg. 17427, effective December 31, 1983, for a

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

maximum of 150 days; emergency expired May 31, 1984; emergency amendment at 8 Ill. Reg. 1476, effective January 18, 1984, for a maximum of 150 days; emergency expired June 17, 1984; emergency repealer at 8 Ill. Reg. 3803, effective March 14, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13419, effective July 12, 1984; amended at 8 Ill. Reg. 13840, effective July 19, 1984; emergency amendment at 8 Ill. Reg. 13889, effective July 20, 1984, for a maximum of 150 days; emergency expired December 17, 1984; amended at 9 Ill. Reg. 208, effective December 20, 1984; emergency amendment at 10 Ill. Reg. 393, effective January 1, 1986, for a maximum of 150 days; emergency expired May 30, 1986; amended at 10 Ill. Reg. 10753, effective June 3, 1986; recodified at 10 Ill. Reg. 19554; emergency amendment at 13 Ill. Reg. 11017, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 14 Ill. Reg. 884, effective December 30, 1989; amended at 14 Ill. Reg. 5188, effective March 26, 1990; emergency amendment at 15 Ill. Reg. 14303, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6000, effective March 27, 1992; amended at 20 Ill. Reg. 14185, effective October 21, 1996; amended at 21 Ill. Reg. 7523, effective May 23, 1997; amended at 21 Ill. Reg. 7770, effective May 23, 1997; amended at 21 Ill. Reg. 8415, effective June 20, 1997; emergency amendment at 21 Ill. Reg. 9828, effective July 8, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15892, effective December 1, 1997; amended at 22 Ill. Reg. 1933, effective January 1, 1998; emergency amendment at 24 Ill. Reg. 341, effective December 31, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 7401, effective May 1, 2000; emergency amendment at 25 Ill. Reg. 973, effective January 1, 2001, for a maximum of 150 days; emergency expired May 30, 2001; amended at 25 Ill. Reg. 8817, effective July 6, 2001; amended at 26 Ill. Reg. 14843, effective September 30, 2002; amended at 27 Ill. Reg. 9490, effective June 9, 2003; emergency amendment at 29 Ill. Reg. 15087, effective September 23, 2005, for a maximum of 150 days; emergency expired February 19, 2006; emergency amendment at 30 Ill. Reg. 13009, effective July 11, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18211, effective October 31, 2006.

SUBPART B: DEFINITIONS

Section 130.280 Definition of the Term "Branch Office" of a Registered Dealer, as Used in Section 8 of the Act

- a) A "branch office" is any location where one or more associated persons of a registered dealer regularly conduct the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security, or is held out as such, excluding:
- 1) Any location that is established solely for customer service and/or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 2) Any location that is the associated person's primary residence; provided that:
- A) Only one associated person or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at the location;
 - B) The location is not held out to the public as an office and the associated person does not meet with customers at the location;
 - C) Neither customer funds nor securities are handled at that location;
 - D) The associated person is assigned to a designated branch office, and that designated branch office is reflected on all business cards, stationery, advertisements and other communications to the public by the associated person;
 - E) The associated person's correspondence and communications with the public are subject to the firm's supervision in accordance with NASD Rule 3010;
 - F) Electronic communications are made through the registered dealer's electronic system;
 - G) All orders are entered through the designated branch office or an electronic system established by the registered dealer that is reviewable at the branch office;
 - H) Written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the registered dealer; and
 - D) A list of the residence locations is maintained by the registered dealer;
- 3) Any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the registered dealer complies with the provisions of subsections (a)(2)(A) through (H) of this Section;

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- 4) Any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, that is not held out to the public as an office. If the office of convenience is located on bank premises, signage necessary to comply with applicable federal and State laws, rules and regulations and applicable rules and regulations of the NYSE, other self-regulatory organizations, and securities and banking regulations may be displayed and shall not be deemed "holding out" for purposes of this Section;
 - 5) Any location that is used primarily to engage in non-securities activities and from which the associated persons effects no more than 25 securities transactions in any one calendar year; provided that any advertisement or sales literature identifying the location also sets forth the address and telephone number of the location from which the associated persons conducting business at the non-branch locations are directly supervised;
 - 6) The Floor of a registered national securities exchange where a registered dealer conducts a direct access business with public customers; or
 - 7) A temporary location established in response to the implementation of a business continuity plan.
- b) Notwithstanding the exclusions provided in subsections (a)(1) through (7), any location that is responsible for supervising the activities of persons associated with the registered dealer at one or more non-branch locations of the registered dealer is considered to be a branch office.
- c) The term "business day", as used in this Section, shall not include any partial business day provided that the associated person spends at least four hours on the business day at his or her designated branch office during the hours that the office is normally open for business.
- a) ~~"Branch office" as used in Section 8 of the Act shall mean any office, residence or other place or location in this State where the business of a registered dealer is being conducted and which is owned or controlled by, or operated directly or indirectly for the benefit of, the registered dealer, and where the business of a dealer is conducted by a principal, salesperson or salespersons for such registered dealer.~~

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

- b) ~~The principal office located in this State of the registered dealer, if any, shall not be considered a branch office.~~

(Source: Amended at 30 Ill. Reg. 18211, effective October 31, 2006)

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS, INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

Section 130.821 Reporting of Dealer Branch Officer Locations~~Location(s)~~ and Required Fees

- a) Each applicant for registration as a dealer shall file Form BR on the CRD system ~~with the Securities Department with its application a schedule~~ setting forth the address of each branch office in this State as defined in Section 130.280. The applicant for registration as a dealer ~~Illinois Form designating branch offices disclosing each branch office~~ shall ~~pay~~ be accompanied by the payment of the fee in the ~~form and~~ amount specified in Section 130.110 of this Part for each branch office in this State.
- b) Each registered dealer shall file or have filed Form BR on the CRD system ~~with the Securities Department~~ on or before December 31 ~~in 1989 and thereafter~~ annually ~~on or before June 30 a schedule~~ setting forth the address of each branch office and pay to the Securities Department in Springfield a fee in the form and amount specified in Section 130.110 of this Part for each branch office in this State.
- c) No registration of a dealer shall become effective until a separate Form BR ~~such schedule~~ of the dealer's branch offices in this ~~State~~ state, if any, has been filed on the CRD system ~~with the Securities Department~~ and ~~the~~ such fee, if any, has been paid.
- d) The registered dealer shall amend its application for registration by filing on the CRD system an amended Form BR or initial Form BR ~~one copy of the Illinois Form designating branch offices or Schedule E to Form BD with the NASD and the Securities Department in Springfield~~ within ten ~~(10)~~ business days after:
- 1) the opening of any branch office in this State not previously reported, ~~and setting forth the address of such branch office~~; and
 - 2) the closing of any branch office in this State ~~and setting forth the address~~

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

~~of such branch office.~~

(Source: Amended at 30 Ill. Reg. 18211, effective October 31, 2006)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ENVIRONMENTAL PROTECTION AGENCY

- 1) Heading of the Part: Municipal Brownfields Redevelopment Grant Program
- 2) Code Citation: 35 Ill. Adm. Code 885
- 3) Register citation of proposed rulemaking and other pertinent action: 30 Ill. Reg. 15345; September 29, 2006
- 4) Explanation: Section 230(c) contains a typographical error deleting, rather than striking, subsections (1), (2) and (3). The rulemaking text filed with the Secretary of State for publication by the Environmental Protection Agency was correct. JCAR regrets the error. The amended Section follows.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ENVIRONMENTAL PROTECTION AGENCY

Section 885.230 Amendments to Grant Agreement

- a) The grantee must obtain an amendment to the grant agreement for the following project changes:
- 1) An increase in the total amount of grant funds awarded under this Part;
 - 2) The addition or deletion of one or more project sites; or
 - 3) The extension of any contractual or grant completion date for the project. ~~To implement a project change, the grantee must obtain a formal amendment to the grant agreement. The grantee may request an amendment to the grant agreement by submitting an amended grant application to the Agency at any point during the grant term. Any such application shall include at a minimum any reports required pursuant to Section 885.245(a) and not already submitted.~~
- b) The grant agreement may be amended only by the mutual consent of the parties set forth in writing as a formal grant agreement amendment, signed and dated by the Agency and the grantee. The grantee may request an amendment at any point during the grant term. Requests for amendments must be submitted on forms prescribed by the Agency and must include all reports due under Section 885.245(a) of this Part that have not been submitted. Grant amendments at the request of the grantee will be considered by the Agency only if the grantee is current on all reporting requirements set forth in Section 885.245(a) of this Part.
- c) Project changes other than those identified in subsection (a) of this Section must be approved by the Agency pursuant to Section 885.232 of this Part. The grantee may request amendments for project changes including, but not limited to:
- 1) ~~Increasing the amount of State funds needed to complete the project;'~~
 - 2) ~~Altering the scope of the grant, as agreed to at the time of the grant award, e.g., by changing methodologies or personnel to be used; or~~
 - 3) ~~Extending any contractual or grant completion date for the project.~~

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ENVIRONMENTAL PROTECTION AGENCY

- d) No more than 90 days after receipt of a request for an amendment to the grant agreement~~an amended grant application~~, the Agency shall notify the grantee in writing of its approval or rejection of the requested amendment~~to the grant agreement~~.
- e) The Agency shall not approve any amendment to the grant agreement in violation of the limitations on grants set forth in Sections~~sections~~ 885.200 and 885.201 of this Part.
- f) The Agency shall approve an amendment to the grant agreement, to the extent that the Agency may approve the amendment consistent with sections 885.200 and 885.201 of this Part, if the grantee makes a showing that:
- 1) The original project cost approval was based on estimated costs or contractor bids, where the actual costs or contractor bids are over or under the estimated costs;
 - 2) Amendments to State statutes have affected or will affect the project costs;
 - 3) A project element was inadvertently omitted; or
 - ~~4) An approved project element has been found unnecessary; or~~
 - 4)5) A project element was added pursuant to requirements of the Site Remediation Program.
- g) If the Agency approves a requested amendment to the grant agreement, the Agency shall sign the amendment and the amendment shall become a part of the grant agreement. The amendment becomes effective on the date it is signed by the Agency.~~send a signed formal amendment signature page and a copy of the amended grant application to the grantee. After the grantee signs and returns the signature page, the Agency shall date the signature page and attach the amended grant application, the notification of Agency approval of the requested amendment and the signature page to the grant agreement documents.~~
- h) A grantee cannot obtain an amendment to the grant agreement by default due to the Agency's failure to act within the time frames set forth in this Section.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ENVIRONMENTAL PROTECTION AGENCY

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

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Register citation of peremptory rulemaking and other pertinent action: 30 Ill. Reg. 16470; October 13, 2006
- 4) Explanation: The Department of Human Services sent the Index Department modified text pages for this rule after their initial submission, but inadvertently the incorrect pages were published for that week. The Index Department regrets this error. The corrected text follows on the next page.

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section

- 121.80 Fraud Disqualification (Renumbered)
- 121.81 Initiation of Administrative Fraud Hearing (Repealed)
- 121.82 Definition of Fraud (Renumbered)
- 121.83 Notification To Applicant Households (Renumbered)
- 121.84 Disqualification Upon Finding of Fraud (Renumbered)
- 121.85 Court Imposed Disqualification (Renumbered)
- 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
- 121.91 Monthly Reporting (Repealed)
- 121.92 Budgeting
- 121.93 Issuance of Food Stamp Benefits
- 121.94 Replacement of the EBT Card or Food Stamp Benefits
- 121.95 Restoration of Lost Benefits
- 121.96 Uses For Food Coupons
- 121.97 Supplemental Payments
- 121.98 Client Training for the Electronic Benefits Transfer (EBT) System
- 121.105 State Food Program (Repealed)
- 121.107 New State Food Program
- 121.108 Transitional Food Stamp (TFS) Benefits
- 121.120 Redetermination of Eligibility
- 121.125 Redetermination of Earned Income Households
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
- 121.145 Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

121.160	Persons Required to Participate
121.162	Program Requirements
121.163	Vocational Training
121.164	Orientation (Repealed)
121.165	Community Work
121.166	Assessment and Employability Plan (Repealed)
121.167	Counseling/Prevention Services
121.170	Job Search Activity
121.172	Basic Education Activity
121.174	Job Readiness Activity
121.176	Work Experience Activity
121.177	Illinois Works Component (Repealed)
121.178	Job Training Component (Repealed)
121.179	JTPA Employability Services Component (Repealed)
121.180	Grant Diversion Component (Repealed)
121.182	Earnfare Activity
121.184	Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186	Good Cause for Failure to Cooperate
121.188	Supportive Services
121.190	Conciliation
121.200	Types of Claims (Recodified)
121.201	Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202	Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203	Collecting Claim Against Households (Recodified)
121.204	Failure to Respond to Initial Demand Letter (Recodified)
121.205	Methods of Repayment of Food Stamp Claims (Recodified)
121.206	Determination of Monthly Allotment Reductions (Recodified)
121.207	Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208	Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

- 121.220 Work Requirement Components (Repealed)
- 121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)
- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; preemptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; preemptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18,

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; preemptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990;

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; preemptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; preemptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; preemptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days;

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; preemptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill. Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; emergency expired September 2, 2006; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006; amended at 30 Ill. Reg. 15681, effective September 12, 2006; preemptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006.

SUBPART D: ELIGIBILITY STANDARDS

Section 121.60 Net Monthly Income Eligibility Standards

- a) Eligible households whose net monthly income does not exceed the maximum

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

monthly income standards shall be assigned food stamp benefits based on the net monthly food stamp income.

b) The maximum net monthly income standards are:

Household Size	Amount
1.....	\$817,798
2.....	1,100,070
3.....	1,384,341
4.....	1,667,613
5.....	1,950,885
6.....	2,234,156
7.....	2,517,428
8.....	2,800,700
Each additional member.....	284,272

Derived from Office of Management and Budget non-farm, income poverty guidelines.

(Source: Peremptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006)

Section 121.61 Gross Monthly Income Eligibility Standards

a) Gross Monthly Income Eligibility Standards

1) The gross income standards of eligibility shall be 130 percent of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget (see 7 CFR 273.9(a)(1) (~~20052004~~)). However, categorically eligible households and households containing a member who is elderly, blind or disabled will be exempt from this gross income

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

check (see also 7 CFR 273.9(c) (~~20052004~~)). To qualify for increased benefits, a household must contain a member who meets one of the following requirements:

- A) A member is 60 years of age or older. An individual is considered age 60 in the fiscal month in which he or she becomes 60.
- B) A member receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, (this includes the household where the member is receiving SSI income pending a final decision from the Social Security Administration. This SSI income is being provided on a temporary or emergency basis).
- C) A member receives Social Security disability or blindness benefits under Title II (RSDI) of the Social Security Act.
- D) A member receives State Supplemental Payment (SSP) due to blindness or disability.
- E) A veteran with a service-connected disability rated or paid as totally disabled by the Department of Veterans Affairs (VA).
- F) A veteran considered by the VA to be in need of regular aid and attendance or permanently housebound.
- G) A veteran's surviving spouse who is considered in need of aid and attendance or considered permanently housebound by the VA or a veteran's surviving child who is considered permanently incapable of self-support by the VA.
- H) A veteran's surviving spouse or child entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death from the VA, if the spouse or child also has a disability considered permanent under Social Security requirements.
- I) A member receives federal, state, or local government disability pension and is considered permanently disabled under Social

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

Security requirements.

- J) A member receives Railroad Retirement disability benefits.
- K) A member receives an annuity payment from Railroad Retirement and is eligible for Medicare.
- L) A member receives disability-related medical assistance benefits (Categories 92, 93 and P3) under Title XIX (Medicaid) of the Social Security Act.
- 2) For those veterans, surviving spouses, or children mentioned in subsections (a)(1)(F) and (G) of this Section, proof of receipt of VA disability benefits is sufficient verification of disability. For those veterans mentioned in subsection (a)(1)(E) of this Section, a verified statement, in writing, from the VA that the individual is totally disabled must be provided. To verify disability for those individuals mentioned in subsection (a)(1)(H) of this Section, the individual must provide a statement from the Social Security Administration or from a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60], or a licensed or certified psychologist under the Clinical Psychologist Licensing Act [225 ILCS 15] that the individual suffers from one of the disabilities listed in the preamble to Section 221(i) of the Social Security Act (42 USC 421(i)) or if the disability is obvious, by the observation of the caseworker (for example, permanent loss of use of both hands).
- 3) Legally obligated child support payments paid by a household member shall be excluded from gross income when comparing income to the gross income standard to determine eligibility.
- | b) Household Size | Gross Income |
|-------------------|--------------------------|
| One Person | \$ 1,0621,037 |
| Two Persons | 1,4301,390 |
| Three Persons | 1,7991,744 |
| Four Persons | 2,1672,097 |

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

Five Persons	<u>2,5352,450</u>
Six Persons	<u>2,9042,803</u>
Seven Persons	<u>3,2723,156</u>
Eight Persons	<u>3,6403,509</u>
Each Additional Member	+ <u>369354</u>

(Source: Peremptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006)

Section 121.63 Deductions from Monthly Income

- a) The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.
- b) Earned Income Deduction. Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.
- c) Standard Deduction. The standard deduction for a household size of one through ~~threefour~~ persons is \$134. The standard deduction for a household size of four persons is \$139. The standard deduction for a household size of five persons is \$162157. For households of six or more persons, the standard deduction is \$186179.
- d) Dependent Care Deduction
 - 1) The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria or to attend training or pursue education which is preparatory for employment (see 89 Ill. Adm. Code 112.70 through 112.84).

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

- 2) The amount of the deduction is to be determined by the actual costs for care and is not to exceed \$200 per month for each child under age 2 and \$175 per month for each other dependent household member.
- e) Child Support Deduction. The child support deduction is the amount of legally obligated child support paid by a household member to or for a nonhousehold member.
- f) Shelter Costs Deduction
 - 1) The shelter deduction is the amount of shelter costs that exceeds 50% of the household's total income after the allowable deductions in subsections (b), (c), (d), and (e) of this Section have been made. The shelter deduction shall not exceed ~~\$417400~~.
 - 2) If the household contains a member who is elderly or disabled, as defined at 7 CFR 271.2 (2005) and Section 121.61, there is no limit on the amount of the excess shelter deduction.
 - 3) Shelter costs include only the following:
 - A) continuing charges for the shelter occupied by the household (rent, mortgage and other charges leading to the ownership of the shelter, including interest on such charges);
 - B) property taxes, State and local assessments and insurance on the structure itself; and
 - C) utility costs, as described in subsection (g) of this Section.
 - 4) Shelter costs for a home temporarily unoccupied by the household because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, if:
 - A) the household intends to return to the home;
 - B) the current occupants of the home, if any, are not claiming the shelter costs for food stamp purposes; and

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

- C) the home is not leased or rented during the absence of the household.
- 5) Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.
- g) Utility Costs
- 1) Utility costs include:
 - A) the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection;
 - B) basic service fee for one telephone (including tax on the basic fee) of \$27; and
 - C) fees charged by the utility provider for initial installation.
 - 2) Utility deposits are not considered to be utility costs.
 - 3) A standard must be used if the household is billed for utilities. See Section 121.63(g)(7) for households that claim utility expenses for an unoccupied home. Households that are billed for heating or air conditioning, or both, or heating, air conditioning and electricity, must use the air conditioning/heating standard allowance of \$299. Those households that are not billed for air conditioning or heating but are billed for at least two other utilities must use the limited utility standard allowance of \$165. Those households that are not billed for air conditioning or heating but are billed for a single utility, other than telephone, must use the single utility standard allowance of \$32. If only a separately-billed telephone expense is claimed, the basic telephone allowance of \$27 per month will be allowed. Households living in rental housing who are billed on a regular basis by a landlord for costs for utilities must use the appropriate standard.

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

- 4) A household that is billed less often than monthly for its costs for utilities must continue to use the appropriate standard between billing months.
- 5) Households in public housing or privately-owned rental units that receive a bill for over-usage are entitled to use the air conditioning/heating standard allowance. When households (as defined at 7 CFR 273.1(a) (2005)) live together, the air conditioning/heating standard allowance, the limited utility standard allowance, or the single utility standard allowance, whichever is appropriate, shall be allowed for each household that contributes toward the utility costs whether or not each household participates in the program.
- 6) Households whose expense for heat or electricity, or both, is covered by indirect energy assistance payments under the Low Income Home Energy Program (89 Ill. Adm. Code 109) shall be entitled to the air conditioning/heating standard allowance (7 CFR 273.9 and 273.10(d)(6) (2005)). Households who receive, apply for, or anticipate applying for a Low Income Energy Assistance Program (IHEAP) (89 Ill. Adm. Code 109) payment during the 12-month period, beginning with the date of the food stamp application, shall be allowed the air conditioning/heating standard (7 CFR 273.9). The provisions of subsection (f)(3) of this Section are applicable to households whose expenses for heating or electricity, or both, are covered by indirect energy assistance payments.
- 7) A household that has both an occupied home and an unoccupied home is entitled to only one standard. The appropriate utility standard may be used for the home the household chooses.
- h) Excess Medical Deduction. A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 (2005) and Section 121.61. The medical expenses incurred by the qualifying household member which are over \$35 will be deducted, if the expenses will not be reimbursed by insurance or a third party.

(Source: Peremptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006)

Section 121.64 Food Stamp Benefit Amount

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

a) The monthly food stamp benefit amount is determined by subtracting 30% of the adjusted net monthly income from the maximum monthly food stamp benefit amount.

b) Maximum Monthly Food Stamp Benefit Amount:

Household Size	Amount
1.....	\$155452
2.....	\$284278
3.....	\$408399
4.....	\$518506
5.....	\$615604
6.....	\$738722
7.....	\$816798
8.....	\$932912
Each additional member.....	\$117444

c) All one and two-person households will receive a minimum monthly food stamp benefit amount of \$10.

d) September Food Stamp Benefit Amount Adjustment
The annual revisions of maximum gross and net income standards, standard deduction, maximum excess shelter deduction and food stamp benefit amounts are effective October 1st of each year. Because the September fiscal month of certain households includes days which fall in the October calendar month, the portion of the September fiscal food stamp benefit amount covering October 1st

SECRETARY OF STATE

NOTICE OF PUBLICATION ERROR

DEPARTMENT OF HUMAN SERVICES

and later must be increased to reflect the new standards.

(Source: Peremptory amendment at 30 Ill. Reg. 16470, effective October 1, 2006)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JANUARY 2007 REGULATORY AGENDA

- a) Part (Heading and Code Citation): General Provisions for Radiation Protection, 32 Ill. Adm. Code 310

Rulemaking: Proposed Amendment

- A) Description: The Agency is proposing this rulemaking to amend Section 310.20 by clarifying the definition of Shallow dose equivalent.
- B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date agency anticipates First Notice: January 2007
- E) Affect on small businesses, small municipalities or not for profit corporations: The Agency does not believe these amendments will have any direct impact on small businesses, not for profit corporation or small municipalities as defined in Section 100/1-80 of the IAPA.
- F) Agency contact person for information:
- Rose Miller-Ihlenfeldt
Illinois Emergency Management Agency
1035 Outer Park Drive, Springfield, IL 62704
217/785-9860 (voice); 217/782-6133 (TDD)
- G) Related rulemakings and other pertinent information: None

- b) Part (Heading and Code Citation): Standards for Protection Against Radiation, 32 Ill. Adm. Code 340

Rulemaking: Proposed Amendment

- A) Description: The Agency is proposing this amendment to add a subsection (g) to Section 340.810 dealing with the new portable gauge security requirement and to update the latest effective date to 10 CFR 20 Appendix B.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JANUARY 2007 REGULATORY AGENDA

- B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date agency anticipates First Notice: January 2007
- E) Affect on small businesses, small municipalities or not for profit corporations: The Agency does not believe these amendments will have any direct impact on small municipalities as defined in Section 100/1-80 of the IAPA. These amendments will have an affect on small businesses or not for profit corporation.
- F) Agency contact person for information:
- Rose Miller-Ihlenfeldt
Illinois Emergency Management Agency
1035 Outer Park Drive, Springfield, IL 62704
217/785-9860 (voice); 217/782-6133 (TDD)
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Use of x-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine; 32 Ill. Adm Code 360

Rulemaking: Proposed Amendment

- A) Description: Proposed changes to 360.50(n) will amend fluoroscopic operator restrictions to allow accredited radiologist assistants to operate a fluoroscope under the supervision of a qualified physician.

Proposed regulations will be added to include personnel qualifications for physicians who supervise or direct radiation therapy procedures. Also included will be requirements for documentation of the qualifications of visiting (locum tenens) physicians. The proposal will also include requirements for written directives and procedures for application of therapeutic x-ray to patients.

- B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40]

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JANUARY 2007 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date agency anticipates First Notice: January 2007
- E) Affect on small businesses, small municipalities or not for profit corporations: The Agency believes these amendments may have a minimal impact on small businesses, not for profit corporation or small municipalities as defined in Section 100/1-80 of the IAPA.
- F) Agency contact person for information:
- Rose Miller-Ihlenfeldt
Illinois Emergency Management Agency
1035 Outer Park Drive, Springfield, IL 62704
217/785-9860 (voice); 217/782-6133 (TDD)
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Accrediting Persons in the Practice of Medical Radiation Technology; 32 Ill Adm Code 401

Rulemaking: Proposed Amendment

- A) Description: The Agency is proposing this amendment to: (1) adopt and define three specific levels of supervision: personal, direct and general, and specify throughout the rule that which is required; (2) require personal supervision for individuals enrolled as a Student-In Training; (3) exempt operators of bone densitometry units from accreditation requirements; (4) establish an accreditation category of Radiologist Assistant; (5) adopt the passing score recommended by the American Registry of Radiologic Technologists (ARRT) for the limited scope examination; (6) move the requirements for Student-in-Training from Section 401.80, which is being deleted, to a new Section 401.90; (7) eliminate the direct and indirect categories for continuing education (CE) requirements and adopt the ARRT's option for satisfying CE. As such, non-evaluated CE credit (Category B) will no longer be accepted for CE credit after January 1, 2008; (8) eliminate the requirement for documentation of CE credits by the Agency as a condition of renewal. All technologists will be required to maintain proof of participation in CE activities, and during renewal,

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JANUARY 2007 REGULATORY AGENDA

attest, subject to a randomly selected audit by the Agency, that they have participated in the required number of CE credits. Technologists registered with the ARRT or another certifying organization and in compliance with CE requirements or on CE probation at the time of renewal will be considered in compliance with the Agency's CE requirements for renewal, thus eliminating any need for the registry or accreditation periods to coincide; (9) define the Agency's process for reviewing and approving CE; (10) increase, effective January 1, 2008, the fee for the limited exam or for registration as a Student-in-Training from \$80 to \$100 to account for the exam's cost increase, which was recently announced by the exam's provider, the ARRT; (11) define the process of assessing civil penalties against individuals and radiation installation operators for second and subsequent violations of the Agency's accreditation requirements, and allow either the individual or operator an opportunity of pay the civil penalty before the commencement of any administrative proceedings; (12) add ribs to the list of procedures under the limited chest category and pelvis to the limited extremities and spine categories.

- B) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40/5, 6,7 and 36]
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: January 2007
- E) Affect on small businesses, small municipalities or not for profit corporations: The Agency does not believe these amendments will have an impact on small businesses, not for profit corporation or small municipalities as defined in Section 100/1-80 of the IAPA.
- F) Agency contact person for information:
- Rose Miller-Ihlenfeldt
Illinois Emergency Management Agency
1035 Outer Park Drive, Springfield, IL 62704
217/785-9860 (voice); 217/782-6133 (TDD)
- G) Related rulemakings and other pertinent information: None

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JANUARY 2007 REGULATORY AGENDA

- e) Part (Heading and Code Citation): Safe Operation of Nuclear Facility Boiler and Pressure Vessel, 32 Il. Adm Code 505

Rulemaking: Proposed Amendment

- A) Description: The Agency is proposing this rulemaking to
- B) Statutory Authority: Implementing and authorized by Section 8(a)(8) of the Illinois Nuclear Safety Preparedness Act [420 ILCS 5/8(a)(8)], Sections 2(a) and 2(b) of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2(a) and 2(b)], and Section 2005-35 of the Civil Administrative Code of Illinois [20 ILCS 2005/2005-35].
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date agency anticipates First Notice: January 2007
- E) Affect on small businesses, small municipalities or not for profit corporations: The Agency does not believe these amendments will have any direct impact on small businesses, not for profit corporation or small municipalities as defined in Section 100/1-80 of the IAPA.
- F) Agency contact person for information:

Rose Miller-Ihlenfeldt
Illinois Emergency Management Agency
1035 Outer Park Drive, Springfield, IL 62704
217/785-9860 (voice); 217/782-6133 (TDD)
- G) Related rulemakings and other pertinent information: None

- f) Part (Heading and Code Citation): Political Subdivision Emergency Service Disaster Agencies, 29 Ill. Adm Code 310.510

Rulemaking: Proposed Amendment

- A) Description: The Agency is proposing this rulemaking to add a new subsection 12 to Section 310.510 (b) relating to the completion and submission of all current National Incident Management System (NIMS) compliance documentations to the Agency.

ILLINOIS EMERGENCY MANAGEMENT AGENCY

JANUARY 2007 REGULATORY AGENDA

- B) Statutory Authority: Implementing Sections 3305/1 through 3305/22 of the Illinois Emergency Management Agency Act [20 ILCS 3305/1 through 3305/22] and authorized by Sections 3305/5 (f)(4), 3305/5(f)(5) and 3305/10(i) of the Illinois Emergency Management Agency Act [20 ILCS 3305/5(f)(4), 3305/5(f)(5) and 3305/10(i)] and by Sections 5(f)(4) and 5(f)(5), 5(f)(5.5) and (5)(f)(5.10) of P.A. 92-0073, effective January 1, 2002.
- C) Scheduled meeting/hearing dates: None scheduled.
- D) Date agency anticipates First Notice: January 2007
- E) Affect on small businesses, small municipalities or not for profit corporations: The Agency does not believe these amendments will have any direct impact on small businesses, not for profit corporation or small municipalities as defined in Section 100/1-80 of the IAPA.
- F) Agency contact person for information:
- Rose Miller-Ihlenfeldt
Illinois Emergency Management Agency
1035 Outer Park Drive, Springfield, IL 62704
217/785-9860 (voice); 217/782-6133 (TDD)
- G) Related rulemakings and other pertinent information: None

DEPARTMENT OF HUMAN RIGHTS

JANUARY 2007 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520).

1) Rulemaking:

- A) Description: Pursuant to Section 2-105(B) of the Illinois Human Rights Act [775 ILCS 5/2-105(B)], state agencies are required to submit to the Department status reports regarding their affirmative action plans. The proposed amendments will modify which state agencies are required to submit status reports and the content of such status reports.
- B) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated at this time.
- D) Date agency anticipates First Notice: No First Notice date has been determined.
- E) Effect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601
(312) 814-1906 or (312) 263-1579 (TTY)
- G) Related rulemaking and other pertinent information: None

b) Part(s) (Heading and Code Citation): Housing Discrimination (71 Ill. Adm. Code 2300).

1) Rulemaking:

DEPARTMENT OF HUMAN RIGHTS

JANUARY 2007 REGULATORY AGENDA

- A) Description: Pursuant to Section 3-106(I)(1)(c)(iii) of the Illinois Human Rights Act [775 ILCS 5/3-106(I)(1)(c)(iii)], the Department is required to promulgate regulations regarding housing for older persons, including verification of occupancy and examples of policies and procedures. The proposed amendments are modeled after the equivalent federal regulations, 24 CFR §100.306 and 100.307, and will satisfy the requirements of the Human Rights Act.
- B) Statutory Authority: Implementing Articles 3, 6 and 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B], and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A)].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated at this time.
- D) Date agency anticipates First Notice: No First Notice date has been determined.
- E) Effect on small business, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Brent A. Harzman
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601
(312) 814-1906 or (312) 263-1579 (TTY)
- G) Related rulemaking and other pertinent information: None

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 October 31, 2006 through November 6, 2006 and have been scheduled for review by the Committee at its December 12, 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.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/13/06	<u>Department of Financial and Professional Regulation-Division of Professional Regulation, Illinois Professional Land Surveyor Act of 1989 (68 Ill. Adm. Code 1270)</u>	6/16/06 30 Ill. Reg. 10557	12/12/06
12/16/06	<u>Department of Natural Resources, Special White-Tailed Deer Season For Disease Control (17 Ill. Adm. Code 675)</u>	9/15/06 30 Ill. Reg. 14751	12/12/06
12/17/06	<u>State Police Merit Board, Procedures of the Department of State Police Merit Board (80 Ill. Adm. Code 150)</u>	9/8/06 30 Ill. Reg. 14448	12/12/06

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period July 1, 2006 through September 30, 2006.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006, 30 Ill. Reg. 9195, May 12, 2006 and 30 Ill. Reg. 14377, September 1, 2006.

Water quality criteria for General Use and Lake Michigan Basin Waters are listed below.

General Use criteria apply to waters of the State for which there is no specific designation in 35 Ill. Adm. Code 303.201, Lake Michigan Basin criteria apply within waters of the Lake Michigan Basin as designated in 35 Ill. Adm. Code 303.443.

General Use Criteria

Chemical: Acenaphthene	CAS #83-32-9
Acute criterion: 120 ug/l	Chronic criterion: 62 ug/l
Date criteria derived: November 14, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Acenaphthylene	CAS # 208-96-8
Acute criterion: 190 ug/L	Chronic criterion: 15 ug/L
Date criteria derived: March 1, 1998	
Applicable waterbodies: Not used during this period.	
Chemical: Acetone	CAS #67-64-1
Acute criterion: 1,500 mg/l	Chronic criterion: 120 mg/l
Date criteria derived: May 25, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acetonitrile	CAS #75-05-8
Acute criterion: 380 mg/l	Chronic criterion: 30 mg/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acrylonitrile	CAS #107-13-4
Acute criterion: 910 ug/l	Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l	
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Anthracene	CAS #120-12-7
Human health criterion (HTC): 35 mg/l	
Date criteria derived: August 18, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Atrazine	CAS #1912-24-9
Acute criterion: 82 ug/l	Chronic criterion: 9.0 ug/L
Date criteria derived: May 2, 2005	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)anthracene	CAS #56-55-3
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(a)pyrene	CAS #50-32-8
Human health criterion (HNC): 0.016 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Benzo(b)fluoranthene	CAS # 205-99-2
Human health criterion (HNC): 0.16 ug/l	
Date criteria derived: August 10, 1993; revised February 1999	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.
Chemical: Benzo(k)fluoranthene CAS #207-08-9 Human health criterion (HNC): 1.6 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: Carbon tetrachloride CAS #56-23-5 Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.
Chemical: Chlorobenzene CAS #108-90-7 Acute criterion: 990 ug/l Chronic criterion: 79 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.
Chemical: Chloroform CAS #67-66-3 Acute criterion: 1,900 ug/l Chronic criterion: 150 ug/l Human health criterion (HNC): 130 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.
Chemical: Chrysene CAS #218-01-9 Human health criterion (HNC): 16 ug/l Date criteria derived: August 10, 1993; revised February 1999 Applicable waterbodies: Not used during this period.
Chemical: 1,2-dichlorobenzene CAS #95-50-1 Acute criterion: 210 ug/l Chronic criterion: 17 ug/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.
Chemical: 1,3-dichlorobenzene CAS #541-73-1 Acute criterion: 500 ug/l Chronic criterion: 200 ug/l Date criteria derived: July 31, 1991 Applicable waterbodies: Not used during this period.
Chemical: 1,2-dichloroethane CAS #107-06-2 Acute criterion: 25 mg/l Chronic criterion: 4.5 mg/l Human health criterion (HNC): 23 ug/l Date criteria derived: March 19, 1992 Applicable waterbodies: Not used during this period.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 1,1-dichloroethylene	CAS #75-35-4
Acute criterion: 3,000 ug/l	Chronic criterion: 240 ug/l
Human health criterion (HNC): 0.95 ug/l	
Date criteria derived: March 20, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dichlorophenol	CAS #120-83-2
Acute criterion: 630 ug/l	Chronic criterion: 83 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloropropane	CAS #78-87-5
Acute criterion: 4,800 ug/l	Chronic criterion: 380 ug/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichloropropylene	CAS #542-75-6
Acute criterion: 99 ug/l	Chronic criterion: 7.9 ug/l
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dimethyl phenol	CAS #105-67-9
Acute criterion: 740 ug/l	Chronic criterion: 220 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol	CAS #534-52-1
Acute criterion: 29 ug/l	Chronic criterion: 2.3 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dinitrophenol	CAS #51-28-5
Acute criterion: 85 ug/l	Chronic criterion: 4.1 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 2,6-dinitrotoluene	CAS #606-20-2
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Date criteria derived: February 14, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Diquat	CAS #85-00-7
Acute criterion: 990 ug/l	Chronic criterion: 80 ug/l
Date criteria derived: January 30, 1996	

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Applicable waterbodies: Not used during this period.	
Chemical: Ethyl mercaptan (ethanethiol)	CAS #75-08-1
Acute criterion: 17 ug/l	Chronic criterion: 2 ug/l
Date criteria derived: April 8, 2002	
Applicable waterbodies: Not used during this period.	
Chemical: Fluoranthene	CAS #206-44-0
Human health criterion (HTC): 120 ug/l	
Date criteria derived: August 10, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Formaldehyde	CAS #50-00-0
Acute criterion: 4.9 mg/l	Chronic criterion: 0.39 mg/l
Date criteria derived: January 19, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobenzene	CAS #118-74-1
Human health criterion (HNC): 0.00025 ug/l	
Date criteria derived: November 15, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachlorobutadiene	CAS #87-68-3
Acute criterion: 35 ug/l	Chronic criterion: 2.8 ug/l
Date criteria derived: March 23, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Hexachloroethane	CAS #67-72-1
Acute criterion: 380 ug/l	Chronic criterion: 31 ug/l
Human health criterion (HNC): 2.9 ug/l	
Date criteria derived: November 15, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: n-Hexane	CAS #110-54-3
Acute criterion: 250 ug/l	Chronic criterion: 20 ug/l
Date criteria derived: April 8, 2002	
Applicable waterbodies: Not used during this period.	
Chemical: Isobutyl alcohol = 2-methyl-1-propanol	CAS #78-83-1
Acute criterion: 430 mg/l	Chronic criterion: 35 mg/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Methylene chloride	CAS #75-09-2
Acute criterion: 17 mg/l	Chronic criterion: 1.4 mg/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Human health criterion (HNC): 340 ug/l Date criteria derived: January 21, 1992 Applicable waterbodies: Not used during this period.	
Chemical: Methyl ethyl ketone Acute criterion: 320 mg/l Date criteria derived: July 1, 1992 Applicable waterbodies: Not used during this period.	CAS #78-93-3 Chronic criterion: 26 mg/l
Chemical: 4-methyl-2-pentanone Acute criterion: 46 mg/l Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period.	CAS #108-10-1 Chronic criterion: 1.4 mg/l
Chemical: 2-methyl phenol Acute criterion: 4.7 mg/l Date criteria derived: November 8, 1993 Applicable waterbodies: Not used during this period.	CAS #95-48-7 Chronic criterion: 0.37 mg/l
Chemical: 4-methyl phenol Acute criterion: 670 ug/l Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period.	CAS #106-44-5 Chronic criterion: 120 ug/l
Chemical: methyl tert-butyl ether (MTBE) Acute criterion: 67 mg/l Date criteria derived: September 18, 1997 Applicable waterbodies: Not used during this period.	CAS #134-04-4 Chronic criterion: 6.7 mg/l
Chemical: Naphthalene Acute criterion: 510 ug/l Date criteria derived: November 7, 1991; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #91-20-3 Chronic criterion: 68 ug/l
Chemical: 4-nitroaniline Acute criterion: 1.5 mg/l Date criteria derived: May 5, 1996 Applicable waterbodies: Not used during this period.	CAS #100-01-6 Chronic criterion: 0.12 mg/l
Chemical: Nitrobenzene Acute criterion: 15 mg/l Human health criterion (HTC): 0.52 mg/l Date criteria derived: February 14, 1992; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #98-95-3 Chronic criterion: 8.0 mg/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Pentachlorophenol Acute criterion: 20 ug/l Date criteria derived: national criterion at pH of 7.8, September 1986 Applicable waterbodies: Not used during this period.	Chronic criterion: 13 ug/l
Chemical: Phenanthrene Acute criterion: 46 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #85-01-8 Chronic criterion: 3.7 ug/l
Chemical: Propylene Acute criterion: 4.0 mg/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	CAS #115-07-1 Chronic criterion 0.40 mg/l
Chemical: Pyrene Human health criterion (HTC): 3.5 mg/l Date criteria derived: December 22, 1992 Applicable waterbodies: Not used during this period.	CAS #120-00-0
Chemical: Tetrachloroethylene Acute criterion: 1,200 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	CAS #127-18-4 Chronic criterion: 150 ug/l
Chemical: Tetrahydrofuran Acute criterion: 220 mg/l Date criteria derived: March 16, 1992 Applicable waterbodies: Not used during this period.	CAS #109-99-9 Chronic criterion: 17 mg/l
Chemical: 1,2,4-trichlorobenzene Acute criterion: 370 ug/l Date criteria derived: December 14, 1993; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #120-82-1 Chronic criterion: 72 ug/l
Chemical: 1,1,1-trichloroethane Acute criterion: 4,900 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #71-55-6 Chronic criterion: 390 ug/l
Chemical: 1,1,2-trichloroethane Acute criterion: 19 mg/l Human health criterion (HNC): 12 ug/l	CAS #79-00-5 Chronic criterion: 4.4 mg/l

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Date criteria derived: December 13, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Trichloroethylene	CAS #79-01-6
Acute criterion: 12,000 ug/l	Chronic criterion: 940 ug/l
Human health criterion (HNC): 25 ug/l	
Date criteria derived: October 23, 1992	
Applicable waterbodies: Not used during this period.	

Lake Michigan Basin Criteria

Chemical: Bis(2-ethylhexyl)phthalate		CAS #117-81-7
<u>Aquatic Life Criteria:</u>		
Acute criterion: 76 ug/l	Chronic criterion: 17 ug/l	
<u>Human Health Non-threshold Criteria:</u>		
Drinking water: 2.8 ug/l	Non-drinking water: 3.2 ug/l	
Date criteria derived: June 20, 2006		
Applicable waterbodies: All waters of the Lake Michigan basin.		
Used this period at Segment QA-C4 of Pettibone Creek		
Chemical: Methylene Chloride		CAS #75-09-2
<u>Aquatic Life Criteria:</u>		
Acute criterion: 10,803 ug/l	Chronic criterion: 1,200 ug/l	
<u>Human Health Non-threshold Criteria:</u>		
Drinking water: 47 ug/l	Non-drinking water: 2,600 ug/l	
Date criteria derived: June 20, 2006		
Applicable waterbodies: All waters of the Lake Michigan basin.		
Used this period at Segment QA-C4 of Pettibone Creek		
Chemical: Vinyl Chloride		CAS #75-01-4
<u>Aquatic Life Criteria:</u>		
Acute criterion: 8,380 ug/l	Chronic criterion: 931 ug/l	
<u>Human Health Non-threshold Criteria:</u>		
Drinking water: 0.25 ug/l	Non-drinking water: 14.4 ug/l	
Date criteria derived: June 20, 2006		
Applicable waterbodies: All waters of the Lake Michigan basin		
Used this period at Segment QA-C4 of Pettibone Creek		

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Brian Koch
Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217-558-2012

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF FINE IMPOSED UNDER

THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 (the "Act") [205 ILCS 635/4-5(h)], notice is hereby given that the Department of Financial and Professional Regulation, Division of Banking, of the State of Illinois has issued a fine of \$1,500 against Gomez & Steider Bancorp, Inc., License No. MB.0006302 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective October 25, 2006. For further reference link to: www.idfpr.com

PROCLAMATIONS

**2006-384
DIABETES AWARENESS MONTH**

WHEREAS, diabetes has reached epidemic proportions in the United States. In Illinois alone, more than 567,756 adults (age 18 and older) have diagnosed diabetes. An estimated additional 3 million people are at increased risk for developing diabetes due to age, obesity, and sedentary lifestyle. About one in every 400 to 600 children and adolescents has type 1 diabetes and an undetermined number of youth may have or are at risk for type 2 diabetes; and

WHEREAS, type 2 diabetes can be prevented in those at high risk by changes in lifestyle with improved diet, increased physical activity, and/or modest weight loss; and

WHEREAS, in Illinois, diabetes-both type 2 and type 1-account for nearly \$7.3 billion in total direct healthcare and indirect costs every year. It is estimated that the direct medical care costs per person per year with diabetes is 4.3 times higher than the person without diabetes. Studies estimate that a one percent reduction in A1c values can reduce total healthcare costs for a patient with type 2 diabetes by up to \$950 per year; and

WHEREAS, numerous studies support that people with diabetes can prevent or delay the progression of complications by practicing goal-oriented management of blood glucose, lipids and blood pressure, receiving diabetes self-management education, ensuring proper food intake and physical activity to help achieve target values, maintaining a healthy body weight, and receiving recommended eye and foot examinations; and

WHEREAS, blood pressure control reduces the risk of cardiovascular disease among persons with diabetes by 33% to 50% and the risk of microvascular complications (eye, kidney, and nerve diseases) by approximately 33%, detection and treatment diabetic eye disease can reduce the development of severe vision loss by an estimated 50% to 60%, detection and treatment early diabetic kidney disease can reduce the decline in kidney function by 30% to 70%, improved control of blood lipids can reduce cardiovascular complications by 20% to 50%, and comprehensive foot care programs can reduce amputation rates by 45% to 85%:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2006 as **DIABETES AWARENESS MONTH** in Illinois.

Issued by the Governor on October 31, 2006.
Filed by the Secretary of State November 2, 2006.

2006-385

PROCLAMATIONS

VETERANS DAY AT LEO HIGH SCHOOL

WHEREAS, *throughout American history, countless men and women have risked their lives to defend liberty; and*

WHEREAS, from Bunker Hill, Gettysburg, and D-Day, to Yorktown, Appomattox, and V-J Day, millions of Americans have bravely and courageously preserved and protected our freedom; and

WHEREAS, today, there are more than 1,000,000 veterans living in Illinois. The Illinois Department of Veterans' Affairs was created to serve their needs, as well as the needs of their families and loved ones; and

WHEREAS, that is the least we can do to honor our veterans for their devotion to duty and service. Originally a remembrance of those who fought in the First World War, Armistice Day was renamed Veterans Day in 1954 by President Eisenhower so that we would always remember the sacrifices and contributions of veterans from all American wars; and

WHEREAS, our veterans have kept our country safe and free, and Veterans Day is an excellent opportunity to celebrate all the past achievements of these valiant men and women to whom we are deeply indebted; and

WHEREAS, to celebrate Veterans Day, a program at Leo High School in Chicago will honor veterans from Illinois and the contributions they have made on November 3:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 3, 2006 as **VETERANS DAY AT LEO HIGH SCHOOL** in Illinois in recognition of the school's commitment to honoring our nation's past and present heroes.

Issued by the Governor on October 31, 2006.

Filed by the Secretary of State November 2, 2006.

2006-386**CHILDREN'S BOOK WEEK**

WHEREAS, although we frequently hear that "reading is fundamental," the true meaning of that phrase is often taken for granted; and

WHEREAS, in recent years, literacy rates in the United States have been decreasing, and an increasingly greater number of students are failing to pass basic reading proficiency exams; and

PROCLAMATIONS

WHEREAS, reading is important because it helps us develop comprehension and critical-thinking skills that are essential and vital in all professions; and

WHEREAS, in addition to the utility of reading, books allow us to immerse and project ourselves in other fascinating cultures, historical periods, and imaginative worlds; and

WHEREAS, for those reasons, the Children's Book Council annually promotes Children's Book Week as part of their campaign to encourage reading among children; and

WHEREAS, this year, the Children's Book Council will celebrate the 87th anniversary of Children's Book Week from November 13 to 19:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 13-19, 2006 as **CHILDREN'S BOOK WEEK** in Illinois in support of the worthy efforts by the Children's Book Council to introduce children to the world of books and, in so doing, help ensure their future success.

Issued by the Governor on November 1, 2006.

Filed by the Secretary of State November 2, 2006.

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

Rules acted upon in Volume 30, Issue 46 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

68 - 1420	.....	18024
47 - 310	.....	18029
92 - 1030	.....	18077
92 - 1040	.....	18089
92 - 16	.....	18095
92 - 26	.....	18101
92 - 28	.....	18120
92 - 56	.....	18135
92 - 72	.....	18154
92 - 97	.....	18173

ADOPTED RULES

83 - 757	11/01/2006.....	18196
14 - 130	10/31/2006.....	18211

EXECUTIVE ORDERS AND PROCLAMATIONS

06 - 384	10/31/2006.....	18267
06 - 385	10/31/2006.....	18267
06 - 386	11/01/2006.....	18268

OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

89 - 121	18230
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REGULATORY AGENDA

32 - 310	18248
56 - 2520	18254

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