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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2017

Issue#	Rules Due Date	Date of Issue
1	December 27, 2016	January 6, 2017
2	January 3, 2017	January 13, 2017
3	January 9, 2017	January 20, 2017
4	January 17, 2017	January 27, 2017
5	January 23, 2017	February 3, 2017
6	January 30, 2017	February 10, 2017
7	February 6, 2017	February 17, 2017
8	February 14, 2017	February 24, 2017
9	February 21, 2017	March 3, 2017
10	February 27, 2017	March 10, 2017
11	March 6, 2017	March 17, 2017
12	March 13, 2017	March 24, 2017
13	March 20, 2017	March 31, 2017
14	March 27, 2017	April 7, 2017
15	April 3, 2017	April 14, 2017
16	April 10, 2017	April 21, 2017
17	April 17, 2017	April 28, 2017
18	April 24, 2017	May 5, 2017
19	May 1, 2017	May 12, 2017
20	May 8, 2017	May 19, 2017

21	May 15, 2017	May 26, 2017
22	May 22, 2017	June 2, 2017
23	May 30, 2017	June 9, 2017
24	June 5, 2017	June 16, 2017
25	June 12, 2017	June 23, 2017
26	June 19, 2017	June 30, 2017
27	June 26, 2017	July 7, 2017
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29	July 10, 2017	July 21, 2017
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31	July 24, 2017	August 4, 2017
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33	August 7, 2017	August 18, 2017
34	August 14, 2017	August 25, 2017
35	August 21, 2017	September 1, 2017
36	August 28, 2017	September 8, 2017
37	September 5, 2017	September 15, 2017
38	September 11, 2017	September 22, 2017
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40	September 25, 2017	October 6, 2017
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45	October 30, 2017	November 13, 2017
46	November 6, 2017	November 17, 2017
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49	November 27, 2017	December 8, 2017
50	December 4, 2017	December 15, 2017
51	December 11, 2017	December 26, 2017
52	December 18, 2017	December 29, 2017

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

2) Code Citation: 44 Ill. Adm. Code 10

3)

Section Numbers:	Proposed Actions:
10.10	Amendment
10.50	Amendment
10.62	Amendment
10.70	Amendment
10.100	Renumbered
10.200	New Section
10.201	New Section
10.202	New Section
10.203	New Section
10.204	New Section
10.205	New Section

4) Statutory Authority: Implementing and authorized by the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

5) A Complete Description of the Subjects and Issues Involved:

Change to Section 10.50 amends the rule to make the certification period 7 years so that applicants will not have to submit a full application every five years and only a short annual confirmation form.

Change to Section 10.62 amends the rule so that requests for information are required to be sent out much more expeditiously thus shortening the application process and allowing businesses to receive their application decisions sooner.

Change to Section 10.70 amends the reconsideration process so that the BEP Secretary does not reconsider a denial and instead the first level of appeal will be heard by the BEP Council Certification Committee.

The new Subpart K sets forth the procedures to be followed by the Department of Central Management Services, state agencies, public institutions of higher education and the BEP Council in collecting evidence of past or present Racial, Gender, or Disability-Based Discrimination present in the award of State Contracts, and applying procedures to

establish and continue narrowly tailored Sheltered Markets to address this discrimination. This new Subpart shall apply to procurements of State agencies and public institutions of higher education as defined in this Part.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No

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 rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: These proposed amendments will help to decrease inefficiencies in the certification and appeals process for the BEP and to increase opportunities for businesses owned by minorities, women, and people with disabilities to participate in State contracts. This helps to create a more thriving economy in Illinois through the support of these small businesses.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Benjamin G. Jones
Department of Central Management Services
100 West Randolph, Suite 4-500
Chicago IL 60601

312/814-4689
fax: 312/814-0911
benjamin.jones@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Minority businesses, female businesses and businesses owned by persons with disabilities

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the most recent regulatory agenda because these rules went through a "fast track" approval process through the State of Illinois Competitiveness Council in conjunction with the Governor's office.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT~~PROCUREMENTS~~, AND PROPERTY MANAGEMENT
SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS
CHAPTER V: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 10
BUSINESS ENTERPRISE PROGRAM: CONTRACTING WITH BUSINESSES OWNED AND CONTROLLED BY MINORITIES, FEMALES AND PERSONS WITH DISABILITIES

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10.10 Definitions

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10.21 Contracts and Expenditures Subject to the Goal
10.22 Categories of Contracts and Expenditures Exempt from Goal
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10.35 Professional and Artistic Contract Reporting

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Section
10.40 Program Eligibility

SUBPART E: CERTIFICATION

Section

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10.67 Ownership
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10.72 Annual Confirmation of Eligibility

SUBPART H: SPECIAL ASSISTANCE FOR CERTIFIED BUSINESSES

Section
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10.100 Violations by Vendor

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART K: SHELTERED MARKETS

Section
10.200 Purpose
10.201 Applicability
10.202 Evidence of Discrimination
10.203 Establishment and Adjustment of Sheltered Markets
10.204 Sheltered Market Procurements
10.205 Participation Eligibility

AUTHORITY: Implementing and authorized by the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12584, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20560, effective November 16, 1998; amended at 25 Ill. Reg. 4831, effective March 19, 2001; amended at 26 Ill. Reg. 17980, effective December 6, 2002; amended at 31 Ill. Reg. 4023, effective February 22, 2007; amended at 32 Ill. Reg. 18845, effective November 24, 2008; recodified from 44 Ill. Adm. Code 10, Chapter I to 44 Ill. Adm. Code 10, Chapter V at 35 Ill. Reg. 10142; amended at 36 Ill. Reg. 10717, effective July 6, 2012; emergency amendment at 37 Ill. Reg. 3885, effective March 14, 2013, for a maximum of 150 days; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 10.10 Definitions

"Act" means the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575].

"Department" means the Illinois Department of Central Management Services.

"BEP" or "Business Enterprise Program" means the activities conducted by the Council, Secretary and Department of Central Management Services pursuant to the Act.

"BEP Eligible~~eligible~~" or "BEP Eligible Vendor~~eligible vendor~~" means an MBE,

FBE~~,~~ or PBE.

"Council" means the public body established by the Act to implement and oversee implementation of the Business Enterprise Program.

"Eligible Group Member~~group member~~" means a person who meets the eligibility requirements set forth in Section 10.40(a)~~ of this Part~~.

"FBE" means a business owned and controlled by females in accordance with the requirements of the Act and this Part.

"MBE" means a business owned and controlled by minorities in accordance with the requirements of the Act and this Part.

"PBE" means a business owned and controlled by persons with disabilities in accordance with the requirements of the Act and this Part.

"Public Institutions of Higher Education" has the meaning provided in Section 2 (A)(7) of the Act.

"Racial, Gender or Disability-Based Discrimination" means specific, documented instances of racial, gender or disability-based bias in the utilization of FBE, MBE or PBE businesses for State contracts compared to the availability of these businesses in the market. Generalized allegations of societal and/or industry discrimination are not sufficient, on their own, to satisfy this standard.

"Secretary" means the individual appointed to act as Secretary to the Council and to be manager of the BEP Division of the Department of Central Management Services.

"Sheltered Market" means a procurement procedure in which certain State *contracts are selected for businesses owned and controlled by minorities, females, and persons with disabilities on a competitive bid or negotiated basis* [30 ILCS 575/8b].

"State Agency" has the meaning provided by Section 2 (A)(6) of the Act.

"State Contract" has the meaning provided by Section 2 (A)(5) of the Act.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: CERTIFICATION

Section 10.50 General

a) The certification process verifies that the business is owned and controlled by BEP eligible individuals in accordance with requirements of the Act and this Part. The Secretary to the Council will oversee the certification process. The certification procedure consists of the requirements and procedures outlined in this Section.

b) The Secretary will certify a business firm that meets the requirements of the Act and this Part. All certifications, new and existing, shall be valid for a period of 75 years from the effective date of the certification, subject to annual confirmation.

c) Only certified businesses are eligible for the benefits of the Program. Agencies may count only those expenditures with a certified business or certified business subcontractor toward meeting the goal.

d) A business owned and controlled by minority females shall designate whether the business will be certified as FBE or MBE.

e) A business owned and controlled at least 51% by any combination of minorities, females and persons with disabilities shall be counted as a business owned and controlled by the eligible group that has the largest percentage of ownership. When there is a tie, the business shall select the eligible group classification.

f) A business owned and controlled by a person with a disability, or by an entity that is a not-for-profit agency for the disabled, is a PBE certified business regardless of the ethnicity or gender of the owner or owners, or of the governing board.

g) These classifications facilitate consistent accounting of agency contract awards to businesses covered by the Act. These classifications do not preclude such businesses or not-for-profit agencies from receiving any contract that may be awarded under the Illinois Procurement Code [30 ILCS 500] or other applicable law.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: CERTIFICATION REQUIREMENTS AND PROCEDURES

Section 10.62 Time to Determine Eligibility

The Secretary shall contact all applicants seeking certification within 60 days after receipt of the application, and shall grant certification or~~,~~ deny certification. The Secretary shall contact all applicants regarding any requests for~~, or request~~ additional or clarifying information within 15 days after receipt of the application.~~necessary to make the certification decision.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART G: RECONSIDERATION, DECERTIFICATION AND RECERTIFICATION

Section 10.70 Review and Reconsideration

~~a) The applicant may request that the Secretary reconsider a certification denial. The Secretary shall inform the applicant of the reconsideration decision within 60 days after receipt of the request for reconsideration. If the decision is not favorable to the applicant, the Secretary shall inform the applicant of additional reviews that are available.~~

a)~~b)~~ The applicant may request a review of a certification denial by submitting~~an unfavorable decision of the Secretary. The applicant must submit~~ this request in writing to the Secretary postmarked no later than 30 days after the applicant received the certification denial letter~~Secretary's decision~~. The request must state why the applicant believes the denial~~Secretary's~~ decision is wrong, must address all points raised in the denial~~Secretary's~~ decision and must include any supporting documentation.

b)~~c)~~ The Council's Certification Committee, made up of at least three Council Members, shall consider any requested review of the denial~~Secretary's reconsideration~~ decision. The Secretary will attempt to schedule a Committee meeting within 30 days after receipt of the request for review. The meeting shall be held in Chicago. The Secretary will notify the applicant at least 10 days prior to the meeting of the location, date and time.

c)~~d)~~ The Secretary shall provide each Committee member with a copy of the request for review, other relevant information and a response to the points raised in the

request for review. Each Committee member shall review the files prior to the meeting.

d)~~e)~~ The Committee Chair shall call the meeting to order, announce the matter at issue and explain the meeting procedures. The Chair shall briefly restate the reasons given for the denial~~Secretary's~~ decision and open the floor to the applicant. The meeting shall proceed in an informal manner within these procedures. All information obtained shall be considered.

e)~~f)~~ The applicant may make an opening statement, but must respond to each of the reasons for denial given in the denial~~Secretary's~~ decision. The applicant may bring and question any witnesses. The Committee may ask questions of the applicant, the Secretary or any other person present. The Secretary may comment at any time. When the applicant is finished the Secretary may call witnesses. Both applicant and Secretary may make closing statements. Although the applicant may have an attorney or other representatives assist at the meeting, applicant must be present and applicant must respond to questions of the Committee.

f)~~g)~~ The Committee shall consider the information obtained at the meeting. The Committee's decision will be based upon majority vote to be given at a Committee meeting or submitted individually to the Secretary, who shall record and report the vote.

g)~~h)~~ If the decision is favorable to the applicant, the Secretary will notify and place the applicant on the list of certified vendors. If the decision is adverse to the applicant, the Secretary will notify the applicant, providing the Committee's reasons and information on the further review that is available.

h)~~i)~~ The applicant may ask that the full Council review an adverse decision of the Certification Committee. The applicant must submit this request in writing to the Secretary. The request must be postmarked no later than 15 days after the applicant received the Committee's decision. This request must state why the applicant believes the Committee's decision is wrong, must address all points raised in the Committee's decision and must include any supporting documentation.

i)~~j)~~ The Secretary shall provide each Council member with a copy of the request for review and a copy of the Secretary's file on the matter. In addition, the Secretary

shall prepare and submit to the Council a draft response to the points raised in the request for review. The Secretary shall consult with the Committee prior to submitting the draft.

j)~~k)~~ The Secretary will schedule the review at the earliest convenience of the Council. The applicant will be told of the location, date and time of the meeting.

k)~~l)~~ The Council shall consider only the written information provided or produced by the applicant, the Certification Committee and the Secretary. The Council may, on its own, request that the applicant address the Council or respond to specific questions. If the Council requests that the applicant be present, the applicant may have an attorney or other representative assist at the meeting, but the applicant must be available to respond to Council questions. The Council will allow the applicant to address the Council if the applicant makes that request as part of the second request.

l)~~m)~~ After reviewing all information obtained, the Council shall vote to uphold the Committee's decision, overturn the Committee's decision or have the matter sent back to the Committee for reconsideration with instructions from the Council.

m)~~n)~~ If the decision is favorable to the applicant, the Council shall inform the Secretary. The Secretary shall place the applicant on the list of certified vendors. The Secretary shall inform the applicant.

n)~~o)~~ If the decision is adverse to the applicant, the Council shall inform the Secretary. The Secretary shall notify the applicant.

o)~~p)~~ If the decision is to send the matter back to the Committee, the process shall continue from that point until resolved at the Committee or Council level.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART J: VIOLATIONS BY VENDOR

Section 10.100 Violations by Vendor

Should a vendor violate the Act, this Part, or the terms of contracts let pursuant to this Program, the State may pursue any or all of the following actions.

a) A certified vendor may be decertified and an applicant for certification may be denied certification for reasons including, but not limited to:

1) refusal to supply information sufficient for the Secretary or the Council to make a determination for eligibility or continued eligibility;

2) refusal to supply additional proof of eligibility for the Program, particularly after receiving a contract with Section 10.80 (Special Assistance) provisions;

3) accepting a contract with Section 10.80 (Special Assistance) provisions when the vendor does not qualify for the Program; or

4) any other violation of the Act or this Part.

b) The State may cancel, without penalty to the State, any contract entered into by a vendor in violation of:

1) the Act or this Part;

2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or

3) commitments regarding use of certified vendors, including, but not limited to, those in Section 10.64 (Sales Limitation; Exception) and Section 10.91 (Contract Commitment; Good Faith Effort).

c) In the case of a cancellation under subsection (b)(2) or (b)(3), the amount of profit applicable to amounts paid to the vendor shall be withheld from any amounts owed to the vendor. If the amount owed the vendor is insufficient to off-set profits, the vendor shall be liable to pay back to the State any balance of those profits. The profit rate shall be deemed 20% unless a lesser or greater amount can be conclusively proved.

d) The Secretary may suspend a vendor from the program for a period of no more than one year and a contracting agency may cancel a contract for a violation of:

1) the Act or this Part;

2) the requirements of a contract let with Section 10.80 (Special Assistance) provisions; or

3) commitments regarding use of certified vendors, including, but not limited to, those in Section 10.64 (Sales Limitation; Exception) and Section 10.91 (Contract Commitment; Good Faith Effort).

e) Depending on the seriousness of the violation, the suspension shall be:

1) from participation in the BEP Program; or

2) from further contracting with the State.

f) A vendor may appeal any of the actions of the Council taken pursuant to this Section in the same manner as a vendor denied certification (see Subpart G of this Part).

g) The Secretary shall notify the Chief Procurement Officers, State Purchasing Officers and other interested parties of the revocation of certification or of suspension.

h) If any agency finds or suspects that a business is in violation of the Act or of this Part, the violation should be reported to the Secretary as soon as practicable after the finding.

(Source: Section 10.200 renumbered from Section 10.100 at 41 Ill. Reg. _____, effective _____)

SUBPART K: SHELTERED MARKETS

Section 10.200 Purpose

This Subpart is intended:

a) to set forth the practice and procedures to be followed for the establishment and continuation of narrowly tailored sheltered markets under Section 8b of the Act;

b) to provide opportunity for the public to understand and comment on evidence regarding past or present racial, gender or disability-based discrimination present in procurements by interested State agencies;

c) to establish procedures by which the Council consults interested or affected segments of the public;

d) to enable the Department to fully consider and respond to evidence regarding past or present racial, gender or disability-based discrimination present presented to the Council;

e) to establish cooperation between the Department and other governmental bodies, including the Council, the Offices of the Chief Procurement Officers, and interested State agencies;

f) to foster openness among the Department, other governmental bodies, and the public; and

g) to comply with State and federal requirements.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 10.201 Applicability

This Subpart sets forth the procedures to be followed by the Department, State agencies, public institutions of higher education and the Council in collecting evidence of past or present racial, gender, or disability-based discrimination present in the award of State contracts, and applying procedures to establish and continue narrowly tailored sheltered markets to address this discrimination. This Subpart shall apply to procurements of State agencies and public institutions of higher education as defined in Section 10.10.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 10.202 Evidence of Discrimination

a) The Council shall receive, review and discuss any evidence regarding past or present racial, gender or disability-based discrimination that directly impacts State contracting at every regular meeting. Evidence may include, but is not limited to,

written documentation or oral testimony regarding specific instances of such discrimination against MBEs, FBEs and PBEs.

b) The Department may commission disparity and utilization studies that may indicate, among other things, any quantitative effects of discrimination in specific industries and geographic locations. The Department shall forward a copy of its findings and recommendations to the Council.

c) The Secretary shall investigate and and make recommendations to the Council concerning the use of the sheltered market process.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 10.203 Establishment and Adjustment of Sheltered Markets

a) The Council shall vote to decide whether to establish a sheltered market or to adjust an existing sheltered market when the Council finds a pattern of racial, gender or disability-based discrimination in a particular industry.

1) The Council must vote to establish or adjust an existing sheltered market by a majority vote.

2) The Council shall only vote to establish sheltered markets when other feasible remedial measures are insufficient to address the discrimination; provided, however, that there shall be no requirement to exhaust all potential remedial measures before establishing sheltered markets.

b) The procuring State agency or public institution of higher education shall work with its respective Chief Procurement Officer to implement or adjust existing sheltered markets as established by the Council.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 10.204 Sheltered Market Procurements

Solicitations selected by the procuring State agency or public institution of higher education to implement sheltered markets through specific procurements shall be a narrowly tailored remedy to address identified discrimination.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 10.205 Participation Eligibility

a) Participation in any sheltered market solicitation shall be limited to BEP eligible vendors.

b) The Council may choose which subgroups within the BEP eligible vendor pool can participate in any sheltered market solicitation, on a case-by-case basis, based on evidence of racial, gender or disability-based discrimination.

c) Participating eligible businesses shall make all books and records related to the performance of any sheltered market contract available for audit by the Department.

d) Any subcontractors utilized on a sheltered market procurement shall be BEP eligible vendors.

(Source: Added at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: State Vehicles and Garage

2) Code Citation: 44 Ill. Adm. Code 5040

3) Section Number: 5040.530 — Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 405-215, 405-280 and 405-285 of the Department of Central Management Services Law [20 ILCS 405/405-215, 405-280 and 405-285] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2].

5) A Complete Description of the Subjects and Issues Involved: In the case of a traffic ticket issued to the driver of a state-owned or leased vehicle, this rule change allows for a State agency to pay those traffic tickets directly where the employee who incurred the ticket has not paid, and it may be difficult or impossible to get the employee to pay. The rule change also specifies that when a driver of such a vehicle is issued a traffic ticket, the driver should immediately report the ticket to the appropriate agency contact. Failure to promptly report a citation or pay fines may result in discipline.

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 rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This proposed amendment neither creates nor expands any State mandate on units of local government, school districts, or community college districts.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Kelly Weston
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706

217/524-7518
fax: 217/558-2697

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on any CMS Regulatory Agenda because it was not anticipated at the time agendas were filed.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE D: PROPERTY MANAGEMENT
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5040
STATE VEHICLES AND GARAGE

SUBPART A: GENERAL

Section
5040.100 Authority
5040.110 Policy
5040.120 Applicability
5040.130 Definitions

SUBPART B: ACQUISITION

Section
5040.200 Acquisition of Vehicles
5040.210 Fuel Economy Standards
5040.220 Availability of Vehicles
5040.230 Agency Purchase
5040.240 Motor Pool Lease or Rental (Repealed)
5040.250 Private Firm Lease or Rental
5040.260 Use of Personal Vehicles on State Business
5040.270 Requests for Acquisition of Vehicles

SUBPART C: USE OF VEHICLES

Section
5040.300 Use of Vehicles
5040.310 Title and Registration
5040.320 License Plates
5040.330 Identification of Vehicles
5040.340 Assignment to Individuals
5040.350 Authorized Use
5040.360 Use and Condition Review
5040.370 Exceptions to Use Rules

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

5040.380 Motor Pool (Repealed)

SUBPART D: MAINTENANCE

Section
5040.400 Maintenance of Vehicles
5040.410 Scheduled Inspection and Maintenance
5040.420 CMS Garages
5040.430 Warranty Work

SUBPART E: MISCELLANEOUS

Section
5040.500 Driver Requirements
5040.510 Insurance
5040.520 Accidents Report Procedures
5040.530 Tickets
5040.540 Credit Card
5040.550 Gasoline Purchase
5040.560 Charges
5040.570 Payment of Charges
5040.580 Credits
5040.590 Cost Information (Repealed)
5040.600 Designation and Role of the Agency Vehicle Coordinator/Vehicle Use Officer
5040.610 DCMS Annual Statement (Repealed)
5040.620 Required Forms and Information
5040.630 Agency Signature Authority
5040.700 Rate Schedule

AUTHORITY: Implementing Sections 405-280, 405-285, and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 173, effective July 1, 1980; amended at 4 Ill. Reg. 30, p. 1225, effective July 1, 1980, by the Department of Administrative Services; transferred to the Department of Central Management Services by Executive Order 82-1, effective July 1, 1982; amended at 7 Ill. Reg. 2483, effective March 1, 1983; codified at 8 Ill. Reg. 8180; amended at 9 Ill. Reg. 13720, effective August 21, 1985; amended at 13 Ill. Reg. 13829, effective August 22,

1989; amended at 15 Ill. Reg. 7553, effective May 7, 1991; amended at 19 Ill. Reg. 14774, effective October 5, 1995; amended at 25 Ill. Reg. 6221, effective April 17, 2001; amended at 26 Ill. Reg. 9695, effective June 19, 2002; amended at 30 Ill. Reg. 4587, effective March 1, 2006; amended at 36 Ill. Reg. 2089, effective January 24, 2012; amended at 38 Ill. Reg. 16839, effective July 25, 2014; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 41 Ill. Reg. _____, effective _____.

SUBPART E: MISCELLANEOUS

Section 5040.530 Tickets

The driver of a State-owned or -leased vehicle is responsible for immediately reporting to the vehicle coordinator for his or her agency all citations for moving or parking violations received by the driver. Citations received due to mechanical defects are the responsibility of the agency assigned the vehicle. Otherwise, employees must pay fines and costs associated with the moving or parking violation. Once notified, agencies are responsible for tracking any State vehicle-related fines and associated costs, and ensuring that their employees promptly pay any required fines and associated costs. In cases in which employees who have incurred violations cannot be identified by the agency or are no longer employed by the State, agencies may, in their discretion, pay fines and associated costs in connection with the violations, including fines and costs incurred in prior fiscal years. If the agency can identify with reasonable certainty the relevant former State employee who incurred the citation, the State shall pursue reasonable efforts to require the former employee to pay the fines and costs directly. Employees who fail to promptly report citations for moving or parking violations, or to pay fines and associated costs as required, may be subject to discipline, up to and including discharge.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Procedures for Providing Financial Assistance From the Water Pollution Control Loan Program Under the American Recovery and Reinvestment Act of 2009

2) Code Citation: 35 Ill. Adm. Code 369

3)

Section Numbers:	Proposed Actions:
369.110	Repealed
369.120	Repealed
369.130	Repealed
369.140	Repealed
369.210	Repealed
369.220	Repealed
369.230	Repealed
369.240	Repealed
369.310	Repealed
369.320	Repealed
369.330	Repealed
369.340	Repealed
369.410	Repealed
369.420	Repealed
369.430	Repealed
369.440	Repealed
369.450	Repealed
369.460	Repealed
369.470	Repealed
369.480	Repealed
369.510	Repealed
369.520	Repealed
369.530	Repealed
369.540	Repealed
369.610	Repealed
369.620	Repealed
369.630	Repealed
369.640	Repealed
369.650	Repealed
369.660	Repealed
369.670	Repealed
369.710	Repealed

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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369.720	Repealed
369.730	Repealed
369.740	Repealed
369.750	Repealed
369.810	Repealed
369.820	Repealed
369.830	Repealed
369.910	Repealed
369.920	Repealed
369.930	Repealed
369.940	Repealed
369.950	Repealed
369.1010	Repealed
369.1020	Repealed
369.1030	Repealed
369.1110	Repealed
369.1120	Repealed
369.APPENDIX A	Repealed
369.EXHIBIT A	Repealed
369.EXHIBIT B	Repealed
369.APPENDIX B	Repealed

4) Statutory Authority: Implementing and authorized by Section 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9].

5) A Complete Description of the Subjects and Issues Involved: In response to Executive Order 2016-13, the Agency proposes to repeal 35 Ill. Adm. Code 369. See 40 Ill. Reg. 14812 (October 28, 2106). This Part contains procedures for federal capitalization grants under the America Recovery and Reinvestment Act (ARRA) of 2009. Part 369 is no longer implemented as the Agency discontinued giving out loans under ARRA.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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

11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

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

Sara G. Terranova
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
sara.terranova@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Part 369 provides authority for issuance of loans that may impact small business.

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 2017

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 369
PROCEDURES FOR PROVIDING FINANCIAL ASSISTANCE FROM THE WATER POLLUTION CONTROL LOAN PROGRAM UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (REPEALED)

SUBPART A: INTRODUCTION

Section
369.110 Purpose
369.120 Administration
369.130 Definitions
369.140 Incorporations by Reference

SUBPART B: FEDERAL REQUIREMENTS FOR THE WATER POLLUTION CONTROL LOAN PROGRAM

Section
369.210 Uses of the Water Pollution Control Loan Program
369.220 Agency Responsibilities under Title VI of the CWA and the American Recovery and Reinvestment Act of 2009
369.230 Requirements for Loan Recipients under Title VI of the CWA
369.240 Green Project Reserve

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH LOAN PROCEDURES

Section
369.310 Noncompliance with Loan Procedures
369.320 Stop-Work Order
369.330 Termination
369.340 Waiver of Procedures

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

369.410 Project Priority Determination
369.420 Pre-Application for Financial Assistance and Identification of Projects to be Funded
369.430 Financial Assistance Application and Approval
369.440 Fixed Loan Rate
369.450 Refinancing
369.460 Limitation on Design Cost
369.470 Limitation of Financial Assistance
369.480 Principal Forgiveness

SUBPART E: PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section
369.510 Loan Applicant's Responsibilities During Facilities Planning
369.520 State Environmental Review
369.530 Limitations on Awards for Individual Systems
369.540 Areawide Waste Treatment Management Planning

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section
369.610 Requirements for Subagreements
369.620 Construction Contracts
369.630 Contracts for Personal and Professional Services
369.640 Compliance with Procurement Requirements for Construction Contracts
369.650 Disputes
369.660 Indemnity
369.670 Covenant Against Contingent Fees

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

Section
369.710 Construction Initiation
369.720 Project Changes
369.730 Construction Engineering
369.740 Operation and Maintenance of the Project
369.750 Final Inspection

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING AND RECORDS

Section
369.810 Access
369.820 Audit and Records
369.830 Single Audit Act

SUBPART I: FINANCIAL AND MANAGERIAL CAPABILITY

Section
369.910 Sewer Use Ordinance
369.920 User Charges
369.930 Financial Capability
369.940 Dedicated Source of Revenue
369.950 Floodplain Insurance

SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

Section
369.1010 Determination of Allowable Costs
369.1020 Use of Loan Funds and Payment of Unallowable Costs
369.1030 Disbursement of Loan Funds

SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

Section
369.1110 Loan Repayment to the Agency
369.1120 Delinquent Loan Repayments

369.APPENDIX A Executive Orders
369.EXHIBIT A Executive Order 12549
369.EXHIBIT B Executive Order 11246
369.APPENDIX B Loan Application Form

AUTHORITY: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9].

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 8589, effective June 2, 2009, for a maximum of 150 days; adopted at 33 Ill. Reg. 15493, effective October 28, 2009; repealed at 41 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 369.110 Purpose

a) The Water Quality Act of 1987 (the 1987 Amendments) that amended the federal Water Pollution Control Act (33 USC 1251 et seq.) sets forth a schedule and mechanism for the transition from the federal level to the state and local level for responsibility of funding wastewater treatment facilities. Title VI of the 1987 Amendments creates a new authority that authorizes the United States Environmental Protection Agency (USEPA) to make grants to states to capitalize state water pollution control revolving funds. Title VI also establishes specific requirements for states for the development and operation of the state loan programs, some of which must be assumed by the local government unit as the recipient of a loan.

b) Part 365 sets forth procedures to be used by the Illinois Environmental Protection Agency to operate the Water Pollution Control Loan Program (WPCLP), including the issuance of loans for the construction of wastewater treatment works as authorized by P.A. 85-1135, effective September 1, 1988 and amended by P.A. 90-121, effective July 17, 1997.

c) The American Recovery and Reinvestment Act of 2009 (ARRA) provides a source of capitalization grants to the states to provide loans, as well as additional subsidization including forgiveness of principal, negative interest loans, and grants to eligible applicants for the construction of wastewater facilities. This Part 369 sets out procedures the Agency will use to provide financial assistance from the ARRA, which shall be administered through the WPCLP.

Section 369.120 Administration

a) The WPCLP, an interest-bearing special fund, will be administered by the Agency as an instrumentality of the State of Illinois in accordance with the Operating and Capitalization Grant Agreements between the Agency and the USEPA in accordance with State and federal laws. All funds from the ARRA for the construction of wastewater facilities will be administered through the WPCLP.

b) Copies of forms that are required and sample language that can be used to satisfy the requirements of an ARRA financial application administered through the authority of the WPCLP can be obtained from the Illinois Environmental Protection Agency, Infrastructure Financial Assistance Section, 1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276, or found on the Agency's website at www.epa.state.il.us.

c) The program requirements of the ARRA shall take precedent on projects receiving financial assistance from both the ARRA and the WPCLP.

Section 369.130 Definitions

a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (Act) [415 ILCS 5] and the regulations adopted under that Act (35 Ill. Adm. Code: Subtitle C) and the Clean Water Act (CWA), as amended (33 USC 1251 et seq.).

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

Addenda – Documents, issued by the loan applicant after advertisement for bids, that modify or interpret the contract documents, drawings, and specifications, by additions, deletions, clarifications or corrections.

Agency – Illinois Environmental Protection Agency.

ARRA − American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

Binding Commitment – A legal obligation between the Agency and a local government unit to provide financial assistance from the WPCLP to that local government unit, specifying the terms and schedules under which assistance is provided. The loan agreement will be considered a binding commitment.

Building Cost – The cost of erection of construction contract line items. Building costs do not include preliminary planning, engineering, architectural, legal, fiscal, administrative or contingency costs.

Capitalization Grant – The actual federal funds received by the Agency for deposit into the WPCLP as a result of the capitalization grant agreement with the USEPA.

Capitalization Grant Agreement – The agreement entered into each federal fiscal year between the Agency and the USEPA for the purpose of providing a grant to capitalize the WPCLP and enable the Agency to provide assistance for construction of wastewater treatment works.

Change Order – A written order by the loan recipient to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

Compliance Project – A project that consists of construction, expansion or upgrading of a wastewater treatment works necessary to meet State and federal requirements, as specified in 35 Ill. Adm. Code: Subtitle C and the CWA, respectively.

Construction – *Any one or more of the following which is undertaken for a public purpose: preliminary planning to determine the feasibility of the wastewater treatment works, engineering, architectural, legal, fiscal or economic investigations, or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of wastewater treatment works, or the inspection or supervision of any of the foregoing items.* [415 ILCS 5/19.2(d)]

Contract Documents – The contract, including but not limited to advertisement for bids, information for bidders, bid, bid bond, agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications and addenda.

Cost-Effectiveness Analysis – An analysis of the feasible wastewater treatment works, processes and techniques capable of meeting the applicable effluent, water quality and public health requirements over the design life of the facility while recognizing environmental and other non-monetary considerations.

CWA – Clean Water Act, as amended (33 USC 1251 et seq.).

Dedicated Source of Revenue – The type of security and the basis of legal authorization that are dedicated by legislative enactment or other appropriate authority along with the applicable revenue source pledged for repayment and recorded in an account for the purpose of loan repayment to the WPCLP, which is sufficient to repay the principal and interest on the loan.

Design – All administrative, legal and engineering tasks, subsequent to facilities plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems and sewer use ordinances.

Director – Director of the Illinois Environmental Protection Agency.

Energy Efficiency − The use of improved technologies and practices to reduce the energy consumption of water quality projects, including projects to reduce energy consumption or produce clean energy used by a treatment works.

Environmentally Innovative Projects − Projects that demonstrate new and/or innovative approaches to managing water resources in a more sustainable way, including projects that achieve pollution prevention or pollutant removal with reduced cost and projects that foster adaptation of water protection programs and practices to climate change.

Fixed Loan Rate – The fixed loan rate shall be 0.00% for loans issued from the funds provided by the ARRA.

Fund – The Water Revolving Fund as authorized by [415 ILCS 5/19.3], consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program.

Green Infrastructure − Includes a wide array of practices at multiple scales that manage and treat stormwater and that maintain and restore natural

hydrology by infiltrating, evapotranspiring and capturing and using stormwater. On a regional scale, green infrastructure is the preservation and restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On the local scale, green infrastructure consist of site- and neighborhood-specific practices, such as bioretention, trees, green roofs, porous pavements and cisterns.

Infiltration – Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connection or manholes.

Inflow – Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash water, or drainage.

Initiation of Loan Repayment Period – The date in a loan agreement or amendment that establishes the beginning point of the loan repayment period.

Initiation of Operation – The date specified by the loan agreement on which use of the project began operation for the purposes that it was planned, designed and constructed.

Intended Use Plan – *A plan which includes a description of the short and long term goals and objectives of the Fund, project categories, discharge requirements, terms of financial assistance and the* communities *to be served.* [415 ILCS 5/19.2(e)]

Loan Agreement – The contractual agreement between the Agency and the local government unit that contains the terms and conditions governing the loan issued from the WPCLP.

Loan Applicant – The local government unit that has applied for a loan from the WPCLP for construction of wastewater treatment works.

Loan Commitment Letter – The letter that is sent by the Agency to the loan applicant which reserves loan funds and identifies the requirements that must be satisfied prior to the execution of the loan agreement.

Loan Procedures – The Procedures for Providing Financial Assistance from the Water Pollution Control Loan Program under the American Recovery and Reinvestment Act of 2009.

Loan Recipient – A local government unit that has been provided a loan for construction of a wastewater treatment works from the WPCLP and that will own and be responsible for the operation and maintenance of the wastewater facilities.

Local Government Unit − *A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both.* [415 ILCS 5/19.2(g)]

Operating Agreement – The agreement between the Agency and the USEPA that establishes the policies, procedures and activities for the application and receipt of federal capitalization grant funds for capitalization of the WPCLP.

Principal – All disbursements that will be financed at the time the repayment schedule period begins.

Principal Forgiveness − A portion of the loan amount that does not have to be repaid (is forgiven) upon execution of the loan.

Project – The activities or tasks the Agency identifies in the loan agreement for which the loan recipient may expend loan funds.

Project Priority List – An ordered listing of projects developed in accordance with the priority system described in 35 Ill. Adm. Code 366 (Procedures and Requirements for Determining Loan Priorities for Municipal Wastewater Treatment Works) that the Agency has determined

are eligible to receive financial assistance from the WPCLP.

Responsible Bid – A bid that demonstrates the apparent ability of the bidder to successfully meet all the requirements specified in the contract documents. Information required to demonstrate responsibility may be corrected or submitted after bid opening.

Responsive Bid – A bid that complies with all meaningful or material aspects of the contract documents. The bid must constitute a definite and unqualified offer to meet the material requirements of the contract documents, including any terms that affect price, quality, quantity or time of delivery, or are clearly identified in the contract documents to be complied with at the risk of bid rejection for non-responsiveness. Bid defects resulting in a non-responsive bid may not be corrected after the bid opening.

Source of Revenue − The revenues of the system, including accounts receivable and the proceeds that are sufficient to repay the principal on the loan.

Subagreement – A written agreement between the loan recipient and another party and any tier of agreement thereunder to furnish services, supplies or equipment necessary to complete the project for which a loan is provided, including construction contracts, contracts for personal and professional services and purchase orders.

Title VI – Title VI of the federal Clean Water Act (33 USC 1251 et seq.).

Treatment Works − *Any devices and systems owned by a local government unit and used in the storage, treatment, recycling, and reclamation of sewerage or industrial wastes of a liquid nature, including intercepting sewers, outfall sewers, sewage collection systems, pumping power and other equipment, and appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process for wastewater facilities.* [415 ILCS 5/19.2(f)]

Useful Life – The estimated period during which a wastewater treatment works is intended to be operable.

USEPA –United States Environmental Protection Agency.

User Charge – A charge levied on the users of a treatment works to produce adequate revenues for the operation, maintenance and replacement of the treatment works.

Water Efficiency − use of improved technologies and practices to deliver equal or better services with less water.

WPCLP − Water Pollution Control Loan Program as authorized by Section 19.2 of the Environmental Protection Act [415 ILCS 5/19.2].

Section 369.140 Incorporations by Reference

a) The following publications are incorporated by reference:

1) American Institute of Certified Public Accountants Professional Standards (1996), 666 Fifth Avenue, New York, New York 10019.

2) Operation of Wastewater Treatment Plants (1980), 2nd edition (three volumes) (California State University, Sacramento).

3) Operation and Maintenance of Wastewater Collection Systems (1983), 1st edition (California State University, Sacramento).

b) This Part 369 incorporates no later amendments or editions.

SUBPART B: FEDERAL REQUIREMENTS FOR THE WATER POLLUTION CONTROL LOAN PROGRAM

Section 369.210 Uses of the Water Pollution Control Loan Program

The Water Pollution Control Loan Program shall be used and administered by the Agency to provide assistance for the following purposes:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

a) *To accept and retain funds from grant awards, appropriations, transfers and payments of interest and principal;*

b) *To make direct loans at or below market interest rates to any eligible local government unit to finance the construction of wastewater treatment works;*

c) *With respect to funds provided under the American Recovery and Reinvestment Act of 2009, to make direct loans at or below interest rates to any eligible local government unit and to provide additional subsidization to any eligible local government unit, including, but not limited to, forgiveness of principal, negative interest rates, and grants;*

d) *With respect to funds provided under the American Recovery and Reinvestment Act of 2009, to make direct loans at or below market interest rates to any eligible local government unit to buy or refinance debt obligations for treatment works incurred on or after October 1, 2008;*

e) *With respect to funds provided under the American Recovery and Reinvestment Act of 2009, to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants for treatment works incurred on or after October 1, 2008;*

f) *To make direct loans at or below market interest rates to any eligible local government unit to buy or refinance debt obligations for treatment works incurred after March 7, 1985;*

g) *To make direct loans at or below market interest rates for the implementation of a management program established under Section 319 of the Federal Water Pollution Control Act, as amended;*

h) *To guarantee or purchase insurance for local obligations where such action would improve credit market access or reduce interest rates;*

i) *As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State or any political subdivision or instrumentality thereof, if the proceeds of such bonds will be deposited in the Fund;*

j) *To finance the reasonable costs incurred by the Agency in the administration of the Fund; and*

k) *To transfer funds to the Public Water Supply Loan Program.* [415 ILCS 5/19.3(b)]

Section 369.220 Agency Responsibilities under Title VI of the CWA and the American Recovery and Reinvestment Act of 2009

a) The WPCLP shall be established in accordance with the requirements of Title VI prior to the receipt of the capitalization grant for deposit into the WPCLP.

b) The Agency will prepare an Intended Use Plan (IUP) and negotiate an Operating Agreement with the USEPA that will be the basis for the Capitalization Grant Agreement. These documents establish the procedures, activities and assurances for operation of the WPCLP, including, but not limited to, the following:

1) Grant payments will be accepted in accordance with a payment schedule established jointly by the Agency and the USEPA;

2) A listing and description of projects on the Project Priority List to be provided financial assistance and the terms of the financial assistance;

3) Binding commitments for 100 percent of each quarterly federal grant payment must be made by the Agency within one year after the receipt of each payment;

4) Funds as a result of the capitalization grants must first be used to assure maintenance of progress toward compliance with the enforceable deadlines, goals and requirements of the CWA;

5) Loan award and disbursement procedures to document the loan recipient's compliance with Title VI requirements;

6) The loan repayment period cannot exceed 20 years beyond the earlier of the initiation of operation date or the initiation of the loan repayment period;

7) All repayments of loan principal shall be deposited into the WPCLP;

8) Annual reporting to the USEPA on the Agency's progress toward meeting its goals and objectives;

9) An annual audit of the WPCLP in accordance with the auditing procedures of the General Accounting Office (75 USC 31); and

10) The Agency shall act in accordance with the requirements established under the ARRA.

Section 369.230 Requirements for Loan Recipients under Title VI of the CWA

a) Only local government units will be eligible for loans for wastewater treatment works projects and green infrastructure projects.

b) Loan projects must be on the Project Priority List.

c) Loan projects must be consistent with any plans developed under sections 205(j), 208, 303(e) and 319 of the CWA.

d) A dedicated source of revenue, sufficient to pay principal and interest when due, must be enacted and pledged by the loan recipient for repayment of the loan.

e) Loan projects must meet federal disadvantaged business enterprise requirements in accordance with 40 CFR 33.

f) Loan projects must meet the applicable requirements of any other federal laws and authorities.

g) Loans will be made at or below market interest rates.

h) Loan accounts related to the project construction and the dedicated source of revenue will be maintained by the loan recipient consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards.

i) Loans will be fully amortized not later than 20 years after the earlier of the initiation of operation date or the initiation of the loan repayment period.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Section 369.240 Green Project Reserve

To the extent there are sufficient eligible project applications, not less than 20 percent of the funds provided from the ARRA shall be for projects to address green infrastructure, water or energy efficiency, improvements or environmentally innovative activities.

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH LOAN PROCEDURES

Section 369.310 Noncompliance with Loan Procedures

a) In the event of noncompliance with any condition or obligation arising out of the loan, the Director may take any necessary action as provided by law or by the loan agreement against the loan recipient including, but not limited to, one or more of the following actions:

1) Commence legal action in a court of competent jurisdiction;

2) Declare all amounts under the loan immediately due and payable, enforce any security, and recover all loan funds;

3) Terminate the loan pursuant to Section 369.330 (Termination) of this Subpart;

4) Suspend all or part of the project work pursuant to Section 369.320 (Stop-Work Order) of this Subpart;

5) Reduce the amount of the loan by the amount of misused funds; or

6) Unilaterally adjust the fixed loan rate of the loan agreement to the current market interest rate.

b) No action shall be taken under this Section without notice to the loan recipient.

c) In determining whether to take action, the Agency shall, at a minimum, consider mitigating or aggravating factors, including, but not limited to, the severity and number of the violations; whether the violation is a continuing one; whether the loan recipient can remedy the violation; and whether the loan recipient remains capable of complying with the approved project work.

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NOTICE OF PROPOSED REPEALER

Section 369.320 Stop-Work Order

a) In the event of any violation of this Part or non-compliance with the terms of the loan agreement, the Agency may, by written order, require the loan recipient to stop all or any part of the project work for a period of not more than 30 days after the date of the order, and for any further period to which the parties may agree. Any such order shall include a list of the project activities to which it applies. Upon receipt of a stop-work order, the loan recipient shall immediately comply with its terms and shall minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within 30 days after the date of the stop-work order, or within the period of any extension to which the parties have agreed, the Agency shall:

1) Cancel the stop-work order upon resolution of the violation or cause leading to that stop-work order; or

2) Terminate the work covered by the stop-work order, as provided in Section 369.330(a) of this Subpart.

b) If a stop-work order is canceled or the period of the order or any extension of that period expires, the loan recipient shall resume work. An adjustment may be made in the loan period, the project period, the loan amount, or any combination of these, and the loan amended accordingly, if the loan recipient asserts a written claim for the adjustment within 30 days after the end of the work stoppage.

c) All costs that are incurred by the loan recipient after the receipt of a stop-work order, or during any extension of the stop-work order period to which the Agency and the loan recipient have agreed, shall be deemed unallowable costs unless otherwise authorized by the Agency in writing or authorized under the loan procedures.

Section 369.330 Termination

a) Loan Termination by the Agency
The Agency, by written notice to the loan recipient, may terminate the loan in whole or in part. Cause for termination shall include, but not be limited to, failure by the loan recipient to comply with the terms and conditions of the loan. Upon loan termination, the loan recipient shall refund any unexpended loan funds to the

State of Illinois to be deposited in the WPCLP, except for such portion as may be required to pay the allowable costs of materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination.

b) Project Termination by the Loan Recipient
A loan recipient who wishes to terminate a project for which the loan has been provided must submit a written request to the Agency that documents good cause for the proposed termination. If the Agency agrees that there is good cause for termination of all or any portion of the project, it shall enter into a termination agreement with the loan recipient or unilaterally terminate the loan. If the Agency finds that the loan recipient has terminated the project without good cause, it shall declare the loan in default, and all loan funds previously paid to the loan recipient, together with interest on the loan, shall be returned to the State of Illinois in accordance with a schedule established by the Agency for deposit into the WPCLP. Good cause to terminate a loan project includes, but is not limited to:

1) Changes in economic circumstances within the loan recipient's service area; and

2) Information that the approved treatment technology will not perform as originally anticipated.

Section 369.340 Waiver of Procedures

a) Except as provided in subsection (b) or otherwise required by law, the Director may waive any of the loan procedures, either in whole or in part, by a written statement to the loan applicant, either as a special condition of the loan or otherwise, provided the Director finds that the procedure or requirement to be waived is not necessary to insure the integrity of the project, will not reduce a applicant's ability to repay the loan to the Agency or will not, in general, weaken the financial position of the WPCLP. The waiver may be subject to such additional conditions the Director deems necessary.

b) The following procedures will not be waived:

1) Section 369.410 (Project Priority Determination) of this Part

2) Section 369.440 (Fixed Loan Rate) of this Part

3) Section 369.510 (Loan Applicant's Responsibilities During Facilities Planning) of this Part

4) Section 369.520 (State Environmental Review) of this Part

5) Section 369.530 (Limitations on Awards for Individual Systems) of this Part

6) Section 369.540 (Areawide Waste Treatment Management Planning) of this Part

7) Section 369.620(d)(3) (Wage Provisions) of this Part

8) Section 369.620(d)(4) (Disadvantaged Business Enterprise Requirements) of this Part

9) Section 369.620(d)(6) (Debarment and Suspension Provisions) of this Part

10) Section 369.630(a)(1) (Disadvantaged Business Enterprise Requirements) of this Part

11) Section 369.630(a)(4) (Debarment and Suspension Certification) of this Part

12) Section 369.740 (Operation and Maintenance of the Project) of this Part

13) Section 369.910 (Sewer Use Ordinance) of this Part

14) Section 369.920 (User Charges) of this Part

15) Section 369.940 (Dedicated Source of Revenue) of this Part

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section 369.410 Project Priority Determination

a) Financial assistance from the WPCLP/the ARRA will be provided only to local government units for projects on the Project Priority List developed by the

Agency pursuant to 35 Ill. Adm. Code 366.

b) The Project Priority List sets out the priority for receipt of loans for each loan applicant. Priorities will be established in accordance with 35 Ill. Adm. Code 366 after the receipt by the Agency of both loan pre-applications pursuant to Section 369.420 (Pre-Applications for Financial Assistance and Identification of Projects to be Funded) of this Part and approved facilities planning pursuant to Section 369.510 (Loan Applicant's Responsibilities During Facilities Planning) and Section 369.520 (State Environmental Review) of this Part. For projects represented by loan pre-applications only, the Agency will provide limited priority scoring for inclusion of the project on the Project Priority List.

c) Projects included in the Intended Use Plan will be selected from projects on the Project Priority List in priority order, provided the project is scheduled to initiate construction by December 31, 2009.

d) The available funds awarded for a project may be limited by the Agency to reflect the amount of funds needed to meet cash flow demands for that project during the current funding cycle or to meet the WPCLP/ARRA funding availability. Any project that receives an adjustment to meet cash flow demands or the WPCLP/ARRA funding availability may have an opportunity for additional funding in future funding cycles as money becomes available.

Section 369.420 Pre-Application for Financial Assistance and Identification of Projects to be Funded

a) Every loan applicant shall submit to the Agency a signed and dated pre-application form that includes at a minimum the following items:

1) Legal name of applicant;

2) Address;

3) Authorized representative − name and title;

4) Project classification (35 Ill. Adm. Code 366);

5) Project description;

6) Discharge location point;

7) Cost estimate; and

8) Project schedule.

b) Loan applicants seeking financial assistance must file a new pre-application annually.

c) A project with approved facility planning may be added to the Project Priority List at any time by the submission of a pre-application.

d) The Agency shall publish a list of the projects that are proposed for funding. These projects will be included in the Intended Use Plan.

e) After March 31 of each year, the Agency may bypass projects on the Intended Use Plan that cannot meet the schedule to initiate construction by March 31 of that year. The Agency will evaluate projects in priority order and may offer loan commitments to other projects on the Project Priority List in accordance with Section 369.430 (Financial Assistance Application and Approval) of this Subpart.

Section 369.430 Financial Assistance Application and Approval

a) In order to receive a loan commitment letter for financial assistance under the ARRA, the following documentation shall be submitted by the loan applicant and approved by the Agency:

1) Facilities plan that meets the requirements of Section 369.510 (Loan Applicant's Responsibilities During Facilities Planning) and 369.520 (State Environmental Review);

2) Design documents, including plans and specifications, with a construction permit, if applicable;

3) An enacted ordinance or other legally binding instrument authorizing the bonds, notes, security agreements or other evidence of indebtedness and an approved user charge system in accordance with Section 369.920 (User Charges) and documentation to support the loan applicant's ability to

repay the loan in accordance with Section 369.930 (Financial Capability) and Section 369.940 (Dedicated Source of Revenue) of this Part;

4) A loan application form (Appendix B);

5) An EPA Form 4700-4, Compliance Report; and

6) An executed contract for design and construction related work in accordance with Section 369.630 (Contracts for Personal and Professional Services) of this Part if financing is being requested for these specific costs.

b) In addition to the items identified in subsection (a), the Agency must have received the following bid documentation prior to the issuance of the Loan Agreement:

1) A certified copy of the published bid advertisement(s);

2) Any addenda by the loan applicant, if applicable;

3) A summary of the evidence that the contractor and engineer have met the disadvantaged business enterprise requirements pursuant to 40 CFR 33;

4) A copy of the bid tabulations;

5) An analysis of the bids and recommendations for the award of the bids;

6) A copy of the successful bid proposals;

7) The notice of the applicant's intent to award; and

8) A certification from the loan applicant that all other bid requirements have been satisfied, including bid bond requirements and other certifications as required by State and federal law.

Section 369.440 Fixed Loan Rate

The fixed loan rate shall be a simple annual rate of 0.00% for all wastewater facilities loans under the ARRA, administered through the WPCLP.

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NOTICE OF PROPOSED REPEALER

Section 369.450 Refinancing

a) Design costs, set forth in Section 369.460 (Limitation on Design Cost) of this Subpart, and bidding costs related to eligible construction contracts incurred prior to the award of the loan agreement are eligible for refinancing.

b) Total eligible costs for projects that received a WPCLP Loan Agreement between October 1, 2008 and February 17, 2009 are eligible for refinancing to the ARRA program financial terms.

Section 369.460 Limitation on Design Cost

Allowable costs for design of the loan project will be limited to the actual cost incurred for design, up to a maximum percentage of the allowable as bid construction cost.

a) For allowable as bid construction costs of $500,000 or less, the design will be funded up to 15%;

b) For allowable as bid construction costs of $500,001 to $2,000,000, the design will be funded up to 12%;

c) For allowable as bid construction costs of $2,000,001 to $5,000,000, the design will be funded up to 10%;

d) For allowable as bid construction costs of $5,000,001 to $10,000,000, the design will be funded up to 8%; and

e) For allowable as bid construction costs of more than $10,000,000, the design will be funded up to 7%.

Section 369.470 Limitation on Financial Assistance

The amount of financial assistance from the ARRA available to a loan applicant cannot exceed 50% of the total eligible project cost or $10,000,000, whichever is less. Loan applicants with multiple projects will be limited by the aggregate amount of their projects in relation to these limitations.

Section 369.480 Principal Forgiveness

All financial assistance from the ARRA shall be in the form of a 0.00% interest loan with principal forgiveness of 50% of the total ARRA funded amount. Loan applicants with multiple projects will be limited by the aggregate amount of their projects in relation to these limitations.

SUBPART E: PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section 369.510 Loan Applicant's Responsibilities During Facilities Planning

a) The loan applicant shall provide facilities planning, which shall consist of plans and studies that are directly related to the construction of wastewater treatment works, to maintain compliance with applicable State and federal requirements, as specified in 35 Ill. Adm. Code: Subtitle C and the CWA, while recognizing environmental and social conditions. The planning shall provide documentation on the need for the facilities for which loan assistance is being requested.

b) If any information required to be furnished as part of a facilities plan has been developed separately, it shall be furnished and incorporated by reference in the facilities plan. Planning previously or collaterally accomplished under local, State or federal programs may be utilized to the extent applicable.

c) The facilities plan shall be submitted to the Agency for approval. Where applicable, the applicant shall also submit drafts of any inter-governmental agreements or demonstrations of legal authority necessary to plan implementation.

d) The facilities plan may include more than one construction project and may provide the basis for several subsequent construction projects. The Agency shall review any facilities plan that has previously served as the basis for a loan to determine if changes have occurred that require amendment of the plan for the subsequent project. If substantial changes have occurred that warrant revision or amendment of the plan as specified in Section 369.520 (State Environmental Review) of this Subpart, the loan applicant shall revise or amend and resubmit the plan for Agency review and approval in accordance with Section 369.520 (State Environmental Review) of this Subpart.

e) Facilities planning shall include the following elements in sufficient detail to, at a minimum, comply with all applicable construction permit supporting data requirements of 35 Ill. Adm. Code 370.210:

1) A complete description of the selected complete waste treatment system or systems of which the proposed wastewater treatment works is a part, identification of any existing violations of federal or State wastewater regulations and identification of the needs to be addressed by the proposed project.

2) A discussion of the technical, financial, managerial and environmental considerations that form the basis for the applicant's selection of the recommended project, including an evaluation regarding the elimination of infiltration and inflow where applicable. When appropriate to the project scope, the following issues shall be addressed:

   A) The relationship of the nature, size and capacity of the selected alternative to the needs to be served, including reserve capacity;

   B) Identification of current and proposed effluent discharge limitations and water quality standards for the proposed wastewater treatment works, as required by Title IV of the CWA and 35 Ill. Adm. Code: Subtitle C;

   C) A discussion of the operational requirements of the selected alternative and provisions for the ultimate disposal of sludge materials from the wastewater treatment process;

   D) An inventory of the relative environmental impacts of the selected alternative and a discussion of the measures that would be required during design and construction to mitigate or minimize negative environmental impacts; and

   E) Adequate basis of design information for the selected alternative to confirm the reasonability of cost estimates.

3) A detailed description of the alternative selected for loan assistance, including preliminary engineering data, complete cost estimates for design and construction, one or more 8.5 by 11 inch site map(s) locating areas of construction and/or indirect impacts, and a projected schedule for completion. The engineering data shall include, to the extent appropriate, flow diagrams, unit process descriptions, detention times, flow rates, unit

capacities, etc., sufficient to demonstrate that the proposed project will be designed in accordance with 35 Ill. Adm. Code 370.

4) Evidence of consultation with relevant federal, State, regional or local agencies, with documentation of project approval where required.

5) An implementation plan for the proposed recommendations, including necessary financial arrangements for the operation and maintenance of the wastewater treatment system and repayment of the proposed loan amount, as well as the impact of these costs on the system users.

Section 369.520 State Environmental Review

a) Prior to making a final determination on the acceptability of any facilities plan, the Agency shall undertake an environmental review. The Agency may categorically exclude certain classes of projects from a detailed environmental review and public hearing requirement when, by virtue of their limited scope, the projects have no potential for negative environmental impacts.

b) The Agency shall not begin its environmental review until it has determined that the facilities plan conforms to the requirements of Section 369.510 (Loan Applicant's Responsibilities During Facilities Planning**)** of this Subpart, and that, based on the information available, all reasonable measures have been taken in the planning to avoid and mitigate negative environmental impacts.

c) The scope of the Agency's environmental review shall include, but not be limited to, an assessment of the impacts of both the loan funded project and the overall planning on rare and endangered species, historic and cultural resources, prime agricultural land, air and water quality, recreational areas, wetlands, floodplains and other sensitive environmental areas. The review shall also assess the direct and indirect impacts of construction.

d) For all projects requiring an environmental review, the Agency will assess the environmental impacts of the proposed project and prepare a written Preliminary Environmental Impacts Determination (PEID). The public will be given an opportunity to comment on the facilities plan and the Agency's environmental impacts assessment.

e) The PEID shall be mailed to the loan applicant and other interested parties,

inviting public comment. The loan applicant shall hold a public hearing on the plan and the Agency's PEID for the purpose of obtaining public comment. The public hearing will be held within 30 days after receipt of the Agency's PEID or within an alternative time period that is justified by the loan applicant and approved by the Agency. The loan applicant shall allow an additional 10 days from the date of the public hearing for the submission of written comments from the public.

f) The time and place of the public hearing shall be conspicuously and adequately announced at least 10 days before the hearing. In addition, the Agency's PEID document shall be displayed at a convenient local site sufficiently prior to the hearing to obtain a level of public participation appropriate to the scope and impacts of the proposed project.

g) The loan applicant shall provide the Agency with an accurate summary of all public comments received, together with any proposed amendments to the plan made in response to these comments.

h) Upon receipt of this public hearing summary and after the expiration of the 10 day written comment period, the Agency shall issue:

1) An unconditional approval of the plan (original or as amended); or

2) A conditional approval of the plan with special conditions; or

3) A disapproval of the plan based on evidence of significant negative environmental impacts for which appropriate mitigative measures have not been identified; or

4) A determination of the need for an Environmental Impact Statement (EIS) under the National Environmental Policy Act (42 USC 4332). The Agency may change its disapproval to approval or conditional approval based on the recommendations of the EIS.

i) For projects categorically excluded from the environmental review process, the Agency shall provide to the applicant a Notice of Intent to Issue a Categorical Exclusion. The applicant shall publish the Notice in the newspaper of local record and allow 10 days for public comments. If no valid objection is raised to the Categorical Exclusion, the Agency shall issue an unconditional approval of

the facilities plan. Should valid concerns be raised over potential environmental impacts, the Agency shall proceed with an environmental review under this Section or issue a conditional approval when the applicant incorporates mitigative measures that would clearly resolve the environmental concerns.

j) Additions to the project scope or changes to the location of proposed construction activity shall require an amendment to an approved facilities plan. Where the Agency determines that the proposed changes will not alter the previous environmental impacts findings, it will approve planning amendments by letter. In other cases, additional environmental review and public comment may be required.

k) Agency facilities planning determinations made in accordance with subsection (h) shall be subject to the provisions of the Illinois Administrative Procedure Act [5 ILCS 100].

Section 369.530 Limitations on Awards for Individual Systems

a) Construction involving privately owned residential wastewater treatment works must be part of the cost-effective solution in the approved facilities plan.

b) Loan applicants must have legal authority to access all such privately owned systems at all reasonable times for such purposes as inspections, monitoring, building, operation, maintenance, rehabilitation and replacement.

Section 369.540 Areawide Waste Treatment Management Planning

The project shall be consistent with the provisions of sections 208 and 303(e) of CWA.

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section 369.610 Requirements for Subagreements

The intent of this Subpart is to provide for maximum open and free competition in the procurement of materials, goods and services for the construction projects funded from the WPCLP/the ARRA. Any procurement method, except as allowed under this Part that significantly minimizes open and free competition will be prohibited. The following procedures shall apply to subagreements:

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NOTICE OF PROPOSED REPEALER

a) Local Preference
Local laws, ordinances, regulations or procedures that are designed to or operate to give local or in-state bidders or proposers preference over other bidders or proposers shall not be used in evaluating bids or proposals for subagreements under the WPCLP/ARRA loans.

b) Profits
Only fair and reasonable profits may be earned by contractors in subagreements under the WPCLP/ARRA loans. Profit included in a formally advertised, competitively bid, fixed price construction contract awarded pursuant to Section 369.620 (Construction Contracts) of this Subpart is presumed to be reasonable. If a subagreement is not competitively bid, the loan recipient shall submit to the Agency its basis for determination of reasonable profit.

c) Loan Recipient Responsibility
The loan recipient shall be responsible for the administration and successful accomplishment of the project for which WPCLP/ARRA loan assistance is provided. The loan recipient shall be responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements, including, but not limited to, issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other procurement matters. With the prior written consent of the Agency, these functions may be performed for the loan recipient by an individual or firm retained for that purpose. Such an individual or firm shall be deemed the loan recipient's agent and shall be subject to all the provisions of the loan agreement, including this Part, that apply to the loan recipient.

d) Privity of Contract
Neither the Agency nor the State of Illinois shall be a party to any subagreement (including contracts or subcontracts) or to any solicitation or request for proposals under those subagreements.

e) Subagreements shall:

1) Be directly related to the accomplishment of the loan recipient's approved work program;

2) Be in the form of an executed written agreement (except for small purchases of $25,000 or less);

3) Be for monetary or in-kind consideration; and

4) Not be in the nature of a grant or gift.

f) Documentation

1) Procurement records and files for purchases in excess of $25,000 shall include the following:

A) The basis for contractor selection;

B) The justification for lack of competition, if competition appropriate to the type of project work to be performed is required but not obtained; and

C) The basis for award cost or price.

2) Procurement documentation as described in subsection (f)(1) shall be retained by the loan recipient or contractors for the period required by Section 369.820 (Audit and Records) of this Part.

g) Subagreements shall only be awarded to persons or organizations that:

1) Have adequate financial resources for performance;

2) Have the necessary experience, organization, technical qualifications and facilities, or a firm commitment, arrangement or ability to obtain these requirements;

3) Have the staffing sufficient to comply with the proposed or required completion schedule for the project;

4) Have a satisfactory record of integrity, judgment and performance;

5) Have an adequate financial management system and audit procedure that is consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards;

6) Maintain a standard of procurement in accordance with this Part;

7) Maintain a property management system that provides adequate procedures for the acquisition, maintenance, safeguarding and disposition of all property; and

8) Conform to the civil rights, equal employment opportunity (Appendix A, Exhibit B) and labor law requirements of this Part.

h) Fraud and Other Unlawful or Corrupt Practices

1) The obtaining and administration of loans from the WPCLP/the ARRA, and of subagreements awarded by loan recipients, shall be free from bribery, graft, kickbacks and other corrupt practices. The loan recipient shall bear the primary responsibility for prevention and detection of such conduct and for cooperation with appropriate authorities in the prosecution of any such conduct.

2) The loan recipient shall effectively pursue available State or local legal and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of illegality or corrupt practices brought to its attention. The loan recipient shall advise the Agency immediately when any allegation or evidence comes to its attention, and shall periodically advise the Agency of the status and ultimate disposition of any matter.

i) Negotiation of Subagreements
All subagreements greater than $25,000 shall be awarded by formal advertising unless the loan recipient determines, and the Agency concurs, that it is impracticable and infeasible to use formal advertising. Negotiated contracts must be competitively awarded to the maximum practicable extent. Procurements may be negotiated by the loan recipient, if approved by the Agency, for the following reasons:

1) Public exigency, as evidenced by governmental declaration, will not permit the delay incident to advertising (e.g., an emergency procurement); or

2) The aggregate amount of the contract to be competitively negotiated is allowed by State law; or

3) The materials or services to be procured are available from only one person or firm; or

4) The procurement is for personal or professional services, or for any services to be rendered by an educational institution; or

5) No responsive, responsible bids at acceptable price levels have been received after formal advertising; or

6) The procurement is for materials or services for which the prices are established by law; for technical items or equipment requiring standardization and interchangeability of parts with existing equipment; for experimental, developmental or research work; for highly perishable materials; for resale; or for technical or specialized supplies requiring substantial initial investment for manufacture.

Section 369.620 Construction Contracts

The following procedures shall apply to construction contracts (subagreements) awarded by loan recipients for the construction phase only. They shall not apply to personal and professional service contracts.

a) The contract documents to be submitted to the Agency shall require a bid bond or cashier's check for not less than 5% of the bid amount, executed contract, performance and payment bonds for the bid amount, certificate of insurance with loan recipient added as additional insured, and the notice to proceed.

b) Each contract shall be awarded after formal advertising, unless negotiation is permitted in accordance with Section 369.610(i) (Negotiation of Subagreements) of this Subpart. Formal advertising shall be in accordance with the following:

1) Evidence of Advertising
The loan recipient shall submit to the Agency a certified copy of the bid advertisement that notifies the bidders that the procurement will be subject to regulations contained in the procedures for providing financial assistance from the WPCLP under the ARRA as set out in this Part, the

Davis-Bacon Act (40 USC 276a through 276a-5) as defined by the U.S. Department of Labor, the Employment of Illinois Workers on Public Works Act [30 ILCS 570], and Executive Order 11246, as amended (Appendix A, Exhibit B). Bidders shall be notified that the procurement will be subject to the loan recipient's policy regarding the increased use of disadvantaged business enterprises, and that the bidders will be required to comply with section 1605 of the ARRA, which specifies that all iron, steel and manufactured goods used in the project are produced in the United States.

2) Adequate Bidding Documents
Bidding documents (invitations for bid) shall be made available by the loan recipient and shall be furnished upon request in a timely manner. A complete set of bidding documents shall be maintained by the loan recipient and shall be available for inspection and copying by any party. The bidding documents shall include:

A) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule (Drawings and specifications may be made available for inspection instead of being furnished.);

B) The terms and conditions of the contract to be awarded;

C) A clear explanation of the method of bidding, the method of evaluation of bid prices, and the basis and method for award of the contract;

D) The statement that any contract awarded in response to the bid is expected to be funded in part by a loan from the WPCLP, and that neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to this bidding or any resulting contract;

E) Responsibility requirements or criteria that will be used in evaluating bidders, provided that an experience requirement or performance bond may not be used unless adequately justified by the loan applicant;

F) A copy of subsections (b)(2)(G) and (H) shall be included in the proposal form to be used by bidders and shall constitute a representation and certification to be considered as a part of their bid;

G) By submission of the bid, each bidder and, in the case of a joint bid, each party to the joint bid, certifies as to his or her own organization, that, in connection with the bid:

i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to the prices with any other bidder or with any competitor;

ii) Unless otherwise required by law, the prices quoted in the bid have not knowingly been directly or indirectly disclosed to any other bidder or to any competitor prior to opening; and

iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or withhold a bid for the purpose of restricting competition. Also, each bidder shall submit a certification regarding compliance with Article 33 E-11 of the Illinois Criminal Code of 1961 [720 ILCS 5/33E-11]; and

H) Each person signing the bid shall certify that:

i) He or she is the person in the bidder's organization responsible for the decision as to the prices being bid and that he or she has not participated, and will not participate, in any action contrary to subsection (b)(2)(G); or

ii) He or she is not the person in the bidder's organization responsible for the decision as to the prices being bid, but that he or she has been authorized to act as agent certifying that the persons determining the prices have not participated, and will not participate, in any action contrary to subsection (b)(2)(G), and as their agent shall so certify.

He or she shall also certify that he or she has not participated, and will not participate, in any action contrary to subsection (b)(2)(G).

3) Addenda to Bidding Documents
If the loan applicant wishes to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the loan applicant shall send written addenda to all firms who have obtained bidding documents in time to be considered prior to the bid opening. When appropriate, the time period for submission of bids shall be extended. All addenda to the bidding documents shall be submitted to the Agency for approval prior to the bid opening.

4) Award to the Low, Responsive, Responsible Bidder

A) After bids are opened, they shall be evaluated by the loan applicant in accordance with the methods and criteria set out in the bidding documents. Items that shall be submitted to the Agency include a bid tabulation, the loan applicant's or its agent's analysis of bids and recommendation for the award and the loan applicant's letter of intent to award or the official minutes of board approval.

B) The loan applicant may reserve the right to reject all bids if it has documented sound business reasons. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the loan applicant.

C) If the award is intended to be made to a firm that did not submit the lowest bid, prior to any award, the loan applicant shall submit to the Agency a written statement explaining why each lower bidder was deemed not responsive or not responsible.

c) Negotiations of Contract Amendments (Change Orders)

1) Loan Recipient Responsibility
The loan recipient shall be responsible for negotiation of construction contract change orders. This function may be performed by the loan

recipient directly or, if authorized, by its consulting engineer. During negotiations the loan recipient shall:

A) Make sure that the contractor has a clear understanding of the scope and extent of work and other essential requirements;

B) Assure that the contractor demonstrates that he or she will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and

C) Maintain a summary of all negotiations and the engineer's independent cost estimate.

2) Changes in Contract Price or Time
The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with subsection (c).

3) For each change order the contractor shall submit to the loan recipient for review sufficient cost and pricing data to enable the loan recipient to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.

4) Agency Review
For each change order, the loan recipient shall submit to the Agency for approval the following documentation:

A) A description of the changed work;

B) The contractor's proposal, itemizing the cost and time to complete the changed work;

C) The loan recipient's or engineer's estimate of the cost and time to complete the changes;

D) Two copies of the executed change order with justification including, but not limited to, the need for the proposed work and the technical solution; and

E) The summary of negotiations and resolution between the engineer's independent cost estimate and the contractor's proposal.

d) Required Construction Contract Provisions
Each construction contract shall include the following provisions:

1) Audit; Access to Records:

A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on loan work consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of any cost submissions required under subsection (c) (Negotiation of Contract Amendments (Change Orders)) and a copy of the cost summary submitted to the owner. The Illinois Auditor General, the owner, the Agency or any of their authorized representatives shall have access to the books, records, documents and other evidence for purposes of inspection, audit and copying. The contractor shall provide facilities for access and inspection.

B) For a formally advertised, competitively awarded, fixed price contract, the contractor shall include access to records as specified in subsection (d)(1)(A) for all negotiated change orders and contract amendments in excess of $25,000 that affect the contract price. In the case of all other prime contracts, the contractor shall agree to include access to records as specified above in all his or her contracts and all tier subcontracts or change orders in excess of $25,000 that are directly related to project performance.

C) Audits shall be consistent with generally accepted auditing standards in accordance with the American Institute of Certified Public Accountants Professional Standards.

D) The contractor shall agree to the disclosure of all information and reports resulting from access to records pursuant to subsection (d)(1)(A). Where the audit concerns the contractor, the auditing

agency shall afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

E) The records required by subsection (d)(1)(A) shall be maintained and made available during performance of the work under the loan agreement and for 3 years after the date of final loan audit. In addition, records that relate to any dispute or litigation or the settlement of claims arising out of any performance, costs or items to which an audit exception has been taken, shall be maintained and made available for 3 years after resolution of the dispute, appeal, litigation, claim or exception.

F) The right of access will generally be exercised with respect to financial records under:

i) Negotiated prime contracts;

ii) Negotiated change orders or contract amendments in excess of $25,000 affecting the price of any formally advertised, competitively awarded, fixed price contract; and

iii) Subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract.

G) The right of access will generally not be exercised with respect to a prime contract, subcontract or purchase order awarded after effective price competition. In any event, the right of access shall be exercised under any type of contract or subcontract:

i) With respect to records pertaining directly to contract performance, excluding any financial records of the contractor; and

ii) If there is any indication that fraud, gross abuse or corrupt practices may be involved in the award or performance of the contract or subcontract.

2) Covenant Against Contingent Fees
The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the owner shall have the right to annul the contract without liability or, in its discretion, to deduct from the contract price or consideration, otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee.

3) Wage Provisions
The contractor shall pay prevailing wages in accordance with the Davis-Bacon Act (40 USC 276a through 276a-5) as defined by the U.S. Department of Labor.

4) Disadvantaged Business Enterprise Requirements
The contractor shall provide evidence, including, but not limited to, a copy of the advertisement(s) and the record of negotiation, that the contractor has taken affirmative steps in accordance with 40 CFR 33 to assure disadvantaged business enterprises are used when possible as sources of supplies, equipment, construction and services, consistent with the provisions of the Agency's Operating Agreement with the USEPA.

5) American Iron, Steel and Manufactured Goods Provisions
The contract shall require the successful bidder(s) to certify compliance with section 1605 of the ARRA, specifying that all iron, steel and manufactured goods used in the project are produced in the United States.

6) Debarment and Suspension Provisions
The contract shall require the successful bidder(s) to submit a "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit A).

7) Nonsegregated Facilities Provisions
The successful bidder shall be required to submit a certification of nonsegregated facilities as prescribed in 18 USC 1001.

e) Subcontracts Under Construction Contracts

The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by the prime contractor shall comply with the following:

1) All applicable provisions of federal, State and local law;

2) All provisions of this Part regarding fraud and other unlawful or corrupt practices;

3) All provisions of this Part with respect to access to facilities, records and audit of records; and

4) All provisions of subsection (d)(6) that require a "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit A).

f) Contractor Bankruptcy
In the event of a contractor bankruptcy, the loan recipient shall notify the Agency and shall keep the Agency advised of any negotiations with the bonding company, including any proposed settlement. The Agency may participate in those negotiations and will advise the loan recipient of the impact of any proposed settlement to the loan agreement. The loan recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and re-awarding a construction contract.

Section 369.630 Contracts for Personal and Professional Services

All subagreements for personal and professional services for design or construction expected to exceed $25,000 in the aggregate shall include the following subagreement provisions:

a) Subagreements for personal and professional construction services shall include:

1) Disadvantaged Business Enterprise Requirements
Evidence, such as, but not limited to, a copy of the advertisement and the record of negotiation in accordance with 40 CFR 33 that affirmative steps have been taken to assure that disadvantaged business enterprises are used when possible as sources of supplies, equipment, construction and services consistent with the provisions of the Agency's Operating Agreement with

the USEPA.

2) An audit and access to records clause that specifies as follows:

A) Subsections (a)(2)(B) through (E) shall be included in all contracts and all subcontracts directly related to project services that are in excess of $25,000.

B) Books, records, documents and other evidence directly pertinent to performance of WPCLP loan work under this agreement shall be maintained consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The Agency or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.

C) Audits conducted pursuant to this subsection (a)(2) shall be in accordance with generally accepted auditing standards.

D) All information and reports resulting from access to records pursuant to subsection (a)(2)(B) shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

E) Records under subsection (a)(2)(B) shall be maintained and made available during performance of project services under this agreement and for 3 years after the final loan closing. In addition, those records that relate to any dispute pursuant to Section 369.650 (Disputes) of this Subpart, litigation, the settlement of claims arising out of project performance, costs or items to which an audit exception has been taken shall be maintained and made available for 3 years after the resolution of the appeal, litigation, claim or exception;

3) A covenant against contingent fees clause as follows:

"The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee".

4) Debarment and Suspension Certification
A Certification Regarding Debarment, Suspension, and Other Responsibility Matters (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit A).

5) A description of the scope and extent of the project work.

6) The schedule for performance and completion of the contract work, including, where appropriate, dates for completion of significant project tasks.

7) A method of compensation.

b) Subagreements for personal and professional design services shall include the subagreement provisions contained in subsections (a)(2) through (a)(4). In addition, the subagreements shall be accompanied by a statement regarding the use of disadvantaged business enterprises during the design service phase.

c) If, at the time of contract execution, any of the elements required in this Section cannot be defined adequately for later tasks, those tasks shall not be included in the contract at that time.

Section 369.640 Compliance with Procurement Requirements for Construction Contracts

a) Loan Applicant Responsibility
The loan applicant shall be responsible for selecting the low, responsive and responsible bidder or other contractor in accordance with applicable requirements of State, federal and local laws and ordinances, as well as for the specific requirements of the loan agreement directly affecting procurement. The loan applicant shall also be responsible for the initial resolution of complaints based

upon alleged violations. Any complaints made to the Agency concerning any alleged violation of law in the procurement of construction services or materials for a project involving construction work will be referred to the loan applicant for resolution. The loan applicant shall promptly determine each complaint on its merits, and shall allow the complainant and any other party who may be adversely affected to state in writing or at a conference the basis for its views concerning the proposed procurement. The loan applicant shall promptly furnish to the complainant and to other affected parties, by certified mail, a written summary of its determination, substantiated by an engineering or legal opinion providing a justification for its determination.

b) Time Limitations
Complaints should be made as early as possible during the procurement process, preferably prior to the bid opening, to avoid disruption of the procurement process. The complaint shall be mailed (certified mail, return receipt requested), or otherwise delivered, no later than 5 working days after the complainant becomes aware of an alleged violation. If there is no agreement between the parties within 7 days following the loan applicant's response, unless all bids are rejected, the matter shall be resolved in accordance with subsection (c).

c) Remedies
All claims, counter-claims, disputes and other matters in question between the applicant and the contractor arising out of, or relating to, a subagreement or its breach shall be decided by arbitration if the parties agree, or in a court of competent jurisdiction within the State.

d) Deferral of Procurement Action
If the determination of a complaint by the loan applicant is adverse to the complainant, the loan applicant shall defer issuance of its solicitation or award or notice to proceed under the contract, as appropriate, for 7 days after mailing or delivery of the determination. If the determination (whether made by the loan applicant, the arbitrator or the court) is favorable to the complainant, the terms of the solicitation shall be revised or the contract shall be awarded, as appropriate, in accordance with the determination.

Section 369.650 Disputes

a) Only the loan recipient may appeal to the Agency in its own name and for its own benefit, under this provision, with respect to its subagreements. Neither a

contractor nor a subcontractor may prosecute an appeal under the disputes provision of a loan in its own name or interest.

b) Any dispute arising under this loan that is not disposed of by agreement shall be decided by the Director, or his or her authorized representative, who shall render a decision in writing and mail or otherwise furnish it to the loan recipient. The decision of the Director shall be in accordance with this Part and shall be final and conclusive.

c) The disputes clause shall not preclude the Director from considering questions of law in any decision.

Section 369.660 Indemnity

The loan recipient shall assume the entire risk, responsibility and liability for all loss or damage to property owned by the loan recipient, by the Agency or by third persons, and for any injury to, or death of, any persons (including employees of the loan recipient) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of the WPCLP/ARRA loan. The loan recipient shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for loss, damage, injury or death, whether caused by the negligence of the State of Illinois or the Agency, or their agents or employees or otherwise, consistent with the provisions of Section 1 of the Construction Contract Indemnification for Negligence Act [740 ILCS 35/1]. The loan recipient shall require that all its contractors and subcontractors agree in writing that they will look solely to the loan recipient for performance of the contract or satisfaction of all claims arising under the contract.

Section 369.670 Covenant Against Contingent Fees

The loan recipient shall warrant that no person or agency has been employed or retained to solicit or secure a WPCLP/ARRA loan upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the Agency shall have the right to annul the loan in accordance with Section 369.310 (Noncompliance with Loan Procedures) of this Part or to deduct from the loan, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee.

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

Section 369.710 Construction Initiation

Upon approval by the Agency of the loan applicant's financial assistance application in accordance with Section 369.430 (Financial Assistance Application and Approval) of this Part, and subject to the availability of funds, the Agency will issue the loan agreement and authorize the initiation of construction.

Section 369.720 Project Changes

a) Prior approval of the Agency is required for any project change that may:

1) Increase the amount of loan funds needed to complete the project;

2) Alter the design or scope of the project;

3) Extend any contract or loan completion date for the project;

4) Alter the location, size, capacity or quality of any major item of equipment; or

5) Alter the scope of the project by changing the methodologies or personnel to be used as agreed to at the time the loan was issued.

b) The Agency will approve project changes that it determines are cost-effective and within the overall scope of the loan project, based on approved facilities planning.

c) The loan recipient shall promptly notify the Agency, in writing, of all project changes. Failure to give timely notice of proposed project changes, or action by the loan recipient that is not consistent with the Agency's determination on those changes, may result in:

1) Disallowance of loan participation for costs incurred that are attributable to the change; and

2) Termination of the loan.

Section 369.730 Construction Engineering

The loan recipient shall provide construction engineering and project monitoring to assure that the construction substantially conforms with the approved plans and specifications.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Section 369.740 Operation and Maintenance of the Project

In order for the Agency to approve the final inspection for the project, the loan recipient must certify that it has provided the following training and operation and maintenance documents:

a) Training pertaining to the proper operation and maintenance of the equipment and process units included in the project.

b) An operation and maintenance reference library that includes, but is not limited to, the following:

1) Manufacturer's literature, shop drawings and warranties;

2) The plans of record with valve indices for the equipment and process units included in the project. For mechanical wastewater treatment plants, the valve index shall include a listing of valve positions for each possible alternate flow configuration including by-passing of individual treatment processes and units and recommended configurations for emergency conditions that could reasonably be expected to occur; and

3) A maintenance schedule for the equipment and process units included in the project.

c) Training pertaining to the general operation of treatment plants or collection systems consisting of an operator self-study course such as "Operation of Wastewater Treatment Plant", 1980, 2nd edition (three volumes) or "Operation and Maintenance of Wastewater Collection System", 1983, 1st edition, California State University, Sacramento.

Section 369.750 Final Inspection

The loan recipient shall notify the Agency in writing within 30 days after completion of project construction and shall submit the final change order, along with the contractor's final costs, to the Agency. The plans of record shall be forwarded to the appropriate Agency regional office. The Agency shall schedule the final inspection within 60 days after receipt of the notice of completion, provided that all necessary change orders have been submitted and approved.

SUBPART H: REQUIREMENTS APPLICABLE TO

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

ACCESS, AUDITING AND RECORDS

Section 369.810 Access

a) The Agency and its designated representatives shall have access, during normal business hours and at any other time during which work is being performed, to the premises where any portion of the work for which the WPCLP/ARRA loan was provided is being performed. After final loan closing, Agency personnel or any authorized Agency representative shall have access to the project records as defined in Section 369.820 (Audit and Records) of this Subpart and to the project site during normal business hours, to the full extent of the loan recipient's right to access.

b) Every contract entered into by the loan recipient for construction work, and every subagreement, shall provide Agency representatives with access to the work. The contractor or subcontractor shall provide facilities for such access and inspection. The contract or subagreement shall also provide that the Agency or any authorized representative shall have access to any books, documents, papers and records that are pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions.

c) Failure by the loan recipient or any of its contractors or subcontractors to provide access, after 10 days written notice from the Agency, shall be cause for termination of the loan pursuant to Section 369.330 (Termination) of this Part, and refund to the State of Illinois for deposit into the WPCLP any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section shall repay any loan funds previously spent.

Section 369.820 Audit and Records

a) The loan recipient shall maintain books, records, documents, reports and other evidentiary material, and accounting procedures and practices consistent with generally accepted government accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards.

b) For purposes of this Section, "records" shall include, but not be limited to:

1) Documentation of the receipt and disposition by the loan recipient of all financial assistance received for the project, including both State financial

assistance and any matching share or cost sharing; and

2) Documentation of the costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the loan has been provided.

c) The loan recipient's facilities, or any facilities engaged in the performance of the WPCLP/ARRA loan project, and the loan recipient's records shall be subject to inspection and audit by the Agency or its authorized representative, at the times specified in Section 369.810 (Access) of this Subpart.

d) The loan recipient shall preserve and make its records available to the Agency or its authorized representative for the following periods:

1) For all costs associated with design and construction, for 3 years after final loan closing;

2) For all other accounting records concerning the loan, for 3 years from the date of the transaction; and

3) For any longer period required by law or by subsections (e) and (f).

e) If the loan is completely or partially terminated, the records relating to the terminated work shall be preserved and made available for 3 years after any resulting final termination settlement.

f) Records that relate to appeals under the "Disputes" clause in Section 369.650 (Disputes) of this Part, litigation or the settlement of claims arising out of the performance of the WPCLP loan project, or to project costs and expenses to which exception has been taken by the Agency or its authorized representatives, shall be retained until the appeals, litigation, claims or exceptions have been completed.

g) Failure of the loan recipient or its contractors or subcontractors to make records available to the Agency as required by Section 369.810 (Access) of this Subpart after 10 days written notice shall be cause for termination of the loan, pursuant to Section 369.330 (Termination) of this Part, and for refund to the State of Illinois for deposit into the WPCLP of any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section

shall repay any loan funds previously spent.

Section 369.830 Single Audit Act

The loan recipient shall comply with the provisions of the Single Audit Act of 1996 (31 USC 7501 et seq.).

SUBPART I: FINANCIAL AND MANAGERIAL CAPABILITY

Section 369.910 Sewer Use Ordinance

a) In order for the loan agreement to be issued, the Agency must have approved the loan applicant's sewer use ordinance with enactment of the ordinance required prior to the first loan disbursement. The loan applicant shall demonstrate to the satisfaction of the Agency that a sewer use ordinance or other legally binding requirement will be enacted and enforced prior to the first loan disbursement in each jurisdiction served by the treatment works project. The ordinance shall prohibit any connections from inflow sources into the sanitary sewer portions of the sewer system and shall ensure that new sewers and connections to the sewer system are properly designed and constructed.

b) The sewer use ordinance shall require:

1) Pretreatment of any industrial wastes that would otherwise be detrimental to the wastewater treatment works or its proper and efficient operation and maintenance or will otherwise prevent entry of industrial wastes into the wastewater treatment works; and

2) Compliance with 35 Ill. Adm. Code 310 (Pretreatment Programs).

c) The sewer use ordinance shall prohibit the introduction of industrial waste into the sewer system until the requirements of Section 369.920 (User Charges) of this Subpart are met.

Section 369.920 User Charges

a) In order for the loan agreement to be issued, the Agency must have approved the loan applicant's system of user charges. The user charge system must be enacted and enforceable before the first loan disbursement can be made.

b) The Agency shall approve the user charge system in accordance with the following criteria:

1) For the first year of operation of new facilities, operation, maintenance and replacement costs shall be based upon past experience for existing wastewater treatment works or some other rational method that can be demonstrated to be applicable.

2) The loan recipient shall review user charges annually and revise the rates periodically to reflect actual wastewater treatment works operation, maintenance and replacement costs. The Agency may request a report on the status of the user charge system, including projected costs, actual costs, revenue generated and fund balances at any time.

3) The user charge system shall generate sufficient revenue to offset the cost of all wastewater treatment works operation, maintenance and replacement required to be provided by the loan recipient.

4) The user charge system must be incorporated in one or more municipal legislative enactments or other appropriate authorizations. If the project is for a regional treatment works accepting wastewaters from treatment works owned by others, then the subscribers receiving wastewater treatment services from the loan recipient shall have adopted user charge systems. The user charge systems shall also be incorporated in the appropriate municipal legislative enactments, intergovernmental or service agreements or other appropriate authorizations.

c) Upon approval of a loan recipient's system of user charges, the implementation and maintenance of the approved system shall become a condition of the loan subject to Section 369.310 (Noncompliance with Loan Procedures) of this Part.

d) The Agency or its authorized representative shall have access to all books, documents, papers and records of the loan recipient for the purpose of making audit, examination, excerpts and transcriptions in order to ensure compliance with subsection (b).

Section 369.930 Financial Capability

a) The loan applicant shall demonstrate to the Agency that it has the necessary legal, financial, managerial and institutional capability to:

1) Construct, operate and maintain the project for the life of the wastewater treatment works;

2) Retire the loan in accordance with the schedule to be contained in the loan agreement, including the execution of any necessary intergovernmental agreements, enactment of a system of user charges and any legislative enactments necessary to recover adequate capital costs to repay the loan; and

3) Meet any covenants and requirements in the loan agreement.

b) To demonstrate financial, managerial and institutional capability, the loan applicant shall, at a minimum, show that:

1) It is empowered under law to own, operate and maintain a public wastewater treatment facility, including the facilities to be constructed under the loan;

2) It has the necessary easements, titles, permits and intergovernmental agreements for loan project implementation, as identified in the facilities plan; and

3) It has or will have the necessary qualified personnel to operate and maintain the facility.

c) The financial capability demonstration shall be submitted to the Agency for approval and shall contain detailed project costs, existing and proposed operation, maintenance and replacement costs, existing and proposed local capital costs, and historical information over the past 3 years consisting of audited annual financial statements, bond ratings, number of users and tax rate levies.

d) The Agency may suggest mitigative measures to improve the loan applicant's financial capability to undertake the project, including, but not limited to, acquisition of grant funding, reduction of project costs, additional or different sources of dedicated revenues, efforts to reduce the number of delinquent users, and changes to existing financial practices that may threaten generation of

adequate revenues.

e) The Agency may require a loan term of less than the 20 year maximum. In evaluating the appropriateness of alternative loan terms, the Agency shall consider such factors as the scope of the proposed project, the impacts of alternative loan terms on user fees, and the overall cost of the project.

Section 369.940 Dedicated Source of Revenue

a) A source of revenue shall be dedicated and pledged to make the loan repayments. Prior to loan approval, the Agency shall review the proposed dedicated and pledged revenue source to assure that it will generate revenues adequate to make the loan repayments and will provide a continuing source of revenue adequate to make loan repayments for the term of the loan. If the source of revenue is pledged in a subordinate position to a revenue bond ordinance, the covenants regarding coverage and reserve for the revenue source shall be equivalent to those in the revenue bond ordinance. At a minimum, the reserve account shall be equal to the annual loan repayment amount funded within 2 years after the loan award.

b) The necessary legislative enactments to dedicate and pledge the source of revenue must be in place before the Agency can make the first loan disbursement.

c) The loan recipient shall maintain a separate account in its books to record the dedicated revenues for loan repayment.

d) The loan recipient shall, for the term of the loan, review and adjust the dedicated source of revenue as necessary to provide adequate funds for the repayment of the loan. The loan recipient shall timely notify the Agency and submit to the Agency for approval all proposed changes to the dedicated source of revenue.

e) Upon request, the loan recipient shall submit to the Agency a statement on the status of the account required by subsection (c) that contains the status of the dedicated revenue account, including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's review will be based on, but not limited to, ensuring that the dedicated source of revenue is legally authorized, generates sufficient revenue and is otherwise in accordance with this Part.

f) In the event that the actual revenues fall short of the amount required to retire the

loan, the Agency shall require the loan recipient to re-examine the dedicated revenue source and restructure it as necessary.

Section 369.950 Floodplain Insurance

a) If the loan project includes insurable structures that will be located within a designated floodplain area as defined in the National Flood Insurance Act of 1968 (42 USC 4001-4127), the loan recipient shall furnish written evidence that it is participating in the National Flood Insurance Program or that the construction areas have received official exclusion from the flood insurance requirements by the Federal Emergency Management Agency.

b) The loan recipient (or the construction contractor, as appropriate) shall acquire any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, and maintain the insurance for the entire useful life of the insurable structures.

c) The amount of insurance required shall be the lesser of the total project cost, excluding facilities that are uninsurable under the National Flood Insurance Program, or the maximum limit of coverage made available to the loan recipient under the National Flood Insurance Act of 1968.

d) The required insurance premium for the period of construction shall be an allowable project cost under Section 369.1010 (Determination of Allowable Costs) of this Part.

SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

Section 369.1010 Determination of Allowable Costs

The loan recipient shall be paid, upon request, in accordance with Section 369.1030 (Disbursement of Loan Funds) of this Subpart, for all costs that are within the scope of the approved project, not to exceed the total amount of the loan, and that are determined to be allowable in accordance with the following criteria:

a) Allowable Project Costs
All reasonable and necessary costs directly attributable to the design and construction of an eligible, loan assisted wastewater treatment works project that are not excluded from loan funding by law or non-waivable regulations.

Categories of necessary costs include, but are not limited to, the following:

1) The direct purchase of materials, equipment and personal services specifically necessary for the completion of a loan funded project;

2) Professional and consultant services contracts necessary for design, bidding and construction of a loan funded project, except as elsewhere limited by this Part;

3) Costs under approved construction contracts; and

4) Costs for premiums for required flood insurance during the project construction period.

b) Ineligible Costs
Categories of costs that are ineligible for loan assistance, and are not subject to the "reasonable and necessary" test of allowability include, but are not limited to, the following:

1) Costs for preparing a facilities planning document;

2) Costs for basin or areawide planning;

3) Costs outside the scope of the approved facilities plan;

4) Site acquisition, including easement compensation, except in those instances where the land itself shall serve as the medium for treatment (e.g., land for spray irrigation of wastewater); and

5) Construction of any facilities that do not comply with the definition of a "treatment works" as contained in section 212 of the Clean Water Act.

c) Disputes Concerning Allowable Costs
The loan recipient shall seek to resolve any questions relating to cost allowability or allocation at the earliest opportunity. Final determinations by the Director concerning the allowability of costs shall be conclusive.

Section 369.1020 Use of Loan Funds and Payment of Unallowable Costs

a) Loan funds shall be expended solely for approved allowable costs incurred in the design and construction of the project.

b) The loan recipient shall agree to pay the unallowable costs associated with the project, as well as all allowable costs that exceed the amount of the loan, and shall construct the project or cause it to be constructed to final completion in accordance with the plans and specifications and on the schedule approved by the Agency.

c) The loan recipient shall commit itself to complete the construction of the operable wastewater treatment works.

Section 369.1030 Disbursement of Loan Funds

a) Disbursements are subject to the appropriation of funds by the General Assembly and the availability of cash deposited into the WPCLP from drawdowns from the USEPA Automated Clearing House, State matching funds, repayments of existing loans, interest earnings on money in the WPCLP, and money deposited into the WPCLP from other sources.

b) Disbursements shall be made as follows:

1) After the receipt of a fully executed loan agreement, disbursement requests must be sent directly to the Agency. Actual disbursements shall be processed in accordance with the loan agreement.

2) Disbursements will be processed based on costs incurred that are due and payable, as evidenced by invoices. The Agency may withhold any disbursement for a violation of the loan agreement conditions.

c) The loan recipient shall make prompt payment to the contractor.

d) The State share of any refunds, rebates, credits or other amounts (including any interest) accruing to or received by the loan recipient with respect to the project that are properly allocable to costs for which loan funds have been disbursed must be paid, minus any reasonable expenses incurred in securing these funds, to the State of Illinois for deposit in the WPCLP.

e) Before the final principal amount of the loan can be established:

1) The Agency shall conduct a final inspection and a project review to insure that all applicable loan conditions have been satisfied; and

2) The loan recipient must submit to the Agency a final waiver from the contractor and a Certification of Payment that all bills have been paid.

f) The loan recipient must also submit a release discharging the State of Illinois, and its officers, agents and employees, from all liabilities, obligations and claims arising out of the project work or under the loan, subject only to such exceptions specified in the release.

g) Any use of loan funds at variance with this Part shall result in repayment of those loan funds to the State of Illinois for deposit into the WPCLP.

SUBPART K: PROCEDURES FOR LOAN REPAYMENT AND DELINQUENT REPAYMENT

Section 369.1110 Loan Repayment to the Agency

Loan repayment to the Agency shall be in accordance with the loan repayment provisions contained in the loan agreement.

a) Principal forgiveness of 50% will be applied to the total amount of loan disbursements from ARRA funds. The loan repayment amount shall be calculated based upon 50% of the total amount of loan disbursements from ARRA funds.

b) Loan repayments shall commence not later than 6 months after the initiation of the loan repayment period and shall be due semiannually unless the Agency determines that the dedicated source of revenue justifies an alternative repayment plan.

c) After the initiation of the loan repayment period date in the loan agreement, the Agency shall set a principal amount and give the loan recipient an interim repayment schedule.

d) After a final cost review of the project, the Agency shall establish the final principal amount and give the loan recipient a final repayment schedule.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Section 369.1120 Delinquent Loan Repayments

a) *In the event that a timely payment is not made by a loan recipient according to the loan schedule of repayment, the loan recipient shall notify the Agency in writing within 15 days after the payment due date. The notification shall include a statement of the reasons the payment was not timely tendered, the circumstances under which the late payments will be satisfied, and binding commitments to assure future payments. After receipt of this notification, the Agency shall confirm in writing the acceptability of the plan or take action in accordance with subsection (b) of this Section.*

b) *In the event that a loan recipient fails to comply with subsection (a), the Agency shall promptly issue a notice of delinquency to the loan recipient which shall require a written response within 15 days. The notice of delinquency shall require that the loan recipient revise its rates, fees and charges to meet its obligations or take other specified actions as may be appropriate to remedy the delinquency and to assure future payments.*

c) *In the event that the loan recipient fails to timely or adequately respond to a notice of delinquency, or fails to meet its obligations made pursuant to subsections (a) and (b) of this Section, the Agency shall pursue the collection of the amounts past due, the outstanding loan balance and the costs thereby incurred, either pursuant to the Illinois State Collection Act of 1986* [30 ILCS 210] *or by any other reasonable means as may be provided by law, including the taking of title by foreclosure or otherwise to any project or other property pledged, mortgaged, encumbered or otherwise available as security or collateral.* [415 ILCS 5/19.6]

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Section 369.APPENDIX A Executive Orders

Section 369.EXHIBIT A Executive Order 12549

February 18, 1986, 51 F.R. 6370

DEBARMENT AND SUSPENSION

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1.

a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Section 2. To the extent permitted by law, Executive departments and agencies shall:

a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

Section 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Section 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Section 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Section 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

Section 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make such

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recommendations as are appropriate further to curb fraud, waste, and abuse.

THE WHITE HOUSE RONALD REAGAN
February 18, 1986

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Section 369.APPENDIX A Executive Orders

Section 369.EXHIBIT B Executive Order 11246

EQUAL EMPLOYMENT OPPORTUNITY
EXECUTIVE ORDER 11246, AS AMENDED

Executive Order 11246 − Equal Employment Opportunity

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

Part I − Nondiscrimination in Government Employment

Part II − Nondiscrimination in Employment by Government Contractors and Subcontractors

Subpart A − Duties of the Secretary of Labor

SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

Subpart B − Contractors' Agreements

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to

employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2) The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor win take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event

the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SEC. 203. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

a) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

b) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: *Provided*, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

c) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute

such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

SEC. 204. The Secretary of Labor may, when he/she deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: *Provided,* That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: *And provided further,* That in the absence of such an exemption, all facilities shall be covered by the provisions of this Order.

Subpart C − Powers and Duties of the Secretary of Labor and the Contracting Agencies

SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

SEC. 206. The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

a) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

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SEC. 207. The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

SEC. 208. The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

a) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D − Sanctions and Penalties

SEC. 209. In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.

6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

7) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

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SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

Subpart E − Certificates of Merit

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

Part III − Nondiscrimination Provisions in Federally Assisted Construction Contracts

SEC. 301. Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the

rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SEC. 302. "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

a) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

b) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

SEC. 303. The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

a) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

b) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: *Provided,* That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

Part IV – Miscellaneous

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

[Sec. 401 amended by EO 12086 of Oct. 5, l978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403. Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

a) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by

appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

[Sec. 403 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

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Section 369.APPENDIX B Loan Application Form

Applicant Information

L17# _____

1. Legal Name of Applicant: _____
2. Applicant Address: _____

   _____

   Project Description: _____

   _____

   Federal Taxpayer Identification Number: _____

   ☐ Home Rule ☐ Non-Home Rule

3. Authorized Representative:

   Name: _____ Title: _____

   Phone: _____ Email: _____

4. Engineer:

   Name: _____ Firm: _____

   Address: _____ Phone: _____

   _____ Email: _____

5. Attorney:

   Name: _____ Firm: _____

   Address: _____ Phone: _____

   _____ Email: _____

6. Include detailed construction cost estimate in bid format as part of this application and summarize below:

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Construction	$
	$
	$
Legal/Financial	$
Design Engineering	$
Construction Engineering	$
Other	$
Contingency	$
Total	$

7. Amount requested for loan $ _____

8. Loan repayment period requested (maximum term is 20 years): _____

☐ 20 Years

☐ Other (_____number of years)

9. List any other proposed sources of funding in addition to loan request:

Source: _____ Amount: _____

Date Available: _____

10. Project Schedule (Indicate "complete" or anticipated date of completion as appropriate)

a) Approved Facilities Planning: _____

b) Plans and Specifications completed and submitted to Illinois EPA: _____

c) Illinois EPA Permit issued: _____

d) Approved Operation, Maintenance and Replacement Revenue System and Dedicated Source of Revenue: _____

e) Advertise for Bids: _____

f) Initiation of Construction: _____

g) Completion of Construction: _____

CERTIFICATION REGARDING PROJECT SITE, RIGHTS-OF-WAY, EASEMENTS, AND PERMITS

1. The applicant has investigated and ascertained the location of the site or sites, rights-of-way, and easements being provided for the facilities in its application for loan assistance. In my opinion, the applicant has a sufficient legal interest in the said site or sites, rights-of-way, and easements to permit the building of such facilities thereon and to permit the operation and maintenance of such facilities thereon during the estimated life of the facility by the applicant after the completion of construction.

2. The loan applicant has compiled with the provisions of 49 CFR 24 as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (42 USC 4601 et seq.).

3. The loan applicant has obtained all the necessary permits as indicated below:

Type of Permit	Permit Number	Date Issued
Army Corps of Eng. 404		
IL Dept. of Trans.		
County Highway		
Other		

Loan Program Certifications

- Whereas, the application provisions for loans from the Water Pollution Control Loan Program require that the loan applicant provide the following certifications and assurances:

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The loan applicant hereby agrees to pay all project costs not covered by the loan. If the project costs provided by the applicant exceed $10,000, please provide the following information:

Amount to be provided by applicant $ _____

Source of funds _____

- The loan applicant hereby certifies that is has analyzed the costs and the financial impacts of the proposed project and that it has the legal, institutional, managerial and financial capability to insure adequate building, operation, maintenance and replacement of the treatment works project.

- The loan applicant hereby certifies that no unlawful or corrupt practice has taken place in the planning or design of the proposed project.

- The loan applicant hereby certifies that it has complied with all applicable State and federal statutory and regulatory requirements in regard to the proposed project.

- The loan applicant hereby certifies that it is not barred from being awarded a contract or subcontract under Section 10.1 of the Illinois Purchasing Act.

Certification Regarding Debarment, Suspension and Other Responsibility Matters

The prospective participant to the best of its knowledge and belief that it and its principals:

a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in fine of up to $10,000 or imprisonment for up to 5 years, or both.

INTENT REGARDING NATIONAL FLOOD INSURANCE

Whereas application provisions for loans from the Water Pollution Control Loan Program require compliance with the National Flood Insurance Act 1968, as amended, and

Whereas the costs of securing and maintaining flood insurance are eligible for loan participation during the approved construction period, and

Whereas failure to secure flood insurance for eligible construction located in designated flood hazard areas will cause this construction to become ineligible for loan funds:

Now therefore, be it resolved that the _____ of _____ will cooperate and coordinate with the National Flood Insurance Program to acquire and maintain any flood insurance made available for Project L17# _____ for the entire useful life of the insurable construction pursuant to the Flood Insurance Act of 1968, as amended, and that it will secure said flood insurance for each insurable structure, as soon as said insurance is available and will notify the Illinois Environmental Protection Agency in writing that the National Flood Insurance requirement has been satisfied.

AUTHORIZATION OF A REPRESENTATIVE TO SIGN LOAN DOCUMENTS

Whereas, application provisions for loans from the Water Pollution Control Loan Program for construction of sewage treatment works require that the _____ of _____ authorize a representative to sign the loan application forms and _____ supporting documents; therefore, be it resolved by the _____ of _____ _____ that _____ is hereby authorized to sign all loan

application forms and documents.

I, _____ hereby verify that the above information is, to the best of my knowledge, true and correct.

Date: _____ Signed by: _____
(Authorized Representative)

Title: _____

Attested by: _____

Financial Information Requirements

Prior to issuance of a loan agreement, the applicant must demonstrate to the Agency that it possesses the necessary legal, financial, managerial and institutional capability to construct, operate and maintain the project for the life of the treatment works and to retire the loan in accordance with the schedule to be contained in the loan agreement. The applicant must provide sufficient information for the Agency to determine that the applicant is financially capable and has pledged a dedicated revenue source that is adequate to retire the debt and meet any covenants and requirements in the loan agreement. This can be accomplished by development and the enactment of a new User Charge System or the demonstration that a system previously approved by the Agency has been adequately maintained, is being enforced and will continue to produce adequate revenues.

In order to provide guidance to potential loan recipients, this brief summary of the loan rules, our review procedures, and the information that must be submitted for the Agency's review is being provided along with the attached checklist.

Financial Capability

The Agency requires that the applicant demonstrate that it has the legal, financial, managerial and institutional capability to construct, operate and maintain the project for the life of the wastewater treatment works and to retire the loan. The applicant must also demonstrate the ability to meet any covenants contained in the loan agreement.

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The Agency's review will be conducted using items submitted as part of the loan application including our review of the Dedicated Source of Revenue and the User Charge System. In addition, applicants must furnish the last fiscal year's audited financial statements. If we are unable to determine that the applicant is financially capable, the Agency may require additional financial data be submitted.

Dedicated Source of Revenue

The Agency requires that specific sources of revenue must be dedicated and pledged to make the loan repayments. Prior to the Agency's approval of the dedicated source(s) of revenue, the applicant must demonstrate that the revenue source will generate adequate revenues to make loan repayments for the term of the loan. The term of the loan will be specified in the loan agreement but shall not exceed 20 years from the initiation of operation date contained in the loan agreement. Additional points that must be considered during the development of the dedicated source of revenue are:

- The dedicated source of revenue is usually pledged by the loan applicant in the form of an adopted ordinance that pledges a specific and dedicated source of revenue for repayment of the loan. The adopted ordinance will in most cases pledge a very stable source of revenue, such as revenues of the system, in the form of a revenue bond. General obligation and alternate bond ordinances are also acceptable.

- In the case of revenue bonds, the Agency requires that debt service coverage requirements for the IEPA loan be equal to any outstanding senior debt that is payable from revenues of the system. If a sewer service charge is used, the sewer rate and rate ordinance must be adopted prior to the first disbursement. State law requires a 1.25 x coverage test for alternate bonds, and parity revenue bonds must also meet the covenants made to outstanding investors.

- The Agency requires that the applicant furnish a legal opinion concerning the acceptability of the ordinance and other elements of the debt instrument selected for repayment of the loan. This opinion must address the validity and enforceability of the loan recipient's obligations and the absence of conflicts with other agreements, bonds or ordinances. Retention of bond counsel is optional.

User Charge System

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The applicant's User Charge System must generate adequate revenues to accommodate costs for operation, maintenance and replacement of the treatment works.

If the applicant has a previously approved User Charge System, the Agency will review the system to ascertain that the system was enacted and has been maintained in accordance with the previous approval and will produce adequate revenues for the proposed project.

Applicant: _____

L17#: _____

FINANCIAL INFORMATION CHECKLIST

Please answer or submit information indicated, as appropriate.

A. Dedicated source of revenue

1. ☐ Home Rule ☐ Non-Home Rule
2. Type of loan instrument
   a. ☐ General Obligation Debt
   b. ☐ Alternate (double barreled) bonds with property tax levy that pledges an alternate revenue source of _____
   c. ☐ Water ☐ Sewer ☐ Combined System Revenues − Senior Lien
   d. ☐ Water ☐ Sewer ☐ Combined System Revenues − Subordinate Lien
3. Authority of applicant to issue debt
   a. ☐ Home rule powers
   b. ☐ Specific authorizing statute: _____ ILCS _____
   c. ☐ Other (specify)
4. Copy of certified ordinance authorizing debt must be submitted along with existing ordinances if a subordinate lien is proposed. If this is a subordinate lien, the certified ordinance authorizing debt must have provisions for equivalent accounts and coverage.

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5. Signed legal opinion with respect to the validity and enforceability of the applicant's obligations (bond ordinance) and the absence of conflicts with other agreements, bonds or ordinances.

6. A detailed demonstration that the dedicated source of revenue will provide adequate revenues to repay the loan in accordance with the terms of the loan agreement, including meeting any covenants and requirements in the loan agreement.

7. Last fiscal year's audited annual statement.

8. Are other entities substantially benefiting (greater than 5%) from the project?

☐ Yes ☐ No

9. Submit copies of any service agreement with any substantial beneficiary.

☐ Attached ☐ N/A

EITHER

B. User Charge System (assuming that an Agency approved user charge system is not in existence)

1. Submission of a detailed Operation, Maintenance and Replacement (OM&R) budget.

2. Calculations to demonstrate how the rates and surcharges are calculated. The rates should be expressed in cost per unit of usage i.e., 1,000 gallons, 100 cubic feet, pounds of BOD and suspended solids or milligrams per liter of BOD and suspended solids as appropriate.

3. Certified sewer use and rate ordinances.

OR

C. Supplemental Review (assuming that an Agency approved User Charge System is in existence)

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1. Submit a copy of the Sewer Use Ordinance and User Charge Ordinance originally approved.

2. Submit any amendments made to the ordinances since their approval.

3. Is the User Charge System generating sufficient revenue to recover the Operation, Maintenance and Replacement Costs? ☐ Yes ☐ No
If answered No, what corrective action is being taken?

4. Is the Sewer Use Ordinance being enforced? ☐ Yes ☐ No
If answered No, please explain.

5. Is an annual review of the Wastewater Service Charge being performed?
☐ Yes ☐ No

If answered No, please explain.

6. Will the project result in substantial changes to the costs for Operation, Maintenance and Replacement? ☐ Yes ☐ No
Will the project substantially alter the treatment process? ☐ Yes ☐ No

7. If either question in #6 is answered yes, please submit a proposed budget for the first year OM&R costs and a review of the wastewater service charges, along with appropriate revisions to the rate ordinance.

I hereby certify that the above information is, to the best of my knowledge, true and accurate.

_____ _____
(Authorized Representative) (Date)

_____ _____
(Clerk) (Date)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Combined Sewer Overflow Exception Criteria and First Flush Determination

2) Code Citation: 35 Ill. Adm. Code 375

3)

Section Numbers:	Proposed Actions:
375.101	Repealed
375.102	Repealed
375.103	Repealed
375.201	Repealed
375.202	Repealed
375.203	Repealed
375.204	Repealed
375.205	Repealed
375.206	Repealed
375.301	Repealed
375.302	Repealed
375.303	Repealed
375.401	Repealed
375.402	Repealed
375.403	Repealed
375.404	Repealed
375.APPENDIX A	Repealed

4) Statutory Authority: Implementing Section 12(a) and authorized by Section 4 of the Environmental Protection Act [415 ILCS 5/12(a) and 5/4] and by 35 Ill. Adm. Code 306.352.

5) A Complete Description of the Subjects and Issues Involved: In response to Executive Order 2016-13, the Illinois EPA proposes to repeal 35 Ill. Adm. Code 375. See 40 Ill. Reg. 14812 (October 28, 2016). This Part provides criteria for combined sewer overflow exception proceedings and first flush determinations. The Agency no longer uses these rules because the Board no longer accepts petitions for combined sewer overflow exceptions.

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

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

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

9) Does this proposed repealer contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

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

Sara Terranova
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
sara.terranova@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Part 375 provides review criteria for exceptions to combined sewer overflows, which may impact small business.

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 2017

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 375
COMBINED SEWER OVERFLOW EXCEPTION CRITERIA AND FIRST FLUSH DETERMINATION (REPEALED)

SUBPART A: INTRODUCTION

Section
375.101 Policy
375.102 Definitions
375.103 Prohibitions

SUBPART B: WATER QUALITY INVESTIGATION

375.201 Policy
375.202 Phase I – Background Information
375.203 Phase II – Preliminary Stream Inspection
375.204 Phase III – Detailed Water Quality Evaluation
375.205 Special Analysis for Congested Areas
375.206 Time Schedule

SUBPART C: ASSESSMENT OF CONTROL OPTIONS

Section
375.301 Water Quality Evaluation
375.302 Control Alternatives
375.303 Benefits Assessment

SUBPART D: FIRST FLUSH DETERMINATION

375.401 Variables in First Flush Determination
375.402 Conditions for Determination
375.403 Field Studies
375.404 Modeling

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

375.APPENDIX A First Flush Graph

AUTHORITY: Implementing Section 12(a) and authorized by Section 4 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111½, pars. 1012(a) and 1004) and by 35 Ill. Adm. Code 306.352.

SOURCE: Adopted and Codified at 7 Ill. Reg. 10808, effective August 23, 1983; amended at 8 Ill. Reg. 19436, effective September 26, 1984; repealed at 41 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 375.101 Policy

This policy provides guidelines for:

a) Determination of water quality impacts attributable to combined sewer overflows and treatment plant bypasses;

b) Estimation of potential water quality improvements;

c) Selection of a combined sewer overflow (CSO) control program that can be justified on the basis of local environmental conditions and fiscal responsibility;

d) Evaluation and review of discharger's submittals pursuant to 35 Ill. Adm. Code 306.351; and

e) Determination of first flush as referenced in 35 Ill. Adm. Code 306.305(a).

Section 375.102 Definitions

All definitions in 35 Ill. Adm. Code 301 shall apply here. No incorporation by reference in this Part contains any later amendment or addition.

"Combined Sewer" means a sewer designed and constructed to receive both wastewater and land runoff.

"Dry Weather Flow" means the flowrate consisting of wastewater and non

excessive sewer infiltration in the absence of inflow sources attributable to direct precipitation or snowmelt and is not restricted to meteorologic drought conditions. Nonexcessive sewer infiltration is defined at 40 CFR 35.2005 (1984).

"First Flush" is defined as that volume of water and associated flow rate needed to carry solids or BOD concentrations is excess of the dry weather flow. This volume is shown on the "cross hatched" area in Appendix A.

35 Ill. Adm. Code 306.305(a) uses the term "first flush to describe those flows requiring complete treatment. When sewage is flowing through a sewer system at fairly uniform lower velocities, which occur during dry weather conditions, some of the solids present in the waste are deposited in the pipes. In addition, solids and some organic material that may be washed into the combined sewer systems tend to build up on streets, parking lots, etc.

When a storm event occurs, the volume of wastewater carried by the sewer increases and the velocities in the sewer also increase. The high volume of storm water causes material to be washed from the streets into the sewer and the sludge deposited in the sewers to be scoured from the pipes. This material is carried to the sewage treatment plant where it exerts an additional organic load on the biological system and an additional solids load on the physical systems. The maximum impact of this phenonmenon tends to occur at the beginning of a storm event and taper off as the storm continues and there are no additional solids to remove.

"Human Contact Activities" means wading, swimming or any other activity involving partial or total immersion of the human body in the subject waterway whether for recreational or other purpose.

"Wet Weather Flow" means a flowrate condition, elevated above dry weather flow, attributable to land runoff as the result of snowmelt or a precipitation event.

Section 375.103 Prohibitions

a) Dry weather overflows are expressly prohibited under existing regulations and are not eligible for consideration under the provisions of this rule. Combined sewer overflow programs that will result in continued or future dry weather overflows or

treatment plant bypasses will not be approved by the Agency.

b) This policy applies to overflow from combined sewer systems and treatment plant bypasses resulting from wet weather flow conditions. Overflows from separate sanitary sewers and from portions of combined sewer communities served by separate sanitary sewers are not subject to this rule.

SUBPART B: WATER QUALITY INVESTIGATION

Section 375.201 Policy

It is the intent of this policy that water quality investigations be no more extensive than is necessary:

a) to identify the degree of CSO control appropriate for a specific community as mutually agreed to by discharger and Agency, and

b) to substantiate the appropriateness of the proposed control program under the scrutiny of the Board in a proceeding pursuant to 35 Ill. Adm. Code 306: Subpart D.

Section 375.202 Phase I – Background Information

a) A community seeking to pursue alternate CSO control requirements under provisions of 35 Ill. Adm. Code 306: Subpart D and this Part shall review existing documents including facility planning reports, sewer maintenance records, and Discharge Monitoring Reports to assemble pertinent background information. To the extent available in existing resources, pertinent background information shall include the following:

1) a map of the sewer system depicting:

A) portions of the community served by combined sewers and separate sanitary sewers; and

B) location of each overflow and receiving water body;

2) size of watershed of receiving water body at point of each overflow;

3) drainage area and population tributary to each overflow;

4) land use, zoning classification and projected growth patterns in the vicinity of each overflow using the following classifications: residential, commercial, industrial, recreational, agricultural;

5) actual or potential use of the affected waterway for human contact activities;

6) history of complaints regarding the stream and surrounding environment and downstream of overflows;

7) history of other complaints concerning the sewer system;

8) description of structural and physical condition of sewer system including age of system, incidence of sewer collapses, bottlenecks in the system; and

9) list of industrial and other sewer users tributary to overflows which contains substances in wastewater or storm drainage in concentrations likely to create hazardous or toxic conditions at the point of combined sewer overflow.

b) Submittals:

1) A written report of review conducted in subsection (a) above shall be submitted to the Agency along with a request for Agency participation on an advisory and review basis in a CSO impact evaluation project.

2) Submittals shall be addressed to:

Illinois Environmental Protection Agency
Construction Grant Section
Division of Water Pollution Control
2200 Churchill Road
Springfield, Illinois 62706

c) Upon receipt and review of discharger's report, an Agency representative will be designated as project coordinator and contact person for the Agency's participation in the project. The Agency Project Coordinator will contact the

Applicant's representative to schedule a conference regarding second phase activities.

d) After Phase I, conferences shall be held between the Agency and discharger's representatives to discuss and agree upon the nature and extent of each subsequent phase of investigation prior to commencing that phase.

Section 375.203 Phase II – Preliminary Stream Inspection

This phase requires a physical inspection of the receiving water body and near stream property. Additionally, any necessary elements missing from the Phase I background report shall be addressed in this step. Factors to be considered include:

a) Inspection of stream in and around vicinity of each overflow for sludge deposits, sewage related odors, floating debris of sanitary sewage origin, and any other visible signs of pollution impact. Inspection techniques shall be selected so as to assure maximum reliability of the results including:

1) probing, disturbance and extraction of bottom sediments in pools and other quiescent portions of stream to note color, texture, odor and other aspects of sediments that are indicative of sewage sludge:

2) estimates of extent and severity of sludge deposition in terms of depth of deposition, area of stream affected and percentage of stream bed within affected area that contains sludge deposits; and

3) inspection of shoreline vegetation, logjams and other obstructions likely to retain floating sewage debris.

b) Stream Hydraulics:

1) Stream hydraulic factors shall be identified including: average width of stream channel from bank to bank, height of stream banks above thalweg, stream bed gradient.

2) For receiving streams with a 7Q10 (average seven day low flow which occurs once in 10 years) flow greater than 10 cubic feet per second this information can be omitted, substituting the 7Q10 value.

c) Stream morphological factors including:

1) substrate type;

2) variation of structure via natural meandering, pool and riffle sequence;

3) degree of dredging, channelization or other alteration of natural stream character; and

4) accumulation of logjams and other naturally occurring vegetative debris.

d) Description of stream side property including:

1) topography;

2) land cover including forrested, agricultural row crop, marsh, grass buffer strip, residential lawn, and

3) land use if not already identified in Section 375.202(a)(4) including a specific determination if affected area is utilized by or accessible to children for recreational activities.

Section 375.204 Phase III – Detailed Water Quality Evaluation

Areas to be addressed in a detailed water quality survey shall include, consistent with 35 Ill. Adm. Code 306.361(d):

a) water column chemistry –

1) upstream/downstream and overflow sampling;

2) wet weather/dry weather sampling;

3) diurnal sampling for dissolved oxygen (D.O.);

4) parameters generally will include BOD_5, suspended solids, volatile suspended solids, ammonia. Other parameters may become important depending on the nature of the overflow; and

5) other parameters as deemed appropriate relative to 35 Ill. Adm. Code 375.302(a)(8).

b) sediment analysis –

1) sediment oxygen demand;

2) percent volatile matter;

3) particle size distribution; and

4) other parameters as deemed appropriate relative to 35 Ill. Adm. Code 375.302(a)(8).

c) biological survey –

1) benthic macroinvertebrates;

2) fishes; and

3) plant productivity assessment (algal blooms).

d) hydraulic and hydrologic factors including storm hydrographs for receiving stream and overflow.

Section 375.205 Special Analysis for Congested Areas

In small drainage basins receiving combined sewer overflows from collection systems belonging to several separate governing bodies the significance of the aggregate CSO load may well dictate a basin wide evaluation of alternate control levels in lieu of community by community evaluation. Resolution of CSO issues in such basins may require evaluation of all CSO sources concurrently with cooperative data collection efforts involving several communities. This is especially applicable in major metropolitan areas.

Section 375.206 Time Schedule

a) Once a water quality investigation is initiated, every effort shall be made to expedite each step of the activity, completing the investigation in the shortest possible time without compromising the validity of the findings. Effective field

activities are dependent upon proper seasonal, hydrologic and meteorologic conditions which will require flexibility in scheduling. Nevertheless the following time table is suggested as a general guideline.

b) Phase I – 30 to 60 days for completion plus 30 to 60 days for Agency review and planning of Phase II.

c) Phase II – 30 to 60 days for completion plus 30 to 60 days for Agency review and planning of Phase III.

d) Phase III – 6 months to 1 year and generally containing the summer months of June, July and August.

SUBPART C: ASSESSMENT OF CONTROL OPTIONS

Section 375.301 Water Quality Evaluation

It is intended that water quality evaluation performed under Subpart C of this Part will be undertaken in conjunction with or subsequent to first flush analysis and CSO studies consistent with Subpart D. Control options being evaluated shall not be limited to alternatives resulting in full compliance with 35 Ill. Adm. Code 306.305; lesser control options of varying degrees shall be evaluated also.

Section 375.302 Control Alternatives

Alternatives resulting in noncompliance with existing water quality standards and requiring regulatory relaxation of water quality standards may also be considered by the discharger. Water quality revisions being considered shall be consistent with the purpose and objectives of the Act and the CWA.

Section 375.303 Benefits Assessment

Benefits shall not be assessed solely on a pound pollutant removed basis but also on instream improvement of a documented pollutional impact or reduction in a public health risk. Acceptable techniques for estimating water quality improvements will vary depending on individual circumstances but may include:

a) consideration of receiving water body assimilative capabilities and strategic relocation of overflows;

b) selection of size of storm to design controls for based on stream hydrograph, available dilution, turbulance and velocity under storm conditions and their affect on assimilation (since CSO's are dominated by suspended rather than soluble pollutants, major emphasis will be placed on prevention of instream deposition); and

c) mathematic modeling.

SUBPART D: FIRST FLUSH DETERMINATION

Section 375.401 Variables in First Flush Determination

The intensity and duration of first flush are a function of certain variables including:

a) Physical and hydraulic features of the sewer system and tributary watershed.

b) Amount of sediment accumulated in the sewer system and on impervious surfaces of the watershed.

c) Intensity and duration of the storm event causing the flushing.

Section 375.402 Conditions for Determination

For any given sewer system, or portion of a sewer system, first flush volume subject to full treatment requirements of 35 Ill. Adm. Code 306.305(a) and associated flow rate shall be determined for the following condition(s):

a) A storm of 1.2 inch per hour intensity with a duration of 60 minutes, which approximates a one year-one-hour storm for most sections of the state.

b) There shall be sufficient time between the storm event chosen to determine first flush and any previous event to allow for adequate solids deposition in the sewers and on the streets to demonstrate first flush under this Part. In general a ten day period should be sufficient.

Section 375.403 Field Studies

a) First flush volumes may be determined through direct field measurement at a

point of overflow, modeling of the collection system or equally accurate techniques. Either approach is dependent on a field monitoring program as described in (c) below. Commonly, first flush for the design storm is determined by direct measurement of flush rate and volume for several storms of varying intensity and extrapolating to the design storm (1.2 in/hr.).

b) Detailed monitoring may be limited to less than the total number of overflow locations in the system when monitoring all locations would be impossible or would not be helpful in demonstrating the capabilities of the system. Sampling sites should be selected in order to monitor the largest discharges in terms of loading. Consideration shall also be given to the different land use patterns, population densities, and sewer system characteristics tributary to a given overflow site within the study area.

c) General guidance for field measurement includes:

1) A minimum of 3 storms should be monitored for each sampling site.

2) There shall be a least one rain gauge located within the study area. For systems serving an area of over 2 squares miles, multiple gauges shall be used and located to achieve gauge spacing of 2 miles or less throughout the study area. Rain gauges should be on the continuous recording type, otherwise manual readings should be recorded on intervals of 10 minutes or less. If only one gauge is used it should be located near the center of the study area; multiple gauges shall be located so as to identify variations in storm intensity across the study area.

3) Flow monitoring shall be initiated at the onset of a storm and continue through and beyond the sewer flushing period. Flow meters may be located in interceptor manholes, diversion structures, outfall sewers or other locations where dependable operation is assured. Caution should be taken to protect instrumentation from flooding, corrosion, excess humidity, vandalism or other factors which jeopardize either the equipment or reliability of the data.

4) Water samples should be collected at the onset of the storm and at 10 or 15 minute intervals thereafter. In most instances a moderate to heavy storm will fully flush the system within two hours. Most automatic discrete samplers have adequate capacity to contain the entire flush period

with 10 minutes sampling frequency. Again, caution should be taken to protect against flooding, corrosion, or excess humidity that may cause malfunctioning or failure of the mechanical or electronic components of the sampler. Samples should be analyzed for BOD_5 as defined in 35 Ill. Adm. Code 304.120(a), total and volatile suspended solids with sample preservation, and analysis consistent with Standard Methods 15th Edition (1980).

5) Overflow points that are not subject to direct flow and quality monitoring should be inspected during the storm period to determine if the overflows are functioning and to estimate the rate and duration of overflow.

Section 375.404 Modeling

a) If all of the overflow locations to be studied cannot be sampled and monitored, or field conditions were not available through direct field measurement as described in Section 375.403, then other methods, including modeling of section(s) of the study area, shall be required to determine first flush. These methods should be used to:

1) Predict the quality and quantity of loads and concentrations.

2) Identify significant sources.

3) Analyze hydraulics of the tributary system.

b) Data supplied for the modeling must be based on factors particular to a given system or study area and should include:

1) Rainfall data

2) Size of drainage area

3) Land use

4) Population density

5) Hydraulics of area

6) Percentage of combined and/or separate sewers

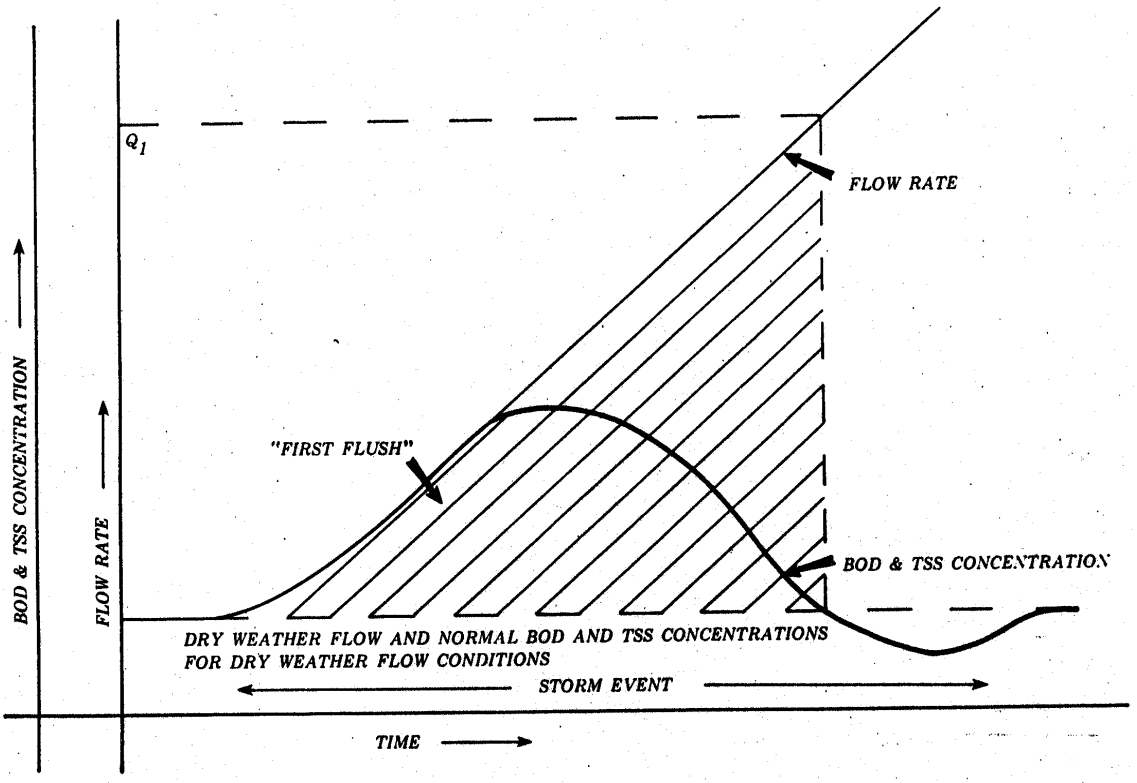
c) The type of modeling to be used for a given collection system or study area shall be addressed in the Plan of Study for the CSO Analysis. References, such as textbooks, technical papers, etc., for the modeling methods to be used shall be listed.

d) Verification that the model(s) is valid shall be provided by comparing the output obtained from the model(s) with actual sampling and monitoring data from overflow points specified in accordance with Section 375.403 for two or more storms.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Section 375.APPENDIX A First Flush Graph



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Procedures for Providing Financial Assistance From the Public Water Supply Loan Program Under the American Recovery and Reinvestment Act of 2009

2) Code Citation: 35 Ill. Adm. Code 664

3)

Section Numbers:	Proposed Actions:
664.110	Repealed
664.120	Repealed
664.130	Repealed
664.140	Repealed
664.210	Repealed
664.220	Repealed
664.230	Repealed
664.310	Repealed
664.320	Repealed
664.330	Repealed
664.340	Repealed
664.410	Repealed
664.420	Repealed
664.450	Repealed
664.460	Repealed
664.470	Repealed
664.480	Repealed
664.490	Repealed
664.510	Repealed
664.520	Repealed
664.610	Repealed
664.620	Repealed
664.630	Repealed
664.640	Repealed
664.650	Repealed
664.660	Repealed
664.670	Repealed
664.710	Repealed
664.720	Repealed
664.730	Repealed
664.740	Repealed
664.750	Repealed

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

664.810	Repealed
664.820	Repealed
664.830	Repealed
664.910	Repealed
664.920	Repealed
664.930	Repealed
664.940	Repealed
664.950	Repealed
664.1010	Repealed
664.1020	Repealed
664.1030	Repealed
664.1110	Repealed
664.1120	Repealed
664.APPENDIX A	Repealed
664.EXHIBIT A	Repealed
664.EXHIBIT B	Repealed
664.APPENDIX B	Repealed

4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9].

5) A Complete Description of the Subjects and Issues Involved: In response to Executive Order 2016-13, the Agency proposes to repeal 35 Ill. Adm. Code 664. See 40 Ill. Reg. 14812 (October 28, 2106). This Part contains procedures for federal capitalization grants under the America Recovery and Reinvestment Act (ARRA) of 2009. Part 369 is no longer implemented as the Agency discontinued giving out loans under ARRA.

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

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

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

9) Does this proposed repealer contain incorporations by reference? No

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

11) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

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

Sara Terranova
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

217/782-5544
sara.terranova@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Part 664 provides procedures for issuance that may impact small business.

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 2017

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE F: PUBLIC WATER SUPPLIES
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 664
PROCEDURES FOR PROVIDING FINANCIAL ASSISTANCE FROM THE PUBLIC WATER SUPPLY LOAN PROGRAM UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (REPEALED)

SUBPART A: INTRODUCTION

Section
664.110 Purpose
664.120 Administration
664.130 Definitions
664.140 Incorporations by Reference

SUBPART B: FEDERAL REQUIREMENTS FOR THE PUBLIC WATER SUPPLY LOAN PROGRAM

Section
664.210 Uses of the Public Water Supply Loan Program
664.220 Agency Responsibilities Under the Federal Safe Drinking Water Act and the American Recovery and Reinvestment Act of 2009
664.230 Green Project Reserve

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH LOAN PROCEDURES

Section
664.310 Noncompliance with Loan Procedures
664.320 Stop-Work Order
664.330 Termination
664.340 Waiver of Procedures

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section
664.410 Project Priority Determination

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AUTHORITY: Implementing and authorized by Sections 19.1 through 19.9 of the Environmental Protection Act [415 ILCS 5/19.1 through 19.9].

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SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 8722, effective June 2, 2009, for a maximum of 150 days; adopted at 33 Ill. Reg. 15622, effective October 28, 2009; repealed at 41 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 664.110 Purpose

The federal Safe Drinking Water Act Amendments of 1996 include a mechanism to provide capitalization grants to the states for the purpose of establishing drinking water revolving loan funds. 42 USC 300j-12 authorizes the Administrator of the United States Environmental Protection Agency to enter into agreements with the states to establish these loan funds, and establishes specific requirements for the development and operation of the state loan programs. The Illinois General Assembly has created the Public Water Supply Loan Program (PWSLP), to be administered by the Illinois Environmental Protection Agency [415 ILCS 5/19.1 through 19.9]. The American Recovery and Reinvestment Act of 2009 (ARRA) provides a source of capitalization grants to the states to provide loans, as well as additional subsidization including forgiveness of principal, negative interest loans, and grants to eligible applicants for the construction of public water supply facilities. This Part 664 sets out procedures the Agency will use to provide financial assistance from the ARRA, which shall be administered through the PWSLP.

Section 664.120 Administration

a) The Public Water Supply Loan Program, an interest-bearing special fund, will be administered by the Agency as an instrumentality of the State of Illinois in accordance with the Operating and Capitalization Grant Agreements between the Agency and the USEPA in accordance with State and federal laws. All funds from the ARRA for the construction of public water supply facilities will be administered through the PWSLP.

b) Copies of forms that are required and sample language that can be used to satisfy the requirements of the ARRA financial application administrated under the authority of the PWSLP can be obtained from the Illinois Environmental Protection Agency, Infrastructure Financial Assistance Section, 1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276, or found on the Agency's website at www.epa.state.il.us.

c) The program requirements of the ARRA shall take precedent on projects receiving financial assistance from both the ARRA and the PWSLP.

Section 664.130 Definitions

a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act (Act) [415 ILCS 5] and the regulations adopted under that Act.

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

Addenda − Documents, issued by the loan applicant after advertisement for bids, that modify or interpret the contract documents, drawings and specifications, by additions, deletions, clarifications or corrections.

Agency − Illinois Environmental Protection Agency.

ARRA – American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

Billed Customers − The customers receiving a bill who are responsible for paying for water services.

Binding Commitment − A legal obligation between the Agency and a local government unit or privately owned community water supply to provide financial assistance from the Public Water Supply Loan Program to that local government unit or privately owned community water supply, specifying the terms and schedules under which assistance is provided. The loan agreement will be considered a binding commitment.

Building Cost − The cost of erection of construction contract line items. Building costs do not include preliminary planning, engineering, architectural, legal, fiscal, administrative or contingency costs.

Capitalization Grant − The actual federal funds received by the Agency for deposit into the PWSLP as a result of the capitalization grant agreement with the USEPA.

Capitalization Grant Agreement − The agreement entered into each federal fiscal year between the Agency and the USEPA for the purpose of providing a grant to

capitalize the PWSLP and enable the Agency to provide assistance for construction of public water supply facilities.

Change Order − A written order by the loan recipient to the contractor authorizing an addition, deletion or revision in the work within the general scope of the contract documents, or authorizing an adjustment in the contract price or contract time.

Construction − *Any one or more of the following which is undertaken for a public purpose: preliminary planning to determine the feasibility of the public water supply facilities; engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement or extension of public water supply facilities, or the inspection or supervision of any of the foregoing items.* [415 ILCS 5/19.2(d)]

Contract Documents − The contract, including but not limited to advertisement for bids, information for bidders, bid, bid bond agreement, payment bond, performance bond, notice of award, notice to proceed, change order, drawings, specifications and addenda.

Dedicated Source of Revenue − The type of security and the basis of legal authorization that are dedicated by legislative enactment or other appropriate authority, along with the applicable revenue source pledged for repayment, and recorded in an account for the purpose of loan repayment to the PWSLP, which is sufficient to repay the principal and interest on the loan.

Design − All administrative, legal and engineering tasks, subsequent to project plan approval but prior to advertisement for bid proposal, associated with receiving approval of a loan application. This shall include the following: surveys, designs, plans, working drawings, specifications, soil investigations and any other tests or process determinations required to establish design criteria, and development of user charge systems.

Director − Director of the Illinois Environmental Protection Agency.

Energy Efficiency − The use of improved technologies and practices to reduce the energy consumption of water quality projects, including projects to reduce energy consumption or produce clean energy used by a treatment works.

Environmentally Innovative Projects − Projects that demonstrate new and/or innovative approaches to managing water resources in a more sustainable way, including projects that achieve pollution prevention or pollutant removal with reduced cost and projects that foster adaptation of water protection programs and practices to climate change.

Fixed Loan Rate – The fixed loan rate shall be 0.00% for loans issued from the funds provided by the ARRA.

Fund − The Water Revolving Fund authorized by 415 ILCS 5/19.3, consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program.

Green Infrastructure − Includes a wide array of practices that manage wet weather to maintain and restore natural hydrology by infiltrating, evapotranspiring and capturing and using stormwater. In the context of PWSLP, green infrastructure consists of site-specific practices, such as green roofs and porous pavement at drinking water utility facilities. In addition to managing rainfall, these green infrastructure technologies can simultaneously provide other benefits such as reducing energy demands.

Health Hazard Determination − A health hazard determination exists when concentrations of regulated contaminants, in a water supply, or concentrations of contaminants not otherwise regulated, exceed health effects standards published in USEPA Health Advisories, or by the Illinois Department of Public Health or Centers for Disease Control and Prevention, or that otherwise pose an immediate threat to public health.

Initiation of Loan Repayment Period − The date in a loan agreement or amendment that establishes the beginning point of the loan repayment period.

Initiation of Operation − The date specified by the loan agreement on which use of the project began operation for the purposes that it was planned, designed and constructed.

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Intended Use Plan − *A plan which includes a description of the short and long term goals and objectives of the PWSLP, project categories, terms of financial assistance,* communities and population benefited. [415 ILCS 5/19.2(e)]

Loan Agreement − The contractual agreement between the Agency and the local government unit or privately owned community water supply that contains the terms and conditions governing the loan issued from the PWSLP.

Loan Applicant − A local government unit or privately owned community water supply that has applied for a loan from the PWSLP for construction of public water supply facilities.

Loan Commitment Letter − The letter that is sent by the Agency to the loan applicant that reserves loan funds and identifies the requirements that must be satisfied prior to the execution of the loan agreement.

Loan Procedures − The Procedures for Providing Financial Assistance from the Public Water Supply Loan Program under the American Recovery and Reinvestment Act of 2009.

Loan Recipient − A local government unit or privately owned community water supply that has been provided a loan for construction of public water supply facilities from the PWSLP and that will own and be responsible for the operation and maintenance of the community water supply facility.

Local Government Unit − *A county, municipality, township, municipal or county sewerage or utility authority, sanitary district, public water district, improvement authority or any other political subdivision whose primary purpose is to construct, operate and maintain wastewater treatment facilities or public water supply facilities or both.* [415 ILCS 5/19.2(g)]

Maximum Contaminant Level or MCL − The maximum permissible level of a contaminant in water that is delivered to any user of a public water system.

Operating Agreement − The agreement between the Agency and USEPA that establishes the policies, procedures and activities for the application and receipt of federal capitalization grant funds for capitalization of PWSLP.

Principal − All disbursements that will be financed at the time the repayment schedule period begins.

Principal Forgiveness − A portion of the loan amount that does not have to be repaid (is forgiven) upon execution of the loan.

Privately Owned Community Water Supply − *An investor-owned water utility, if under Illinois Commerce Commission regulation and operating as a separate and distinct water utility; a not-for-profit water corporation, if operating specifically as a water utility; and a mutually owned or cooperatively owned community water system, if operating as a separate water utility.* [415 ILCS 5/19.2]

Project − The activities or tasks the Agency identifies in the loan agreement for which the loan recipient may expend loan funds.

Project Priority List − An ordered listing of projects developed in accordance with the priority system described in 35 Ill. Adm. Code 663 (Procedures and Requirements for Determining Loan Priorities of Projects in the Public Water Supply Loan Program) that the Agency has determined are eligible to receive financial assistance from the PWSLP.

PWSLP − Public Water Supply Loan Program as authorized by Section 19.2 of the Environmental Protection Act [415 ILCS 5/19.2].

Responsible Bid − A bid that demonstrates the apparent ability of the bidder to successfully meet all the requirements specified in the contract documents. Information required to demonstrate responsibility may be corrected or submitted after bid opening.

Responsive Bid − A bid that complies with all meaningful or material aspects of the contract documents. The bid must constitute a definite and unqualified offer to meet the material requirements of the contract documents, including any terms that affect price, quality, quantity or time of delivery, or are clearly identified in the contract documents to be complied with at the risk of bid rejection for non-responsiveness. Bid defects resulting in a non-responsive bid may not be corrected after the bid opening.

SDWA − The federal Safe Drinking Water Act, as amended (42 USC 300f).

Source of Revenue − The revenues of the system, including accounts receivable and the proceeds that are sufficient to repay the principal on the loan.

Subagreement − A written agreement between the loan recipient and another party and any tier of agreement thereunder to furnish services, supplies or equipment necessary to complete the project for which a loan was provided, including contracts for personal and professional services and purchase orders.

Treatment Technique Requirement − An enforceable procedure developed by USEPA when it is not economically or technologically feasible to ascertain the level of a contaminant. Public water supplies must follow this procedure and treat their drinking water supplies according to USEPA specifications to ensure the contaminant is controlled.

Useful Life − The estimated period during which a public water supply facility is intended to be operable.

USEPA − United States Environmental Protection Agency.

Water Efficiency − The use of improved technologies and practices to deliver equal or better services with less water.

Section 664.140 Incorporations by Reference

a) The following publications are incorporated by reference:

1) American Institute of Certified Public Accountants Professional Standards (1996), 666 Fifth Avenue, New York, New York 10019.

2) California State University, Sacramento, School of Engineering:

A) Small Water System Operation and Maintenance, Third Edition, 1995;

B) Water Distribution System Operation and Maintenance, Third Edition, 1996;

C) Water Treatment Plant Operation, Volume I, Third Edition, 1996 and Volume II, Second Edition, 1995.

b) This Part 664 incorporates no later editions or amendments.

SUBPART B: FEDERAL REQUIREMENTS FOR THE PUBLIC WATER SUPPLY LOAN PROGRAM

Section 664.210 Uses of the Public Water Supply Loan Program

The following are the acceptable uses of the PWSLP:

a) *To accept and retain funds from grant awards, appropriations, transfers and payments of interest and principal;*

b) *To make direct loans at or below market interest rates to any eligible local government unit or to any eligible privately owned community water supply to finance the construction of* public *water supplies;*

c) *With respect to funds provided under the American Recovery and Reinvestment Act of 2009, to make direct loans at or below market interest rates to any eligible local government unit or to any eligible privately owned community water supply, and to provide additional subsidization to any eligible local government unit or to any eligible privately owned community water supply, including, but not limited to, forgiveness of principal, negative interest rates, and grants;*

d) *With respect to funds provided under the American Recovery and Reinvestment Act of 2009, to buy or refinance the debt obligation of a local government unit for costs incurred on or after October 1, 2008;*

e) *With respect to funds provided under the American Recovery and Reinvestment Act of 2009, to provide additional subsidization, including, but not limited to, forgiveness of principal, negative interest rates, and grants for a local government unit for costs incurred on or after October 1, 2008;*

f) *To buy or refinance debt obligations of a local government unit incurred on or after July 17, 1997;*

g) *To guarantee local obligations where such action would improve credit market access or reduce interest rates;*

h) *As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State, if the proceeds of such bonds will be deposited in the PWSLP;*

i) *To transfer funds to the Water Pollution Control Loan Program.* [415 ILCS 5/19.3(d)]

Section 664.220 Agency Responsibilities Under the Federal Safe Drinking Water Act and the American Recovery and Reinvestment Act of 2009

The Agency will prepare an Intended Use Plan (IUP) and negotiate an Operating Agreement with USEPA that will be the basis for the Capitalization Grant Agreement. These documents establish the procedures, activities and assurances for operation of the PWSLP, including, but not limited to, the following:

a) Grant payments will be accepted in accordance with a payment schedule established jointly by the Agency and the USEPA;

b) A listing and description of projects on the Project Priority List to be provided financial assistance;

c) The loan repayment period cannot exceed 20 years beyond the earlier of the initiation of operation date or the initiation of the loan repayment period;

d) All repayments of loan principal shall be deposited into the PWSLP;

e) Biennial reporting to the USEPA on the Agency's activities under the federal Safe Drinking Water Act;

f) A description of the criteria and methods used for distribution of funds;

g) A description of the financial status of the PWSLP; and

h) The Agency shall act in accordance with the requirements established under the ARRA.

Section 664.230 Green Project Reserve

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To the extent there are sufficient eligible project applications, not less than 20 percent of the funds provided from the ARRA shall be for projects to address green infrastructure, water or energy efficiency improvements, or environmentally innovative activities.

SUBPART C: LIABILITIES AND REMEDIES FOR FAILURE TO COMPLY WITH LOAN PROCEDURES

Section 664.310 Noncompliance with Loan Procedures

a) In the event of noncompliance with any condition or obligation arising out of the loan, including any action that would jeopardize or compromise the source of revenue for repayment of the loan or security interest, the Director may take any necessary action as provided by law or by the loan agreement against the loan recipient, including, but not limited to, one or more of the following actions:

1) Commence legal action in a court of competent jurisdiction;

2) Declare all amounts under the loan immediately due and payable, enforce any security, and recover all loan funds;

3) Terminate the loan pursuant to Section 664.330 (Termination) of this Subpart;

4) Suspend all or part of the project work pursuant to Section 664.320 (Stop-Work Order) of this Subpart;

5) Reduce the amount of the loan by the amount of misused funds; or

6) Unilaterally adjust the fixed loan rate of the loan agreement to the current market interest rate.

b) No action shall be taken under this Section without notice to the loan recipient.

c) In determining whether to take action, the Agency shall, at a minimum, consider mitigating or aggravating factors, including, but not limited to, the severity and number of the violations; whether the violation is a continuing one; whether the loan recipient can remedy the violation; and whether the loan recipient remains capable of complying with the approved project work.

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Section 664.320 Stop-Work Order

a) In the event of any violation of this Part or non-compliance with the terms of the loan agreement, the Agency may, by written order, require the loan recipient to stop all or any part of the project work for a period of not more than 30 days after the date of the order, and for any further period to which the parties may agree. Any such order shall include a list of the project activities to which it applies. Upon receipt of a stop-work order, the loan recipient shall immediately comply with its terms and shall minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within 30 days after the date of the stop-work order, or within the period of any extension to which the parties have agreed, the Agency shall:

1) Cancel the stop-work order upon resolution of the violation or cause leading to that stop-work order; or

2) Terminate the work covered by the stop-work order as provided in Section 664.330(a) of this Subpart.

b) If a stop-work order is canceled or the period of the order or any extension of that period expires, the loan recipient shall resume work. An adjustment may be made in the loan period, the project period, the loan amount, or any combination of these, and the loan amended accordingly, if the loan recipient asserts a written claim for the adjustment within 30 days after the end of the work stoppage.

c) All costs that are incurred by the loan recipient after the receipt of a stop-work order, or during any agreed to extension of the stop-work order period to which the Agency and the loan recipient have agreed, shall be deemed unallowable costs unless otherwise authorized by the Agency in writing or authorized under the loan procedures.

Section 664.330 Termination

a) Loan Termination by the Agency
The Agency, by written notice to the loan recipient, may terminate the loan in whole or in part. Cause for termination shall include, but not be limited to, failure by the loan recipient to comply with the terms and conditions of the loan. Upon loan termination, the loan recipient shall refund any unexpended loan funds to the State of Illinois to be deposited in the PWSLP, except for such portion as may be

required to pay the allowable costs of materials and equipment furnished or services rendered under an enforceable contract prior to the effective date of the termination.

b) Project Termination by the Loan Recipient
A loan recipient who wishes to terminate a project for which the loan has been provided must submit a written request to the Agency that documents good cause for the proposed termination. If the Agency agrees that there is good cause for termination of all or any portion of the project, it shall enter into a termination agreement with the loan recipient or unilaterally terminate the loan. If the Agency finds that the loan recipient has terminated the project without good cause, it shall declare the loan in default, and all loan funds previously paid to the loan recipient, together with interest on the loan, shall be returned to the State of Illinois in accordance with a schedule established by the Agency for deposit into the PWSLP. Good cause to terminate a loan project includes, but is not limited to:

1) Changes in economic circumstances within the loan recipient's service area; and

2) Information that the approved treatment technology will not perform as originally anticipated.

Section 664.340 Waiver of Procedures

a) Except as provided in subsection (b) or otherwise required by law, the Director may waive any of the loan procedures, either in whole or in part, by a written statement to the loan applicant, either as a special condition of the loan or otherwise, provided the Director finds that the procedure or requirement to be waived is not necessary to insure the integrity of the project, will not reduce an applicant's ability to repay the loan to the Agency or will not, in general, weaken the financial position of the PWSLP. The waiver may be subject to such additional conditions the Director deems necessary.

b) The following procedures will not be waived:

1) Section 664.410 (Project Priority Determination) of this Part

2) Section 664.440 (Fixed Loan Rate) of this Part

3) Section 664.510 (Loan Applicant's Responsibilities During Project Planning) of this Part

4) Section 664.520 (State Environmental Review) of this Part

5) Section 664.620(d)(3) (Wage Provisions) of this Part

6) Section 664.620(d)(4) (Disadvantaged Business Enterprise Requirements) of this Part

7) Section 664.620(d)(6) (Debarment and Suspension Provisions) of this Part

8) Section 664.630(a)(1) (Disadvantaged Business Enterprise Requirements) of this Part

9) Section 664.630(a)(4) (Debarment and Suspension Certification) of this Part

10) Section 664.740 (Operation and Maintenance of the Project) of this Part

11) Section 664.910 (Operation, Maintenance and Replacement Revenue System) of this Part

12) Section 664.930 (Dedicated Source of Revenue for Local Government Units) of this Part

13) Section 664.940 (Source of Revenue and Security for Privately Owned Community Water Supplies) of this Part.

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section 664.410 Project Priority Determination

a) Financial assistance from the PWSLP/ARRA will be provided only to local government units and eligible privately owned community water supplies for projects on the Project Priority List developed by the Agency pursuant to 35 Ill. Adm. Code 663.

b) The Project Priority List sets out the priority for receipt of loans for each loan applicant. Priorities will be established in accordance with 35 Ill. Adm. Code 663 after the receipt by the Agency of both loan pre-applications pursuant to 664.420 (Pre-Applications for Financial Assistance and Identification of Projects to be Funded) of this Part and approved project planning pursuant to Section 664.510 (Loan Applicant's Responsibilities During Project Planning) and Section 664.520 (State Environmental Review) of this Part. For projects represented by loan pre-applications only, the Agency will provide limited priority scoring for inclusion of the project on the Project Priority List.

c) Projects included in the Intended Use Plan will be selected from projects in the Project Priority List in priority order, provided the project is scheduled to initiate construction by December 31, 2009.

d) The available funds awarded for a project may be limited by the Agency to reflect the amount of funds needed to meet cash flow demands for that project during the current funding cycle or to meet the PWSLP/ARRA funding availability. Any project that receives an adjustment to meet cash flow demands or the PWSLP/ARRA funding availability may have an opportunity for additional funding in future funding cycles as money becomes available.

Section 664.420 Pre-Application for Financial Assistance and Identification of Projects to be Funded

a) Every loan applicant shall submit to the Agency a signed and dated pre-application form that includes at a minimum the following items:

1) Legal name of applicant and eligibility status;

2) Address;

3) Authorized representative − name and title;

4) Reason for project;

5) Number of billed customers;

6) Project description;

7) Cost estimate; and

8) Project schedule.

b) Loan applicants seeking financial assistance must file a new pre-application annually.

c) A project with approved project planning may be added to the project priority list at any time by the submission of a pre-application.

d) The Agency shall publish a list of the projects that are proposed for funding. These projects will be included in the Intended Use Plan.

e) After March 31 of each year, the Agency may bypass projects on the Intended Use Plan that cannot meet the schedule to initiate construction by March 31 of that year. The Agency will evaluate projects in priority order and may offer loan commitments to other projects on the Project Priority List in accordance with Section 664.430 (Financial Assistance Application and Approval) of this Subpart.

Section 664.430 Financial Assistance Application and Approval

a) In order to receive a loan commitment letter for financial assistance under the ARRA, the following documentation shall be submitted by the loan applicant and approved by the Agency:

1) Planning Report that meets the requirements of Section 664.510 (Loan Applicant's Responsibilities During Project Planning) and 664.520 (State Environmental Review);

2) Design documents, including plans and specifications, with a construction permit, if applicable;

3) An enacted ordinance or other legally binding instrument authorizing the bonds, notes, security agreements or other evidence of indebtedness and an approved operation, maintenance and replacement revenue system in accordance with 664.910 (Operation, Maintenance and Replacement Revenue System) and documentation to support the loan applicant's ability to repay the loan in accordance with Section 664.920 (Financial Capability) and Section 664.930 (Dedicated Source of Revenue for Local

Government Units) or Section 664.940 (Source of Revenue and Security for Privately Owned Community Water Supplies) of this Part;

4) A loan application form (Appendix B);

5) An EPA Form 4700-4, Compliance Report; and

6) An executed contract for design and construction related work in accordance with Section 664.630 (Contracts for Personal and Professional Services) of this Part if financing is being requested for these specific costs.

b) In addition to the items identified in subsection (a), the Agency must have received the following bid documentation prior to the issuance of the Loan Agreement:

1) A certified copy of the published bid advertisement or advertisements;

2) Any addenda issued by the loan applicant, if applicable;

3) A summary of the evidence that the contractor and engineer have met the disadvantaged business enterprise requirements pursuant to 40 CFR 33;

4) A copy of the bid tabulations;

5) An analysis of the bids and recommendations for the award of the bids;

6) A copy of the successful bid proposal or proposals;

7) The notice of the applicant's intent to award; and

8) A certification from the loan applicant that all other bid requirements have been satisfied, including bid bond requirements and other certifications as required by State and federal law.

Section 664.440 Fixed Loan Rate

The fixed loan rate shall be a simple annual rate of 0.00% for all public water supply facilities loans under the ARRA, administered through the PWSLP.

Section 664.450 Refinancing

a) Design costs set forth in Section 664.460 (Limitation on Design Cost) of this Subpart, and bidding costs related to eligible construction contracts incurred prior to the award of the loan agreement, are eligible for refinancing.

b) Total eligible costs for projects that received a PWSLP Loan Agreement between October 1, 2008 and February 17, 2009 are eligible for refinancing to the ARRA program financial terms.

Section 664.460 Limitation on Design Cost

Allowable costs for design of the loan project will be limited to the actual cost incurred for design, up to a maximum percentage of the allowable as bid construction cost.

a) For allowable as bid construction costs of $500,000 or less, the design will be funded up to 15%;

b) For allowable as bid construction costs of $500,001 to $2,000,000, the design will be funded up to 12%;

c) For allowable as bid construction costs of $2,000,001 to $5,000,000, the design will be funded up to 10%;

d) For allowable as bid construction costs of $5,000,001 to $10,000,000, the design will be funded up to 8%; and

e) For allowable as bid construction costs of more than $10,000,000, the design will be funded up to 7%.

Section 664.470 Limitation on Financial Assistance

The amount of financial assistance from the ARRA available to a loan applicant cannot exceed 50% of the total eligible project cost or $5,000,000, whichever is less. Loan applicants with multiple projects will be limited by the aggregate amount of their projects in relation to these limitations.

Section 664.480 Principal Forgiveness

All financial assistance from the ARRA shall be in the form of a 0.00% interest loan with principal forgiveness of 50% of the total ARRA funded amount. Loan applicants with multiple projects will be limited by the aggregate amount of their projects in relation to these limitations.

Section 664.490 Financial Assitance to Privately Owned Community Water Supplies

Loans to privately owned community water supplies, as defined in Section 664.130 (Definitions) of this Part, shall be limited to eligible privately owned community water supplies with 100 or more billed customers. Privately owned community water supplies with fewer than 100 billed customers are not eligible to receive financial assistance from the PWSLP/the ARRA.

SUBPART E: PROJECT PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section 664.510 Loan Applicant's Responsibilities During Project Planning

a) The loan applicant shall provide project planning, which shall consist of plans and studies that are directly related to the construction of public water supply facilities, to maintain compliance with applicable State and federal requirements as specified in 35 Ill. Adm. Code, Subtitle F and the federal Safe Drinking Water Act while recognizing environmental and social conditions. The planning shall provide documentation on the existing need for the facilities for which loan assistance is being requested.

b) If any information required to be furnished as part of a project plan has been developed separately, it shall be furnished and incorporated by reference in the project plan. Planning previously or collaterally accomplished under local, State or federal programs may be utilized to the extent applicable.

c) The project plan shall be submitted to the Agency for approval. Where applicable, the applicant shall also submit drafts of any legally enforceable agreements or demonstrations of legal authority necessary to plan implementation.

d) The project plan may include more than one construction project and may provide the basis for several subsequent projects. The Agency shall review any project plan that has previously served as the basis for a loan to determine if changes have occurred that require amendment of the plan for the subsequent project. If substantial changes have occurred that warrant revision or amendment of the plan as specified in Section 664.520 (State Environmental Review) of this Subpart, the

loan applicant shall revise or amend and resubmit the plan for Agency approval in accordance with Section 664.520 (State Environmental Review) of this Subpart.

e) A project plan shall include the following elements in sufficient detail to, at a minimum, comply with all applicable construction permit supporting data requirements of 35 Ill. Adm. Code 652.104:

1) A complete description of the public water supply system of which the proposed project is a part, identification of any existing violations of federal or State public water supply regulations and identification of the needs to be addressed by the proposed project.

2) A discussion of the technical, financial and managerial considerations that form the basis for the applicant's selection of the proposed project. The relationship of the nature, size and capacity of the selected alternative to the needs to be served, including reserve capacity, shall be addressed. Also included shall be a discussion of the operational requirements of the selected alternative and provisions for disposal of waste by-products in accordance with State requirements.

3) A detailed description of the alternative selected for loan assistance, including preliminary engineering data, complete cost estimates for design and construction, one or more 8.5 by 11 inch site maps locating areas of construction and/or indirect impacts, and a projected schedule for completion. The engineering data shall include, to the extent appropriate, flow diagrams, unit process descriptions, detention times, flow rates, unit capacities, etc., sufficient to demonstrate that the proposed project will be designed in accordance with 35 Ill. Adm. Code 651 through 654.

4) Evidence of consultation with relevant federal and State agencies with documentation of project approval where required.

5) An implementation plan for the proposed recommendations, including necessary financial arrangements for operating the facility and repayment of the proposed loan amount, as well as the impact of these costs on the system users.

Section 664.520 State Environmental Review

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

a) Prior to making a final determination on the acceptability of any project plan, the Agency shall undertake an environmental review. The Agency may categorically exclude certain classes of projects from environmental review when, by virtue of their limited scope, the projects have no potential for negative environmental impacts.

b) The Agency shall not begin its environmental review until it has determined that the project plan conforms to the requirements of Section 664.510 (Loan Applicant's Responsibilities During Project Planning) of this Subpart, and that, based on the information available, all reasonable measures have been taken in the planning to avoid and mitigate negative environmental impacts.

c) The scope of the Agency's environmental review shall include, but not be limited to, an assessment of the impacts of both the loan funded project and the overall planning on rare and endangered species, historic and cultural resources, prime agricultural land, air and water quality, recreational areas, wetlands, floodplains and other sensitive environmental areas. The review shall also assess the direct and indirect impacts of construction.

d) For all projects requiring an environmental review, the Agency will assess the environmental impacts of the proposed project and prepare a written Preliminary Environmental Impacts Determination (PEID). The public will be given an opportunity to comment on the project plan and the Agency's environmental impacts assessment.

e) The PEID shall be mailed to the loan applicant and other interested parties, inviting public comment. The loan applicant shall hold a public hearing on the plan and the Agency's PEID for the purpose of obtaining public comments. The public hearing will be held within 30 days after receipt of the Agency's PEID or within an alternative time period that is justified by the loan applicant and approved by the Agency. The loan applicant shall allow an additional 10 days from the date of the public hearing for the submission of written comments from the public.

f) The time and place of the public hearing shall be conspicuously and adequately announced at least 10 days before the hearing. In addition, the Agency's PEID document shall be displayed at a convenient local site sufficiently prior to the hearing to obtain a level of public participation appropriate to the scope and impacts of the proposed project.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

g) The loan applicant shall provide the Agency with an accurate summary of all public comments received, together with any proposed amendments to the plan made in response to these comments.

h) Upon receipt of this public hearing summary and after the expiration of the 10 day written comment period, the Agency shall issue:

1) An unconditional approval of the plan (original or as amended); or

2) A conditional approval of the plan with special conditions; or

3) A disapproval of the plan based on evidence of significant negative environmental impacts for which appropriate mitigative measures have not been identified; or

4) A determination of the need for an Environmental Impact Statement (EIS) under the National Environmental Policy Act (42 USC 4332). The Agency may change its disapproval to approval or conditional approval based on the recommendations of the EIS.

i) For projects categorically excluded from the environmental review process, the Agency shall provide to the applicant a Notice of Intent to Issue a Categorical Exclusion. The applicant shall publish the Notice in a newspaper of local record and allow 10 days for public comment. If no valid objection is raised to the Categorical Exclusion, the Agency shall issue an unconditional approval of the project plan. Should valid concerns be raised over potential environmental impacts, the Agency shall proceed with an environmental review under this Section 664.520 or issue a conditional approval when the applicant incorporates mitigative measures that would clearly resolve the environmental concerns.

j) Additions to the project scope or changes to the location of proposed construction activity shall require an amendment to an approved project plan. Where the Agency determines that the proposed changes will not alter the previous environmental impacts findings, it will approve planning amendments by letter. In other cases, additional environmental review and public comment may be required.

k) Agency project planning determinations made in accordance with subsection (h) shall be subject to the provisions of the Illinois Administrative Procedure Act [5 ILCS 100].

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section 664.610 Requirements for Subagreements

The intent of this Subpart is to provide for maximum open and free competition in the procurement of materials, goods and services for the construction projects funded from the PWSLP/the ARRA. Any procurement method, except as allowed under this Part that significantly minimizes open and free competition will be prohibited. The following procedures shall apply to subagreements:

a) Local Preference
Local laws, ordinances, regulations or procedures that are designed to or operate to give local or in-state bidders or proposers preference over other bidders or proposers shall not be used in evaluating bids or proposals for subagreements under PWSLP/ARRA loans.

b) Profits
Only fair and reasonable profits may be earned by contractors in subagreements under PWSLP/ARRA loans. Profit included in a formally advertised, competitively bid, fixed price construction contract awarded pursuant to Section 664.620 (Construction Contracts) of this Subpart is presumed to be reasonable. If a subagreement is not competitively bid, the loan recipient shall submit to the Agency its basis for determination of reasonable profit.

c) Loan Recipient Responsibility
The loan recipient shall be responsible for the administration and successful accomplishment of the project for which PWSLP/ARRA loan assistance is provided. The loan recipient shall be responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements, including, but not limited to, issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other procurement matters. With the prior written consent of the Agency, these functions may be performed for the loan recipient by an individual or firm retained for that purpose. Such an individual or firm shall be

deemed the loan recipient's agent and shall be subject to all the provisions of the loan agreement, including this Part, that apply to the loan recipient.

d) Privity of Contract
Neither the Agency nor the State of Illinois shall be a party to any subagreement (including contracts or subcontracts) or to any solicitation or request for proposals under those subagreements.

e) Subagreements shall:

1) Be directly related to the accomplishment of the loan recipient’s approved work program;

2) Be in the form of an executed written agreement (except for small purchases of $25,000 or less);

3) Be for monetary or in-kind consideration; and

4) Not be in the nature of a grant or gift.

f) Documentation

1) Procurement records and files for purchases in excess of $25,000 shall include the following:

A) The basis for contractor selection;

B) The justification for lack of competition, if competition appropriate to the type of project work to be performed is required but not obtained; and

C) The basis for award cost or price.

2) Procurement documentation as described in subsection (f)(1) shall be retained by the loan recipient or contractor or contractors for the period required by Section 664.820 (Audit and Records) of this Part.

g) Subagreements shall only be awarded to persons or organizations that:

1) Have adequate financial resources for performance;

2) Have the necessary experience, organization, technical qualifications and facilities, or a firm commitment, arrangement or ability to obtain these requirements;

3) Have the staffing sufficient to comply with the proposed or required completion schedule for the project;

4) Have a satisfactory record of integrity, judgment and performance;

5) Have an adequate financial management system and audit procedure that is consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards;

6) Maintain a standard of procurement in accordance with this Part;

7) Maintain a property management system that provides adequate procedures for the acquisition, maintenance, safeguarding and disposition of all property; and

8) Conform to the civil rights, equal employment opportunity (Appendix A, Exhibit B) and labor law requirements of this Part.

h) Fraud and Other Unlawful or Corrupt Practices

1) The obtaining and administration of loans from the PWSLP/the ARRA, and of subagreements awarded by loan recipients, shall be free from bribery, graft, kickbacks and other corrupt practices. The loan recipient shall bear the primary responsibility for prevention and detection of such conduct and for cooperation with appropriate authorities in the prosecution of any such conduct.

2) The loan recipient shall effectively pursue available State or local legal and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of illegality or corrupt practices brought to its attention. The loan recipient shall advise the Agency immediately when any allegation or evidence comes to its attention, and

shall periodically advise the Agency of the status and ultimate disposition of any matter.

i) Negotiation of Subagreements
All subagreements greater than $25,000 shall be awarded by formal advertising unless the loan recipient determines, and the Agency concurs, that it is impracticable and infeasible to use formal advertising. Negotiated contracts must be competitively awarded to the maximum practicable extent and not be in conflict with other State statutes. Procurements may be negotiated by the loan recipient, if approved by the Agency, for the following reasons:

1) Public exigency, as evidenced by governmental declaration, will not permit the delay incident to advertising (e.g., an emergency procurement); or

2) The aggregate amount of the contract to be competitively negotiated is allowed by State law; or

3) The materials or services to be procured are available from only one person or firm; or

4) The procurement is for personal or professional services, or for any services to be rendered by an educational institution; or

5) No responsive, responsible bids at acceptable price levels have been received after formal advertising; or

6) The procurement is for materials or services for which the prices are established by law; for technical items or equipment requiring standardization and interchangeability of parts with existing equipment; for experimental, developmental or research work; for highly perishable materials; for resale; or for technical or specialized supplies requiring substantial initial investment for manufacture.

Section 664.620 Construction Contracts

The following procedures shall apply to construction contracts (subagreements) awarded by loan recipients for the construction phase only. They shall not apply to personal and professional service contracts.

a) The contract documents to be submitted to the Agency shall require a bid bond or cashier's check for not less than 5% of the bid amount, executed contract, performance and payment bonds for the bid amount, certificate of insurance with loan recipient added as additional insured, and the notice to proceed.

b) Each contract shall be awarded after formal advertising, unless negotiation is permitted in accordance with Section 664.610(i) (Negotiation of Subagreements) of this Subpart. Formal advertising shall be in accordance with the following:

1) Evidence of Advertising
The loan recipient shall submit to the Agency a certified copy of the bid advertisement that notifies the bidders that the procurement will be subject to regulations contained in the procedures for providing financial assistance from the PWSLP under the ARRA as set out in this Part, the Davis-Bacon Act (40 USC 276a through 276a-5) as defined by the U.S. Department of Labor, the Employment of Illinois Workers on Public Works Act [30 ILCS 570], and Executive Order 11246, as amended (Appendix A, Exhibit B). Bidders shall be notified that the procurement will be subject to the loan recipient's policy regarding the increased use of disadvantaged business enterprises, and that the bidders will be required to comply with section 1605 of the ARRA, which requires that all iron, steel and manufactured goods used in the project are produced in the United States.

2) Adequate Bidding Documents
Bidding documents (invitations for bid) shall be made available by the loan recipient and shall be furnished upon request in a timely manner. A complete set of bidding documents shall be maintained by the loan recipient and shall be available for inspection and copying by any party. The bidding documents shall include:

A) A complete statement of the work to be performed, including necessary drawings and specifications, and the required completion schedule (Drawings and specifications may be made available for inspection instead of being furnished.);

B) The terms and conditions of the contract to be awarded;

C) A clear explanation of the method of bidding, the method of evaluation of bid prices, and the basis and method for award of the contract;

D) The statement that any contract awarded in response to the bid is expected to be funded in part by a loan from the PWSLP, and that neither the State of Illinois nor any of its departments, agencies or employees is or will be a party to this bidding or any resulting contract; and

E) Responsibility requirements or criteria that will be used in evaluating bidders, provided that an experience requirement or performance bond may not be used unless adequately justified by the loan applicant.

3) Representation and Certification

A) A copy of subsections (b)(3)(B) and (C) shall be included in the proposal form to be used by bidders and shall constitute a representation and certification to be considered as a part of their bid;

B) By submission of the bid, each bidder certifies, and in the case of a joint bid each party to the joint bid certifies, as to his or her own organization that, in connection with the bid:

i) The prices in the bid have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to the prices with any other bidder or with any competitor;

ii) Unless otherwise required by law, the prices quoted in the bid have not knowingly been directly or indirectly disclosed to any other bidder or to any competitor prior to opening; and

iii) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or withhold a bid for the purpose of restricting competition. Also, each

bidder shall submit a certification regarding compliance with Article 33E of the Illinois Criminal Code of 1961 [720 ILCS 5/33E]; and

C) Each person signing the bid shall certify that:

i) He or she is the person in the bidder's organization responsible for the decision as to the prices being bid and that he or she has not participated, and will not participate, in any action contrary to subsection (b)(3)(B); or

ii) He or she is not the person in the bidder's organization responsible for the decision as to the prices being bid, but that he or she has been authorized to act as agent certifying that the persons have not participated, and will not participate, in any action contrary to subsection (b)(3)(B), and as their agent shall so certify. He or she shall also certify that he or she has not participated, and will not participate, in any action contrary to subsection (b)(3)(B).

4) Addenda to Bidding Documents
If the loan applicant wishes to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the loan applicant shall send written addenda to all firms who have obtained bidding documents in time to be considered prior to the bid opening. When appropriate, the time period for submission of bids shall be extended. All addenda to the bidding documents shall be submitted to the Agency for approval prior to the bid opening.

5) Award to the Low, Responsive, Responsible Bidder

A) After bids are opened, they shall be evaluated by the loan applicant in accordance with the methods and criteria set out in the bidding documents. Items that shall be submitted to the Agency include a bid tabulation, the loan applicant's or its agent's analysis of bids and recommendation for the award and the loan applicant's letter of intent to award or the official minutes of board approval.

B) The loan applicant may reserve the right to reject all bids if it has documented sound business reasons. Unless all bids are rejected, award shall be made to the low, responsive, responsible bidder after the bid evaluation has been submitted to the Agency and written notice of Agency approval has been received by the loan applicant.

C) If the award is intended to be made to a firm that did not submit the lowest bid, prior to any award, the loan applicant shall submit to the Agency a written statement explaining why each lower bidder was deemed not responsive or not responsible.

c) Negotiations of Contract Amendments (Change Orders)

1) Loan Recipient Responsibility
The loan recipient shall be responsible for negotiation of construction contract change orders. This function may be performed by the loan recipient directly or, if authorized, by its consulting engineer. During negotiations the loan recipient shall:

A) Make sure that the contractor has a clear understanding of the scope and extent of work and other essential requirements;

B) Assure that the contractor demonstrates that he or she will make available or will obtain the necessary personnel, equipment and materials to accomplish the work within the required time; and

C) Maintain a summary of all negotiations and the engineer's independent cost estimate.

2) Changes in Contract Price or Time
The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with subsection (c).

3) For each change order the contractor shall submit to the loan recipient for review sufficient cost and pricing data to enable the loan recipient to ascertain the necessity and reasonableness of costs and amounts proposed, and the allowability and eligibility of costs proposed.

4) Agency Review
For each change order, the loan recipient shall submit to the Agency for approval the following documentation:

A) A description of the changed work;

B) The contractor's proposal, itemizing the cost and time to complete the changed work;

C) The loan recipient's or engineer's estimate of the cost and time to complete the changes;

D) Two copies of the executed change order with justification including, but not limited to, the need for the proposed work and the technical solution; and

E) The summary of negotiations and resolution between the engineer's independent cost estimate and the contractor's proposal.

d) Required Construction Contract Provisions
Each construction contract shall include the following provisions:

1) Audit; Access to Records

A) The contractor shall maintain books, records, documents and other evidence directly pertinent to performance on loan work consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The contractor shall also maintain the financial information and data used by the contractor in the preparation or support of any cost submissions required under subsection (c) (Negotiation of Contract Amendments (Change Orders)) and a copy of the cost summary submitted to the owner. The Illinois Auditor General, the owner, the Agency or any of their authorized representatives shall have access to the books, records, documents, and other evidence for purposes of inspection, audit and copying. The contractor shall provide facilities for access and inspection.

B) For a formally advertised, competitively awarded, fixed price contract, the contractor shall include access to records as specified in subsection (d)(1)(A) for all negotiated change orders and contract amendments in excess of $25,000 that affect the contract price. In the case of all other prime contracts, the contractor shall agree to include access to records as specified above in all his or her contracts and all tier subcontracts or change orders in excess of $25,000 that are directly related to project performance.

C) Audits shall be consistent with generally accepted auditing standards in accordance with the American Institute of Certified Public Accountants Professional Standards.

D) The contractor shall agree to the disclosure of all information and reports resulting from access to records pursuant to subsection (d)(1)(A). Where the audit concerns the contractor, the auditing agency shall afford the contractor an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

E) The records required by subsection (d)(1)(A) shall be maintained and made available during performance of the work under the loan agreement and for 3 years after the date of final loan audit. In addition, records that relate to any dispute or litigation or the settlement of claims arising out of any performance, costs or items to which an audit exception has been taken, shall be maintained and made available for 3 years after resolution of the dispute, appeal, litigation, claim or exception.

F) The right of access will generally be exercised with respect to financial records under:

i) Negotiated prime contracts;

ii) Negotiated change orders or contract amendments in excess of $25,000 affecting the price of any formally advertised, competitively awarded, fixed price contract; and

iii) Subcontracts or purchase orders under any contract other than a formally advertised, competitively awarded, fixed price contract.

G) The right of access will generally not be exercised with respect to a prime contract, subcontract or purchase order awarded after effective price competition. In any event, the right of access shall be exercised under any type of contract or subcontract:

i) With respect to records pertaining directly to contract performance, excluding any financial records of the contractor; and

ii) If there is any indication that fraud, gross abuse or corrupt practices may be involved in the award or performance of the contract or subcontract.

2) Covenant Against Contingent Fees
The contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the owner shall have the right to annul the contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee.

3) Wage Provisions
The contractor shall pay prevailing wages in accordance with the Davis-Bacon Act (40 USC 276a through 276a-5) as defined by the U.S. Department of Labor.

4) Disadvantaged Business Enterprise Requirements
The contractor shall provide evidence, including but not limited to, a copy of the advertisement or advertisements and the record of negotiation, that the contractor has taken affirmative steps in accordance with 40 CFR 33 to assure disadvantaged business enterprises are used when possible as sources of supplies, equipment, construction and services, consistent with the provisions of the Agency's Operating Agreement with USEPA.

5) American Iron, Steel and Manufactured Goods Provisions
The contract shall require the successful bidder or bidders to certify compliance with section 1605 of the ARRA, which requires that all iron, steel and manufactured goods used in the project are produced in the United States.

6) Debarment and Suspension Provisions
The contract shall require the successful bidder or bidders to submit a "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit A).

7) Nonsegregated Facilities Provisions
The successful bidder shall be required to submit a certification of nonsegregated facilities as prescribed in 18 USC 1001.

e) Subcontracts under Construction Contracts
The award or execution of all subcontracts by a prime contractor and the procurement and negotiation procedures used by the prime contractor shall comply with the following:

1) All applicable provisions of federal, State and local law;

2) All provisions of this Part regarding fraud and other unlawful or corrupt practices;

3) All provisions of this Part with respect to access to facilities, records and audit of records; and

4) All provisions of subsection (d)(6) that require a "Certification Regarding Debarment, Suspension and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit A).

f) Contractor Bankruptcy
In the event of a contractor bankruptcy, the loan recipient shall notify the Agency and shall keep the Agency advised of any negotiations with the bonding company, including any proposed settlement. The Agency may participate in those

negotiations and will advise the loan recipient of the impact of any proposed settlement to the loan agreement. The loan recipient shall be responsible for assuring that every appropriate procedure and incidental legal requirement is observed in advertising for bids and re-awarding a construction contract.

Section 664.630 Contracts for Personal and Professional Services

All subagreements for personal and professional services for design or construction expected to exceed $25,000 in the aggregate shall include the following subagreement provisions:

a) Subagreements for personal and professional construction services shall include:

1) Disadvantaged Business Enterprise Requirements
Evidence, such as, but not limited to, a copy of the advertisement or advertisements and the record of negotiation in accordance with 40 CFR 33 that affirmative steps have been taken to assure that disadvantaged business enterprises are used when possible as sources of supplies, equipment, construction and services, consistent with the provisions of the Agency's Operating Agreement with the USEPA;

2) An audit and access to records clause that provides as follows:

A) Subsections (a)(2)(B) through (E) shall be included in all contracts and all subcontracts directly related to project services that are in excess of $25,000.

B) Books, records, documents and other evidence directly pertinent to performance of PWSLP loan work under this agreement shall be maintained consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards. The Agency or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.

C) Audits conducted pursuant to this subsection (a)(2) shall be in accordance with generally accepted auditing standards.

D) All information and reports resulting from access to records pursuant to subsection (a)(2)(B) shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

E) Records under subsection (a)(2)(B) shall be maintained and made available during performance of project services under this agreement and for 3 years after the final loan closing. In addition, those records that relate to any dispute pursuant to Section 664.650 (Disputes) of this Subpart, litigation, the settlement of claims arising out of project performance costs or items to which an audit exception has been taken shall be maintained and made available for 3 years after the resolution of the appeal, litigation, claim or exception;

3) A covenant against contingent fees clause as follows:
"The professional services contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee";

4) Debarment and Suspension Certification
A Certification Regarding Debarment, Suspension, and Other Responsibility Matters (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit A);

5) A description of the scope and extent of the project work;

6) The schedule for performance and completion of the contract work, including, where appropriate, dates for completion of significant project tasks; and

7) A method of compensation.

b) Subagreements for personal and professional design services shall include the subagreement provisions contained in subsections (a)(2) through (a)(4). In addition, the subagreements shall be accompanied by a statement regarding the use of disadvantaged business enterprises during the design service phase.

c) If, at the time of contract execution, any of the elements required in this Section cannot be defined adequately for later tasks, those tasks shall not be included in the contract at that time.

Section 664.640 Compliance with Procurement Requirements for Construction Contracts

a) Loan Applicant Responsibility
The loan applicant shall be responsible for selecting the low, responsive and responsible bidder or other contractor in accordance with applicable requirements of State, federal and local laws and ordinances, as well as for the specific requirements of the loan agreement directly affecting procurement. The loan recipient shall also be responsible for the initial resolution of complaints based upon alleged violations. Any complaints made to the Agency concerning any alleged violation of law in the procurement of construction services or materials for a project involving construction work will be referred to the loan applicant for resolution. The loan applicant shall promptly determine each complaint on its merits, and shall allow the complainant and any other party who may be adversely affected to state in writing or at a conference the basis for its views concerning the proposed procurement. The loan applicant shall promptly furnish to the complainant and to other affected parties, by certified mail, a written summary of its determination, substantiated by an engineering or legal opinion providing a justification for its determination.

b) Time Limitations
Complaints should be made as early as possible during the procurement process, preferably prior to the bid opening, to avoid disruption of the procurement process. The complaint shall be mailed (certified mail, return receipt requested), or otherwise delivered, no later than 5 working days after the complainant becomes aware of an alleged violation. If there is no agreement between the parties within 7 days following the loan applicant's response, unless all bids are rejected, the matter shall be resolved in accordance with subsection (c).

c) Remedies

All claims, counter-claims, disputes and other matters in question between the recipient and the contractor arising out of, or relating to, a subagreement or its breach shall be decided by arbitration if the parties agree, or in a court of competent jurisdiction within the State.

d) Deferral of Procurement Action
If the determination of a complaint by the loan recipient is adverse to the complainant, the loan recipient shall defer issuance of its solicitation or award or notice to proceed under the contract, as appropriate, for 7 days after mailing or delivery of the determination. If the determination (whether made by the loan recipient, the arbitrator or the court) is favorable to the complainant, the terms of the solicitation shall be revised or the contract shall be awarded, as appropriate, in accordance with the determination.

Section 664.650 Disputes

a) Only the loan recipient may appeal to the Agency in its own name and for its own benefit, under this provision, with respect to its subagreements. Neither a contractor nor a subcontractor may prosecute an appeal under the disputes provision of a loan in its own name or interest.

b) Any dispute arising under this loan that is not disposed of by agreement shall be decided by the Director, or his or her authorized representative, who shall render a decision in writing and mail or otherwise furnish it to the loan recipient. The decision of the Director shall be in accordance with this Part and shall be final and conclusive.

c) The disputes clause shall not preclude the Director from considering questions of law in any decision.

Section 664.660 Indemnity

The loan recipient shall assume the entire risk, responsibility and liability for all loss or damage to property owned by the loan recipient, by the Agency or by third persons, and for any injury to, or death of, any person (including employees of the loan recipient) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of the PWSLP/ARRA loan. The loan recipient shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for loss, damage, injury or death, whether caused by the negligence of the State of Illinois or the Agency or their agents or employees or otherwise,

consistent with the provisions of Section 1 of the Construction Contract Indemnification for Negligence Act [740 ILCS 35/1]. The loan recipient shall require that all its contractors and subcontractors agree in writing that they will look solely to the loan recipient for performance of the contract or satisfaction of all claims arising under the contract.

Section 664.670 Covenant Against Contingent Fees

The loan recipient shall warrant that no person or agency has been employed or retained to solicit or secure a PWSLP/ARRA loan upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the Agency shall have the right to annul the loan in accordance with Section 664.310 (Noncompliance with Loan Procedures) of this Part or to deduct from the loan, or otherwise recover, the full amount of the commission, percentage, brokerage or contingent fee.

SUBPART G: REQUIREMENTS APPLICABLE TO CONSTRUCTION INITIATION, CHANGES, COMPLETION AND OPERATION OF PROJECT

Section 664.710 Construction Initiation

Upon approval by the Agency of the loan applicant's financial assistance application in accordance with Section 664.430 (Financial Assistance Application and Approval) of this Part, and subject to the availability of funds, the Agency will issue the loan agreement and authorize the initiation of construction.

Section 664.720 Project Changes

a) Prior approval of the Agency is required for any project change that may:

1) Increase the amount of loan funds needed to complete the project;

2) Alter the design or scope of the project;

3) Extend any contract or loan completion date for the project;

4) Alter the location, size, capacity or quality of any major item of equipment; or

5) Alter the scope of the project by changing the methodologies or personnel to be used as agreed to at the time the loan was issued.

b) The Agency will approve project changes that it determines are cost-effective and within the overall scope of the loan project, based on approved project planning.

c) The loan recipient shall promptly notify the Agency, in writing, of all project changes. Failure to give timely notice of proposed project changes, or action by the loan recipient that is not consistent with the Agency's determination on those changes, may result in:

1) Disallowance of loan participation for costs incurred that are attributable to the change; and

2) Termination of the loan.

Section 664.730 Construction Engineering

The loan recipient shall provide construction engineering and project monitoring to assure that the construction substantially conforms with the approved plans and specifications.

Section 664.740 Operation and Maintenance of the Project

In order for the Agency to approve the final inspection for the project, the loan recipient must certify that it has a certified operator and that it has provided the following training and operation and maintenance documents:

a) Training pertaining to the proper operation and maintenance of the equipment and process units included in the project.

b) An operation and maintenance reference library that includes, but is not limited to, the following:

1) Manufacturer's literature, shop drawings and warranties;

2) The plans of record with valve indices for the equipment and process units included in the project; and

3) A maintenance schedule for the equipment and process units included in the project.

c) Training pertaining to the general operation of public water supply facilities or distribution systems, consisting of an operator self-study course such as, but not limited to, "Water Treatment Plant Operation", Volumes I and II, or "Small Water System Operation and Maintenance", or "Water Distribution System Operation and Maintenance", California State University, Sacramento.

Section 664.750 Final Inspection

The loan recipient shall notify the Agency in writing within 30 days after completion of project construction and shall submit the final change order, along with the contractor's final costs, to the Agency. The plans of record shall be forwarded to the appropriate Agency regional office. The Agency shall schedule the final inspection within 60 days after the receipt of notice of completion, provided that all necessary change orders have been submitted and approved.

SUBPART H: REQUIREMENTS APPLICABLE TO
ACCESS, AUDITING AND RECORDS

Section 664.810 Access

a) The Agency and its designated representatives shall have access, during normal business hours and at any other time during which work is being performed, to the premises where any portion of the work for which the PWSLP/ARRA loan was provided is being performed. After final loan closing, Agency personnel or any authorized Agency representative shall have access to the project records as defined in Section 664.820 (Audit and Records) of this Subpart and to the project site during normal business hours, to the full extent of the loan recipient's right to access.

b) Every contract entered into by the loan recipient for construction work, and every subagreement, shall provide Agency representatives with such access to the work. The contractor or subcontractor shall provide facilities for access and inspection. The contract or subagreement shall also provide that the Agency or any authorized representative shall have access to any books, documents, papers and records that are pertinent to the project for the purpose of making audit, examination, excerpts and transcriptions.

c) Failure by the loan recipient or any of its contractors or subcontractors to provide access, after 10 days written notice from the Agency, shall be cause for termination of the loan pursuant to Section 664.330 (Termination) of this Part,

and refund to the State of Illinois for deposit into PWSLP any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section shall repay any loan funds previously spent.

Section 664.820 Audit and Records

a) The loan recipient shall maintain books, records, documents, reports and other evidentiary material, and accounting procedures and practices consistent with generally accepted accounting standards in accordance with the American Institute of Certified Public Accountants Professional Standards.

b) For purposes of this Section, "records" shall include, but not be limited to:

1) Documentation of the receipt and disposition by the loan recipient of all financial assistance received for the project, including both State financial assistance and any matching share or cost sharing; and

2) Documentation of the costs charged to the project, including all direct and indirect costs of whatever nature incurred for the performance of the project for which the loan has been provided.

c) The loan recipient's facilities, or any facilities engaged in the performance of the PWSLP/ARRA loan project, and the loan recipient's records shall be subject to inspection and audit by the Agency or its authorized representative, at the times specified in Section 664.810 (Access) of this Subpart.

d) The loan recipient shall preserve and make its records available to the Agency or its authorized representative for the following periods:

1) For all costs associated with design and construction, for 3 years after final loan closing;

2) For all other accounting records concerning the loan, for 3 years from the date of the transaction; and

3) For any longer period required by law or by subsections (e) and (f).

e) If the loan is completely or partially terminated, the records relating to the terminated work shall be preserved and made available for 3 years after any resulting final termination settlement.

f) Records that relate to appeals under the "Disputes" clause in Section 664.650 (Disputes) of this Part, litigation or the settlement of claims arising out of the performance of the PWSLP loan project, or to project costs and expenses to which exception has been taken by the Agency or its authorized representatives, shall be retained until the appeals, litigation, claims or exceptions have been completed.

g) Failure of the loan recipient or its contractors or subcontractors to make records available to the Agency as required by Section 664.810 (Access) of this Subpart after 10 days written notice shall be cause for termination of the loan, pursuant to Section 664.330 (Termination) of this Part and for refund to the State of Illinois for deposit into the PWSLP of any unexpended loan funds. In addition, any loan recipient, contractor or subcontractor found in noncompliance with this Section shall repay any loan funds previously spent.

Section 664.830 Single Audit Act

A local government unit or a privately owned community water supply having not-for-profit status that receives loan assistance shall comply with the provisions of the Single Audit Act of 1996 (31 USC 7501 et seq.).

SUBPART I: FINANCIAL AND MANAGERIAL CAPABILITY

Section 664.910 Operation, Maintenance and Replacement Revenue System

a) In order for the loan agreement to be issued, the Agency must have approved the loan applicant's source of revenue for operation, maintenance and replacement (O, M & R) costs. The source of revenue must be enacted and enforceable, if appropriate, before the first loan disbursement can be made.

b) The Agency shall approve the O, M & R revenue system in accordance with the following criteria:

1) For the first year of operation of new facilities, operation, maintenance and replacement costs shall be based upon past experience or some other rational method that can be demonstrated to be applicable.

2) The loan recipient shall review annually and revise periodically the revenue source to reflect actual water works operation, maintenance and replacement costs. The Agency may request a report on the status of the projected costs, actual costs, revenue generated and fund balances at any time.

3) The revenue source shall generate sufficient revenue to offset the cost of all water works operation, maintenance and replacement required to be provided by the loan recipient.

4) If the project is for a regional community water supply facility that distributes water to other public water supplies, appropriate municipal ordinances, intergovernmental or service agreements or other appropriate authorizations must be submitted.

c) Upon approval of a loan recipient's O, M & R revenue source, the implementation and maintenance of the source shall become a condition of the loan subject to Section 664.310 (Noncompliance with Loan Procedures) of this Part.

d) The Agency or its authorized representative shall have access to all books, documents, papers and records of the loan recipient for the purpose of making audit, examination, excerpts and transcriptions in order to ensure compliance with subsection (b).

Section 664.920 Financial Capability

a) The loan applicant shall demonstrate to the Agency that it has the necessary legal, financial, managerial and technical capability to:

1) Construct, operate and maintain the project for the life of the public water supply facilities;

2) Retire the loan, including the execution of any necessary legally enforceable agreements and any enactments necessary to recover adequate capital costs to repay the loan; and

3) Meet any covenants and requirements in the loan agreement.

b) To demonstrate financial, managerial and technical capability, the loan applicant shall, at a minimum, show that:

1) It is empowered under law to own, operate and maintain a public water supply facility, including the facilities to be constructed under the loan;

2) It has the necessary easements, titles, permits and legally enforceable agreements for loan project implementation, as identified in the project plan; and

3) It has or will have the necessary qualified personnel to operate and maintain the facility.

c) The financial capability demonstration shall be submitted to the Agency for approval and shall contain detailed project costs, existing and proposed operation, maintenance and replacement costs, existing and proposed local capital costs, and historical information over the past 3 years consisting of audited annual financial statements, tax returns, Illinois Commerce Commission annual reports, bond ratings, number of billed customers and tax rate levies.

d) The Agency may suggest mitigative measures to improve the loan applicant's financial capability to undertake the project, including but not limited to, acquisition of grant funding, reduction of project costs, additional or different sources of revenues, efforts to reduce the number of delinquent billed customers and changes to existing financial practices that may threaten generation of adequate revenues.

e) The Agency may require a loan term of less than the 20 year maximum. In evaluating the appropriateness of alternative loan terms, the Agency shall consider such factors as the scope of the proposed project, the impacts of alternative loan terms on user fees, and the overall cost of the project.

f) The Agency may also utilize available credit reporting services.

Section 664.930 Dedicated Source of Revenue for Local Government Units

a) A source of revenue shall be dedicated and pledged to make the loan repayments. Prior to loan approval, the Agency shall review the proposed dedicated and pledged revenue source to assure that it will generate revenues adequate to make

the loan repayments and will provide a continuing source of revenue adequate to make loan repayments for the term of the loan. If the source of revenue is pledged in a subordinate position to a revenue bond ordinance, the covenants regarding coverage and reserve for the revenue source shall be equivalent to those in the revenue bond ordinance. At a minimum, the reserve account shall be equal to the annual loan repayment amount funded within 2 years after the loan award.

b) The necessary legislative enactments to dedicate and pledge the source of revenue must be in place before the Agency can make the first loan disbursement.

c) The loan recipient shall maintain a separate account in its books to record the dedicated revenues for loan repayment.

d) The loan recipient shall, for the term of the loan, review and adjust the dedicated source of revenue as necessary to provide adequate funds for the repayment of the loan. The loan recipient shall timely notify the Agency and submit to the Agency for approval all proposed changes to the dedicated source of revenue.

e) Upon request, the loan recipient shall submit to the Agency a statement on the status of the account required by subsection (c) that contains the status of the dedicated revenue account, including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's review will be based on, but not limited to, ensuring that the dedicated source of revenue is legally authorized, generates sufficient revenue and is otherwise in accordance with this Part.

f) In the event that the actual revenues fall short of the amount required to retire the loan, the Agency shall require the loan recipient to re-examine the dedicated revenue source and restructure it as necessary.

Section 664.940 Source of Revenue and Security for Privately Owned Community Water Supplies

a) The loan applicant must provide a detailed demonstration that there is an adequate source of revenue to repay the principal due on the loan. The loan applicant must also demonstrate that there is adequate security for the full amount of the loan. This shall include, but is not limited to, the following:

1) The audited financial statements and tax returns required under Section 664.920 of this Subpart and the calculation of the ratios set forth in the Risk Management Association (RMA) Annual Statement Studies for the North American Industry Classification System (NAICS) #221310. The statements must show a positive cash flow for all 3 years. 50% of the ratios must fall in the upper 2 quartiles when compared to the RMA Annual Statement Studies for NAICS #221310.

2) Any rate increase required to assure that adequate revenues will be generated to make the loan repayments must be adopted in a legally binding manner prior to the first loan disbursement. When applicable, approval of the rate increase by the Illinois Commerce Commission will be required.

3) Appropriate legal documents will be provided to enable the Agency to perfect its security interest in the revenues of the system and other personal properties offered as security by filing the necessary information under the Uniform Commercial Code.

4) The loan applicant must submit a legal description and current appraisal by a licensed appraiser of real property to be used for collateral. The mortgage must be executed prior to the issuance of the loan.

5) Approval from the Illinois Commerce Commission to incur debt, if applicable.

b) The loan recipient must maintain a separate accounting in its books to record the funds available for loan repayment.

c) The loan recipient must, for the term of the loan, review and adjust the source of revenue as necessary to provide adequate funds for the repayment of the loan. The loan recipient must timely notify the Agency of, and submit to the Agency for approval, all proposed changes to the source of revenue.

d) Upon request, the loan recipient shall submit to the Agency the status of the funds available for repayment of the loan, including the projected revenues, actual revenues fund balance, debt service obligations and other requirements of the loan agreement. The Agency's review will be based on, but not limited to, ensuring

that the source of revenue generates sufficient revenue and is otherwise in accordance with this Part.

e) In the event that the actual revenues fall short of the amount required to retire the loan, the Agency shall require the loan recipient to re-examine the revenue source and restructure it as necessary.

Section 664.950 Floodplain Insurance

a) If the loan project includes insurable structures that will be located within a designated floodplain area as defined in the National Flood Insurance Act of 1968 (42 USC 4001-4127), the loan recipient shall furnish written evidence that it is participating in the National Flood Insurance Program or that the construction areas have received official exclusion from the flood insurance requirements by the Federal Emergency Management Agency.

b) The loan recipient (or the construction contractor, as appropriate) shall acquire any flood insurance made available to it under the National Flood Insurance Act of 1968, as amended, and maintain the insurance for the entire useful life of the insurable structures.

c) The amount of insurance required shall be the lesser of the total project cost, excluding facilities that are uninsurable under the National Flood Insurance Program, or the maximum limit of coverage made available to the loan recipient under the National Flood Insurance Act of 1968.

d) The required insurance premium for the period of construction shall be an allowable project cost under Section 664.1010 (Determination of Allowable Costs) of this Part.

SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

Section 664.1010 Determination of Allowable Costs

The loan recipient shall be paid, upon request, in accordance with Section 664.1030 (Disbursement of Loan Funds) of this Subpart, for all costs that are within the scope of the approved project, not to exceed the total amount of the loan, and that are determined to be allowable in accordance with the following criteria:

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a) Allowable Project Costs
All reasonable and necessary costs directly attributable to the design and construction of an eligible, loan assisted public water supply project that are not excluded from loan funding by law or non-waivable regulations. Categories of necessary costs include, but are not limited to, the following:

1) The direct purchase of materials, equipment and personal services specifically necessary for the completion of a loan funded project;

2) Professional and consultant services contracts necessary for design, bidding and construction of a loan funded project, except as elsewhere limited by this Part;

3) Costs under approved construction contracts; and

4) Costs for premiums for required flood insurance during the project construction period.

b) Ineligible Costs
Categories of costs that are ineligible for loan assistance, and are not subject to the "reasonable and necessary" test of allowability include, but are not limited to, the following:

1) Costs for preparing a project planning document;

2) Costs outside the scope of the approved project plan;

3) Site acquisition, including easement compensation;

4) Construction of any facilities that do not clearly fall within the definition of a community water supply facility as contained in the federal Safe Drinking Water Act; and

5) Costs of projects whose main purpose is fire protection or servicing future growth.

c) Disputes Concerning Allowable Costs

The loan recipient shall seek to resolve any questions relating to cost allowability or allocation at the earliest opportunity. Final determinations by the Director concerning the allowability of costs shall be conclusive.

Section 664.1020 Use of Loan Funds and Payment of Unallowable Costs

a) Loan funds shall be expended solely for approved allowable costs incurred in the design and construction of the project.

b) The loan recipient shall agree to pay the unallowable costs associated with the project, as well as all allowable costs that exceed the amount of the loan, and shall construct the project or cause it to be constructed to final completion in accordance with the plans and specifications and on the schedule approved by the Agency.

c) The loan recipient shall commit itself to complete the construction of the operable public water supply facilities.

Section 664.1030 Disbursement of Loan Funds

a) Disbursements are subject to the appropriation of funds by the General Assembly and the availability of cash deposited into the PWSLP from drawdowns from the USEPA Automated Clearing House, repayments of existing loans, interest earnings on money in the PWSLP, and money deposited into the PWSLP from other sources.

b) Disbursements shall be made as follows:

1) After the receipt of a fully executed loan agreement, disbursement requests must be sent directly to the Agency. Actual disbursements shall be processed in accordance with the loan agreement.

2) Disbursements will be processed based on costs incurred that are due and payable, as evidenced by invoices. The Agency may withhold any disbursement for a violation of the loan agreement conditions.

c) The loan recipient shall make prompt payment to the contractor.

d) The State share of any refunds, rebates, credits or other amounts (including any interest) accruing to or received by the loan recipient with respect to the project that are properly allocable to costs for which loan funds have been disbursed must be paid, minus any reasonable expenses incurred in securing these funds, to the State of Illinois for deposit in the PWSLP.

e) Before the final principal amount of the loan can be established:

1) The Agency shall conduct a final inspection and a project review to insure that all applicable loan conditions have been satisfied; and

2) The loan recipient must submit to the Agency a final waiver from the contractor and a Certification of Payment that all bills have been paid.

f) The loan recipient must also submit a release, discharging the State of Illinois and its officers, agents and employees from all liabilities, obligations and claims arising out of the project work or under the loan, subject only to such exceptions that may be specified in the release.

g) Any use of loan funds at variance with this Part shall result in repayment of those loan funds to the State of Illinois for deposit into the PWSLP.

SUBPART K: PROCEDURES FOR LOAN REPAYMENT
AND DELINQUENT REPAYMENT

Section 664.1110 Loan Repayment to the Agency

Loan repayment to the Agency shall be in accordance with the loan repayment provisions contained in the loan agreement.

a) Principal forgiveness of 50% will be applied to the total amount of loan disbursements from the ARRA funds. The loan repayment amount shall be calculated based upon 50% of the total amount of loan disbursements from ARRA funds.

b) Loan repayments shall commence not later than 6 months after the initiation of the loan repayment period and shall be due semiannually for local government units and quarterly for privately owned community water supplies unless the

Agency determines that the source of revenue justifies an alternative repayment plan.

c) After the initiation of the loan repayment period date in the loan agreement, the Agency shall set a principal amount and give the loan recipient an interim repayment schedule.

d) After a final cost review of the project, the Agency shall establish the final principal amount and give the loan recipient a final repayment schedule.

Section 664.1120 Delinquent Loan Repayments

a) *In the event that a timely payment is not made by a loan recipient according to the loan schedule of repayment, the loan recipient shall notify the Agency in writing within 15 days after the repayment due date. The notification shall state the reasons the repayment was not timely tendered and the circumstances under which the late repayment will be satisfied, and shall contain binding commitments to assure future repayments. After receipt of this notification, the Agency shall accept the plan or take action in accordance with subsection (b).*

b) *If a loan recipient fails to comply with subsection (a), the Agency shall promptly issue a notice of delinquency to the loan recipient which shall require a written response within 15 days. The notice of delinquency shall require that the loan recipient revise its rates, fees and charges to meet its obligations or take other specified actions as may be appropriate to remedy the delinquency and to assure future repayments.*

c) *In the event that the loan recipient fails to timely or adequately respond to a notice of delinquency, or fails to meet any obligations made pursuant to subsections (a) and (b), the Agency shall pursue the collection of the amounts past due, the outstanding loan balance and the costs incurred thereby, either pursuant to the Illinois State Collection Act of 1986* [30 ILCS 210] *or by any other lawful means, including the taking of title by foreclosure or otherwise to any project or other property pledged, mortgaged, encumbered or otherwise available as security or collateral.* [415 ILCS 5/19.6]

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Section 664.APPENDIX A Executive Orders

Section 664.EXHIBIT A Executive Order 12549

February 18, 1986, 51 F.R. 6370

DEBARMENT AND SUSPENSION

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to curb fraud, waste, and abuse in Federal programs, increase agency accountability, and ensure consistency among agency regulations concerning debarment and suspension of participants in Federal programs, it is hereby ordered that:

Section 1.

a) To the extent permitted by law and subject to the limitations in Section 1(c), Executive departments and agencies shall participate in a system for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

b) Activities covered by this Order include but are not limited to: grants, cooperative agreements, contracts of assistance, loans, and loan guarantees.

c) This Order does not cover procurement programs and activities, direct Federal statutory entitlements or mandatory awards, direct awards to foreign governments or public international organizations, benefits to an individual as a personal entitlement, or Federal employment.

Section 2. To the extent permitted by law, Executive departments and agencies shall:

a) Follow government-wide criteria and government-wide minimum due process procedures when they act to debar or suspend participants in affected programs.

b) Send to the agency designated pursuant to Section 5 identifying information concerning debarred and suspended participants in affected programs, participants who have agreed to exclusion from participation, and participants declared ineligible under applicable law, including Executive Orders. This information shall be included in the list to be maintained pursuant to Section 5.

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c) Not allow a party to participate in any affected program if any Executive department or agency has debarred, suspended or otherwise excluded (to the extent specified in the exclusion agreement) that party from participation in an affected program. An agency may grant an exception permitting a debarred, suspended, or excluded party to participate in a particular transaction upon a written determination by the agency head or authorized designee stating the reason(s) for deviating from this Presidential policy. However, I intend that exceptions to this policy should be granted only infrequently.

Section 3. Executive departments and agencies shall issue regulations governing their implementation of this Order that shall be consistent with the guidelines issued under Section 6. Proposed regulations shall be submitted to the Office of Management and Budget for review within four months of the date of the guidelines issued under Section 6. The Director of the Office of Management and Budget may return for reconsideration proposed regulations that the Director believes are inconsistent with the guidelines. Final regulations shall be published within twelve months of the date of the guidelines.

Section 4. There is hereby constituted the Interagency Committee on Debarment and Suspension, which shall monitor implementation of this Order. The Committee shall consist of representatives of agencies designated by the Director of the Office of Management and Budget.

Section 5. The Director of the Office of Management and Budget shall designate a Federal agency to perform the following functions: maintain a current list of all individuals and organizations excluded from program participation under this Order, periodically distribute the list to Federal agencies, and study the feasibility of automating the list; coordinate with the lead agency responsible for government-wide debarment and suspension of contractors; chair the Interagency Committee established by Section 4; and report periodically to the Director on implementation of this Order, with the first report due within two years of the date of the Order.

Section 6. The Director of the Office of Management and Budget is authorized to issue guidelines to Executive departments and agencies that govern which programs and activities are covered by this Order, prescribe government-wide criteria and government-wide minimum due process procedures, and set forth other related details for the effective administration of the guidelines.

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Section 7. The Director of the Office of Management and Budget shall report to the President within three years of the date of this Order on Federal agency compliance with the Order, including the number of exceptions made under Section 2(c), and shall make such recommendations as are appropriate further to curb fraud, waste, and abuse.

THE WHITE HOUSE RONALD REAGAN
February 18, 1986

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Section 664.APPENDIX A Executive Orders

Section 664.EXHIBIT B Executive Order 11246

EQUAL EMPLOYMENT OPPORTUNITY
EXECUTIVE ORDER 11246, AS AMENDED

Executive Order 11246 − Equal Employment Opportunity

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

Part I − Nondiscrimination in Government Employment

Part II − Nondiscrimination in Employment by Government Contractors and Subcontractors

Subpart A – Duties of the Secretary of Labor

SEC. 201. The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

Subpart B – Contractors' Agreements

SEC. 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor

agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2) The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of

the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor win take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

SEC. 203. Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

a) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

b) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

c) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or

any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

SEC. 204. The Secretary of Labor may, when he/she deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this Order in any specific contract, subcontract, or purchase order. The Secretary of Labor may, by rule or regulation, also exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier. The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor which are in all respects separate and distinct from activities of the contractor related to the performance of the contract: Provided, That such an exemption will not interfere with or impede the effectuation of the purposes of this Order: And provided further, That in the absence of such an exemption, all facilities shall be covered by the provisions of this Order.

Subpart C – Powers and Duties of the Secretary of Labor and the Contracting Agencies

SEC. 205. The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

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SEC. 206. The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

a) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

SEC. 207. The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

SEC. 208. The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

a) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

Subpart D – Sanctions and Penalties

SEC. 209. In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

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1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.

2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.

3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.

4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.

5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.

6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor, until such contractor has satisfied the Secretary of Labor that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

7) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be

instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

SEC. 210. Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

SEC. 211. If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

SEC. 212. When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

Subpart E – Certificates of Merit

SEC. 213. The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.

SEC. 214. Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

SEC. 215. The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

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Part III – Nondiscrimination Provisions in Federally Assisted Construction Contracts

SEC. 301. Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee thereunder, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations thereunder, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

SEC. 302. "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

a) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

b) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with

respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

SEC. 303. The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

a) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

b) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

SEC. 304. Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued thereunder.

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Part IV – Miscellaneous

SEC. 401. The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

[Sec. 401 amended by EO 12086 of Oct. 5, l978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

SEC. 402. The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

SEC. 403. Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

a) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

[Sec. 403 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p. 264]

SEC. 404. The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

SEC. 405. This Order shall become effective thirty days after the date of this Order.

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Section 664.APPENDIX B Loan Application Form

Applicant Information

L17# _____

1. Legal Name of Applicant: _____
2. Applicant Address: _____

   _____

   Project Description: _____

   _____

   Federal Taxpayer Identification Number: _____

   ☐ Home Rule ☐ Non-Home Rule

3. Authorized Representative:

   Name: _____ Title: _____

   Phone: _____ Email: _____

4. Engineer:

   Name: _____ Firm: _____

   Address: _____ Phone: _____

   _____ Email: _____

5. Attorney:

   Name: _____ Firm: _____

   Address: _____ Phone: _____

   _____ Email: _____

6. Include detailed construction cost estimate in bid format as part of this application and summarize below:

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Construction	$
	$
	$
Legal/Financial	$
Design Engineering	$
Construction Engineering	$
Other	$
Contingency	$
Total	$

7. Amount requested for loan $ _____

8. Loan repayment period requested (maximum term is 20 years): _____

☐ 20 Years

☐ Other (_____number of years)

9. List any other proposed sources of funding in addition to loan request:

Source: _____ Amount: _____

Date Available: _____

10. Project Schedule (Indicate "complete" or anticipated date of completion as appropriate)

a) Approved Project Planning: _____

b) Plans and Specifications completed and submitted to Illinois EPA: _____

c) Illinois EPA Permit issued: _____

d) Approved Operation, Maintenance and Replacement Revenue System and Dedicated Source of Revenue: _____

e) Advertise for Bids: _____

f) Initiation of Construction: _____

g) Completion of Construction: _____

CERTIFICATION REGARDING PROJECT SITE, RIGHTS-OF-WAY, EASEMENTS, AND PERMITS

1. The applicant has investigated and ascertained the location of the site or sites, rights-of-way, and easements being provided for the facilities in its application for loan assistance. In my opinion, the applicant has a sufficient legal interest in the said site or sites, rights-of-way, and easements to permit the building of such facilities thereon and to permit the operation and maintenance of such facilities thereon during the estimated life of the facility by the applicant after the completion of construction.

2. The loan applicant has compiled with the provisions of 49 CFR 24 as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (42 USC 4601 et seq.).

3. The loan applicant has obtained all the necessary permits as indicated below:

Type of Permit	Permit Number	Date Issued
Army Corps of Eng. 404		
IL Dept. of Trans.		
County Highway		
Other		

Loan Program Certifications

- Whereas, the application provisions for loans from the Public Water Supply Loan Program require that the loan applicant provide the following certifications and assurances:

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The loan applicant hereby agrees to pay all project costs not covered by the loan. If the project costs provided by the applicant exceed $10,000, please provide the following information:

Amount to be provided by applicant $ _____

Source of funds _____

- The loan applicant hereby certifies that is has analyzed the costs and the financial impacts of the proposed project and that it has the legal, institutional, managerial and financial capability to insure adequate building, operation, maintenance and replacement of the treatment works project.

- The loan applicant hereby certifies that no unlawful or corrupt practice has taken place in the planning or design of the proposed project.

- The loan applicant hereby certifies that it has complied with all applicable State and federal statutory and regulatory requirements in regard to the proposed project.

- The loan applicant hereby certifies that it is not barred from being awarded a contract or subcontract under Section 10.1 of the Illinois Purchasing Act.

Certification Regarding Debarment, Suspension and Other Responsibility Matters

The prospective participant to the best of its knowledge and belief that it and its principals:

a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

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c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in fine of up to $10,000 or imprisonment for up to 5 years, or both.

INTENT REGARDING NATIONAL FLOOD INSURANCE

Whereas application provisions for loans from the Public Water Supply Loan Program require compliance with the National Flood Insurance Act 1968, as amended, and

Whereas the costs of securing and maintaining flood insurance are eligible for loan participation during the approved construction period, and

Whereas failure to secure flood insurance for eligible construction located in designated flood hazard areas will cause this construction to become ineligible for loan funds:

Now therefore, be it resolved that the _____ of _____ will cooperate and coordinate with the National Flood Insurance Program to acquire and maintain any flood insurance made available for Project L17# _____ for the entire useful life of the insurable construction pursuant to the Flood Insurance Act of 1968, as amended, and that it will secure said flood insurance for each insurable structure, as soon as said insurance is available and will notify the Illinois Environmental Protection Agency in writing that the National Flood Insurance requirement has been satisfied.

AUTHORIZATION OF A REPRESENTATIVE TO SIGN LOAN DOCUMENTS

Whereas, application provisions for loans from the Public Water Supply Loan Program for construction of public water supply facilities require that the _____ of _____ authorize a representative to sign the loan application forms and _____ supporting

documents; therefore, be it resolved by the _____ of _____ _____ that _____ is hereby authorized to sign all loan application forms and documents.

I, _____ hereby verify that the above information is, to the best of my knowledge, true and correct.

Date: _____ Signed by: _____
(Authorized Representative)

Title: _____

Attested by: _____

Financial Information Requirements

Prior to issuance of a loan agreement, the applicant must demonstrate to the Agency that it possesses the necessary technical, legal, financial, managerial and institutional capability to construct, operate and maintain the project for the life of the facility and to retire the loan in accordance with the schedule to be contained in the loan agreement. The applicant must provide sufficient information for the Agency to determine that the applicant is financially capable and has pledged a dedicated revenue source that is adequate to retire the debt and meet any covenants and requirements in the loan agreement. The applicant also must demonstrate that an Operation, Maintenance and Replacement (OM&R) Revenue System has been developed that generates adequate revenues to cover OM&R costs. This can be accomplished by the development and the enactment of a new OM&R Revenue System or the demonstration that a system previously approved by the Agency has been adequately maintained, is being enforced, and will continue to produce adequate revenues.

In order to provide guidance to potential loan recipients, this brief summary of the loan rules, review procedures, and the information that must be submitted for the Agency's review is being provided along with the attached checklist.

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Financial Capability

The Agency requires that the applicant demonstrate that it has the legal, financial, managerial and institutional capability to construct, operate and maintain the project for the life of the public water supply facilities and to retire the loan. The applicant must also demonstrate the ability to meet any covenants contained in the loan agreement.

The Agency's review will be conducted using items submitted as part of the loan application including our review of the Dedicated Source of Revenue and the OM&R Revenue System. In addition, applicants must furnish the last fiscal year's audited financial statements. If we are unable to determine that the applicant is financially capable, the Agency may require additional financial data be submitted.

Dedicated Source of Revenue

The Agency requires that specific sources of revenue must be dedicated and pledged to make the loan repayments. Prior to the Agency's approval of the dedicated source of revenue, the applicant must demonstrate that the revenue source will generate adequate revenues to make loan repayments for the term of the loan. The term of the loan will be specified in the loan agreement but shall not exceed 20 years from the initiation of operation date contained in the loan agreement. Additional points that must be considered during the development of the dedicated source of revenue are:

- The dedicated source of revenue is usually pledged by the loan applicant in the form of an adopted ordinance that pledges a specific and dedicated source of revenue for repayment of the loan. The adopted ordinance will in most cases pledge a very stable source of revenue, such as revenues of the system, in the form of a revenue bond. General obligation and alternate bond ordinances are also acceptable.

- In the case of revenue bonds, the Agency requires that debt service coverage requirements for the IEPA loan be equal to any outstanding senior debt that is payable from revenues of the system. If a water service charge is used, the water rate and rate ordinance must be adopted prior to the first disbursement. State law requires a 1.25 x coverage test for alternate bonds, and parity revenue bonds must also meet the covenants made to outstanding investors.

- The Agency requires that the applicant furnish a legal opinion concerning the acceptability of the ordinance and other elements of the debt instrument selected for repayment of the loan. This opinion must address the validity and enforceability of the loan recipient's

obligations and the absence of conflicts with other agreements, bonds or ordinances. Retention of bond counsel is optional.

OM&R Revenue System

The applicant's OM&R Revenue System must generate adequate revenues to cover OM&R costs.

If the applicant has a previously approved OM&R Revenue System, the Agency will review the system to ascertain that the system was enacted and has been maintained in accordance with the previous approval and will produce adequate revenues.

Applicant: _____

L17#: _____

FINANCIAL INFORMATION CHECKLIST

Please answer or submit information indicated, as appropriate.

A. Dedicated source of revenue

1. ☐ Home Rule ☐ Non-Home Rule
2. Type of loan instrument
   a. ☐ General Obligation Debt
   b. ☐ Alternate (double barreled) bonds with property tax levy that pledges an alternate revenue source of _____
   c. ☐ Water ☐ Sewer ☐ Combined System Revenues − Senior Lien
   d. ☐ Water ☐ Sewer ☐ Combined System Revenues − Subordinate Lien
3. Authority of applicant to issue debt
   a. ☐ Home rule powers
   b. ☐ Specific authorizing statute: _____ ILCS _____

c. ☐ Other (specify)

4. Copy of certified ordinance authorizing debt must be submitted along with existing ordinances if a subordinate lien is proposed. If this is a subordinate lien, the certified ordinance authorizing debt must have provisions for equivalent accounts and coverage.

5. Signed legal opinion with respect to the validity and enforceability of the applicant's obligations (bond ordinance) and the absence of conflicts with other agreements, bonds or ordinances.

6. A detailed demonstration that the dedicated source of revenue will provide adequate revenues to repay the loan in accordance with the terms of the loan agreement, including meeting any covenants and requirements in the loan agreement.

7. Last fiscal year's audited annual statement.

8. Are other entities substantially benefiting (greater than 5%) from the project?

☐ Yes ☐ No

9. Submit copies of any service agreement with any substantial beneficiary.

☐ Attached ☐ N/A

EITHER

B. OM&R Revenue (assuming that an Agency approved revenue system is not in existence)

1. Submission of a detailed Operation, Maintenance and Replacement (OM&R) budget.

2. Calculations to demonstrate how the rates, if applicable, are calculated. The rates should be expressed in cost per unit of usage (i.e., 1,000 gallons, 100 cubic feet, as appropriate).

3. Proposed rate ordinances, if applicable.

OR

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C. Supplemental Review (assuming that an Agency approved revenue system is in existence)

1. Submit a copy of the ordinances originally approved.

2. Submit any amendments made to the ordinances since their approval.

3. Is the OM&R Revenue System generating sufficient revenue to recover the Operation, Maintenance and Replacement Costs? ☐ Yes ☐ No
If answered No, what corrective action is being taken?

4. Is the water rate ordinance, if applicable, being enforced? ☐ Yes ☐ No
If answered No, please explain.

5. Is an annual review of the revenue source being performed?
☐ Yes ☐ No
If answered No, please explain.

6. Will the project result in substantial changes to the costs for Operation, Maintenance and Replacement? ☐ Yes ☐ No

7. If #6 is answered yes, please submit a proposed budget for the first year OM&R costs and a review of the revenue source or sources, along with appropriate revisions to the rate ordinance, if applicable.

I hereby certify that the above information is, to the best of my knowledge, true and accurate.

_____ _____
(Authorized Representative) (Date)

_____ _____
(Clerk) (Date)

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: State Toll Highway Rules

2) Code Citation: 92 Ill. Adm. Code 2520

3)

Section Numbers:	Proposed Actions:
2520.410	Amendment
2520.420	Amendment
2520.550	Amendment

4) Statutory Authority: 605 ILCS 10/10; 605 ILCS 5/11-601; 605 ILCS 5/11-603

5) A Complete Description of the Subjects and Issues Involved: Subsequent to the reconstruction of I-90, Tollway traffic engineers have studied and recommended that the speed limits be increased in the areas where it has been determined that they are safe and appropriate. In addition, the Tollway seeks to update the fees associated with V-Tolling (the electronic process of collecting tolls from customer IPASS accounts where the transponder is not mounted or cannot be detected).

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Tollway's consulting traffic engineer has prepared a study that supports the proposed maximum speed limit increases. In addition, the Tollway's internal analytics team indicates that V-Tolling costs are more than double those associated with transponder tolling. There are approximately 70 million V-Tolls each year.

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 rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: The Tollway's objective is to increase its I-90 speed limits consistent with the recommendations of its traffic engineers. In addition, the Tollway expects the change in the V-Tolling fee to incentivize its customers' use of toll collection transponders. The ultimate objective is to reduce the costs resulting from excessive V-Tolling.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments within 45 days of the publication of this Notice in the *Illinois Register* to:

Elizabeth Oplawski
Acting General Counsel
Illinois State Toll Highway Authority
2700 Ogden Avenue
Downers Grove IL 60515

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the most recent agenda because the proposed rule changes had not been prepared or necessarily contemplated by the Tollway's Board of Directors at the time of the publishing of the most recent Regulatory Agenda.

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

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER IV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 2520
STATE TOLL HIGHWAY RULES

SUBPART A: AUTHORITY AND DEFINITIONS

Section
2520.100 Authority
2520.110 Authority Rulemaking
2520.120 Related Statutes
2520.130 Definitions

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section
2520.200 Illinois Vehicle Code
2520.203 Use of Tollway Prohibited or Restricted
2520.206 Vehicles Excepted from Provisions of Section 2520.203
2520.209 Transportation of Hazardous Materials
2520.212 Special Usage Toll
2520.215 Loading or Unloading of Vehicles
2520.218 Full Stop at All Toll Plazas
2520.221 Entering and Leaving the Tollway
2520.224 "U" Turns, Etc.
2520.227 Backing Up of Vehicles
2520.230 Parking, Standing or Stopping
2520.233 Relocating of Vehicles
2520.236 Pushing or Towing of Vehicles
2520.239 Stopping or Halting Vehicles by the Authority
2520.242 Destruction of Authority Property
2520.245 Picnics
2520.248 Aircraft
2520.251 Sale of Goods and Services
2520.254 Solicitation of Rides
2520.257 Loitering or Interfering with Traffic
2520.260 Approaching/Departing a Toll Plaza
2520.263 Compliance with Orders or Directions of State Troopers, Etc.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

2520.266 Duty Upon Striking Fixtures, Structures or Other Property on Tollway
2520.269 Payment of Tolls
2520.272 I-Pass Registration
2520.275 Prohibited and Restricted Lanes
2520.278 Traffic Control Devices
2520.281 Penalty for Violation

SUBPART C: TRESPASS

Section
2520.300 Authority
2520.310 Restriction of Vehicles Using the Tollway
2520.320 Restriction on Nature of Use of Tollway
2520.340 Persons and Vehicles Excepted from the Requirements of Subpart C
2520.350 Penalties

SUBPART D: SPEED RESTRICTIONS

Section
2520.410 Maximum Speed Limits for Passenger Cars
2520.420 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers
2520.430 Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches
2520.440 Road Hazards and Construction Zones
2520.450 Special Road Conditions
2520.460 Minimum Speed Limits

SUBPART E: FINES AND PENALTIES

Section
2520.510 Violations
2520.520 Littering – Penalty
2520.530 Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty
2520.540 Toll Collection Devices – Penalty for Breaking
2520.550 I-PASS Customer − Penalties and Fees

SUBPART F: TOLL VIOLATIONS – ADMINISTRATIVE ADJUDICATION SYSTEM

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

Section
2520.700 Authority
2520.705 Notice of Violation to Respondent
2520.710 Effective Date of Notices
2520.715 Establishment of the Toll-Free Telephone Number
2520.720 Timely Request for Hearing
2520.725 Hearing Officers – Appointment, Disqualification, Powers and Duties
2520.730 Discovery
2520.735 Continuance
2520.740 Hearings Format
2520.745 Failure to Respond to Notice of Violation − Default
2520.750 Penalties
2520.755 Liability of Lessor
2520.760 Liability of Registered Owner
2520.765 Enforcement of Final Order
2520.770 Judicial Review

SUBPART G: EMPLOYMENT

Section
2520.800 Tollway Employees

2520.APPENDIX A Rules and Regulations for Overweight and Overdimension Vehicles and Loads

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days ; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency expired April 5, 2004; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 6911, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 7688, effective May 24, 2004, for a maximum of 150 days; emergency expired October 20,

2004; amended at 28 Ill. Reg. 14530, effective October 25, 2004; old Part repealed at 30 Ill. Reg. 11261 and new Part adopted at 30 Ill. Reg. 11264, effective June 9, 2006; amended at 35 Ill. Reg. 535, effective December 27, 2010; emergency amendment at 38 Ill. Reg. 2433, effective January 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4037, effective January 27, 2014; amended at 38 Ill. Reg. 11369, effective May 9, 2014; amended at 38 Ill. Reg. 19780, effective September 25, 2014; amended at 39 Ill. Reg. 12640, effective August 28, 2015; amended at 40 Ill. Reg. 3762, effective February 25, 2016; amended at 40 Ill. Reg. 16155, effective December 1, 2016; amended at 41 Ill. Reg. _____, effective _____.

SUBPART D: SPEED RESTRICTIONS

Section 2520.410 Maximum Speed Limits for Passenger Cars

The following shall be the maximum speed limits for passenger cars (includes motorcycles) on the Tollway, except as provided by Sections 2520.430 and 2520.440:

a) Tri-State Tollway (I-94 and I-294):

70 miles per hour north of I-94 M.P.7.5 (Stearns School Road).

65 miles per hour between I-94 M.P.7.5 (Stearns School Road) and I-94 M.P.24.2 (Deerfield Road).

60 miles per hour between I-94 M.P.24.2 (Deerfield Road) and M.P.25.2 (Lake-Cook Road).

60 miles per hour between I-294 M.P.52.7 (Lake-Cook Road) and M.P. 42.2 (Touhy Avenue).

60 miles per hour between I-294 M.P.23.1 (I-55) and M.P.7.6 (I-57).

55 miles per hour on the remainder of I-294 and I-94.

b) Jane Addams Memorial Tollway (I-90):

60~~55~~ miles per hour east of M.P.74.4~~51.8~~ (Des Plaines Oasis~~west of Randall Road~~).

70 miles per hour west of M.P.74.4~~51.8~~ (Des Plaines Oasis~~west of Randall~~

~~Road~~).

c) Reagan Memorial Highway (I-88):

60 miles per hour between M.P.140.4 (I-290/Eisenhower Expressway) and M.P.117.1 (Illinois Route 31).

65 miles per hour between M.P.117.1 (Illinois Route 31) and M.P.109.0 (west of Illinois Route 47).

70 miles per hour west of M.P.109.0 (west of Illinois Route 47).

d) Veterans Memorial Tollway (I-355):

60 miles per hour between M.P.12.0 (I-55) and M.P.29.8 (Army Trail Road).

70 miles per hour south of M.P.12.0 (I-55).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2520.420 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers

a) The following shall be the maximum speed limits for trucks and passenger cars towing trailers, house trailers and campers on the Tollway, except as provided by Sections 2520.430 and 2520.440:

1) Tri-State Tollway (I-94 and I-294):

60 miles per hour north of I-94 M.P.25.2 (Lake-Cook Road).

60 miles per hour between I-294 M.P.52.7 (Lake-Cook Road) and M.P.42.2 (Touhy Avenue).

60 miles per hour between I-294 M.P.23.1 (I-55) and M.P.7.6 (I-57).

55 miles per hour on the remainder of I-294 and I-94.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

2) Jane Addams Memorial Tollway (I-90):

~~55 miles per hour east of M.P.51.8 (west of Randall Road).~~

60 miles per hour east of~~between M.P.51.8 (west of Randall Road) to~~ M.P. 31.2 (McHenry County Line).

70 miles per hour west of M.P.31.2 (McHenry County Line).

3) Reagan Memorial Highway (I-88):

60 miles per hour between M.P.140.4 (I-290/Eisenhower Expressway) and M.P.101.0 (Kane/DeKalb County Line).

70 miles per hour west of M.P.101.0 (Kane/DeKalb County Line).

4) Veterans Memorial Tollway (I-355):

60 miles per hour between M.P.0.0 (I-80) and M.P.29.8 (Army Trail Road).

b) The following shall be the maximum speed limits for buses on the Tollway, except as provided by Sections 2520.430 and 2520.440:

1) Tri-State Tollway (I-94 and I-294):

65 miles per hour north of I-94 M.P.24.2 (Deerfield Road).

60 miles per hour between I-94 M.P.24.2 (Deerfield Road) and M.P.25.2 (Lake-Cook Road).

60 miles per hour between I-294 M.P.52.7 (Lake-Cook Road) and M.P.42.2 (Touhy Avenue).

60 miles per hour between I-294 M.P. 23.1 (I-55) and M.P.7.6 (I-57).

55 miles per hour on the remainder of I-294 and I-94.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

2) Jane Addams Memorial Tollway (I-90):

60~~55~~ miles per hour east of M.P.74.4~~51.8~~ (Des Plaines Oasis~~west of Randall Road~~).

65 miles per hour between M.P.74.4~~51.8~~ (Des Plaines Oasis~~west of Randall Road~~) and~~to~~ M.P.31.2 (McHenry County Line).

70 miles per hour west of M.P.31.2 (McHenry County Line).

3) Reagan Memorial Highway (I-88):

60 miles per hour between M.P.140.4 (I-290/Eisenhower Expressway) and M.P.117.1 (Illinois Route 31).

65 miles per hour between M.P.117.1 (Illinois Route 31) and M.P.101.0 (Kane/DeKalb County Line).

70 miles per hour west of M.P.101.0 (Kane/DeKalb County Line).

4) Veterans Memorial Tollway (I-355):

60 miles per hour between M.P.12.0 (I-55) and M.P.29.8 (Army Trail Road).

65 miles per hour between M.P.0.0 (I-80) and M.P.12.0 (I-55).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: FINES AND PENALTIES

Section 2520.550 I-PASS Customer – Penalties and Fees

a) The registered owner of a vehicle cited by the Illinois State Police for traffic violations that pose a significant public safety risk occurring within ½ mile prior to a toll collection point, at a toll collection point, or within ½ mile beyond a toll collection point will be suspended from the Tollway's I-PASS program for a period of 180 days. The I-PASS suspension shall commence no sooner than 30

days after the citation is disposed of with a finding of guilty and 10 days after the registered owner is supplied a final notice of suspension based on this subsection. The suspension shall apply to all I-PASS accounts registered to the owner of the vehicle who was the subject of the citation. For purposes of this subsection, traffic violations that pose a significant public safety risk shall be limited to violations of the following Sections of the Illinois Vehicle Code: Sections 6-101 (driving without a valid license or permit), 6-303 (driving on suspended or revoked license), 6-507 (driving a commercial motor vehicle without a valid commercial driver's license), 6-515 (driving under the influence on a CDL), 11-501 (driving under the influence), 11-502 (open alcohol in vehicle), 11-503 (reckless driving or aggravated reckless driving), 11-504 (drag racing), 11-601.5 (driving 40 mph or more over applicable limit), 11-709 (improper lane usage), 11-907 (improper operation near emergency vehicle) and 11-908 (improper operation near or in a construction or maintenance zone).

b) The author of any check that is returned to the Authority unpaid will be subject to a $25 administrative fee. If payment in the amount of the check plus the $25 fee is not received from the customer within 10 days after final notification that the check has been returned and that the administrative fee is being charged, the customer's account will be suspended and all transponders assigned to the account will be deactivated.

c) I-PASS customers who are V-Tolled more than 10 times in a calendar month will be charged the cash toll rate for all V-Tolls incurred on any individual license plate registered to a customer's I-PASS or other electronic tolling account. If the customer is V-Tolled 10 or fewer times in a calendar month, the account shall be charged the discounted I-PASS rate for those V-Tolled transactions.~~I-PASS customers who are V-Tolled more than 10 times in a 30 day period will be issued a notice informing the account holder that the transponder is improperly mounted or is otherwise not being read by the electronic toll collection equipment. If the customer is V-Tolled an additional 10 times in the following 30 day period, the customer will be issued a final warning and assessed a $5 administrative fee. If the customer is V-Tolled 5 or more times in the next 30 day period, the customer's account will be suspended and all transponders assigned to the account will be deactivated.~~

d) An I-PASS customer whose account balance falls below $0 for 30 or more days will be assessed an administrative fee of $5 if the tolls owed are less than $25. The account holder will be assessed an administrative fee of $25 if the amount of

the unpaid tolls is $25 or more. If the customer fails to pay the unpaid tolls and administrative fee within 21 days from the date of final notification that his or her account balance is insufficient, the customer's account will be suspended and all transponders assigned to the account will be deactivated.

e) Final notices of fees due or I-PASS account suspensions issued under this Section shall be considered final administrative orders of the Authority subject to judicial review in accordance with the Illinois Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Regulatory Relief Mechanisms

2) Code Citation: 35 Ill. Adm. Code 104

3)

Section Numbers:	Proposed Actions:
104.500	New Section
104.505	New Section
104.510	New Section
104.515	New Section
104.520	New Section
104.525	New Section
104.530	New Section
104.535	New Section
104.540	New Section
104.545	New Section
104.550	New Section
104.555	New Section
104.560	New Section
104.565	New Section
104.570	New Section
104.575	New Section
104.580	New Section
104.585	New Section
104.590	New Section

4) Statutory Authority: Implementing and authorized by Sections 4, 5 and 38.5 of the Illinois Environmental Protection Act [415 ILCS 5/5 and 38.5, as amended by PA 99-937, eff. 2-24-17].

5) A Complete Description of the Subjects and Issues Involved: PA 99-937, effective February 24, 2017, amends the Environmental Protection Act (Act) to allow the Board to issue time limited water quality standards (TLWQS). TLWQS are a new relief mechanism for adoption of federally approvable water quality standard variances consistent with federal rules. Under PA 99-937, not only a single discharger but multiple dischargers may seek a TLWQS. TLWQS may also address standards in a waterbody or waterbody segment, or a watershed. IEPA's proposal sets forth the procedures necessary to adopt TLWQS pursuant to PA 99-937. The proposal explains what a TLWQS is and how it will be obtained. Additionally, the proposal explains how a TLWQS can be used, specifies the different parties to a TLWQS proceeding (i.e. petitioners and participants),

and the types of notice and service required for TLWQS proceedings. The proposed rules also set forth provisions of the statutorily created stay.

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

7) Will this rulemaking replace an 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 rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R18-18 and be addressed to:

Clerk's Office
Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R18-18 by calling the Clerk's office at 312/814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

13) Initial Regulatory Flexibility Analysis:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, municipality or not-for-profit that would seek relief from a water quality standard as a discharger to a waterbody or watershed could be affected.

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 2017

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 104
REGULATORY RELIEF MECHANISMS

SUBPART A: GENERAL PROVISIONS

Section
104.100 Applicability
104.102 Severability
104.104 Definitions
104.106 Petitions and Hearings

SUBPART B: VARIANCES

Section
104.200 General
104.202 Filing Requirements
104.204 Petition Content Requirements
104.206 RCRA Variance Petition Contents
104.208 Consistency with Federal Law
104.210 Petition for Extension of Variance
104.212 Motion for Modification of Internal Variance Compliance Dates
104.214 Notice of Petition
104.216 Agency Investigation and Recommendation
104.218 Agency Recommendation to RCRA Variance
104.220 Response to Agency Recommendation
104.222 Stipulations
104.224 Objections to Petition, Written Comments, and Request for Hearing
104.226 Amended Petition and Amended Recommendation
104.228 Insufficient Petition
104.230 Dismissal of Petition
104.232 Calculation of Decision Deadline
104.234 Hearing
104.236 Hearing Procedures
104.238 Standard of Review
104.240 Certificate of Acceptance

104.242 Term of Variance
104.244 Variance Conditions
104.246 Performance Bonds
104.248 Objection to Conditions

SUBPART C: PROVISIONAL VARIANCES

Section
104.300 Applicability
104.302 Agency Action
104.304 Initiating a Request
104.306 Filing and Notice
104.308 Term
104.310 Simultaneous Variance Prohibition (Repealed)

SUBPART D: ADJUSTED STANDARDS

Section
104.400 General
104.402 Initiation of Proceeding
104.404 Request to Agency to Join as Co-Petitioner
104.406 Petition Content Requirements
104.408 Petition Notice Requirements
104.410 Proof of Petition Notice Requirements
104.412 Effect of Filing a Petition: Stay
104.414 Dismissal of Petition
104.416 Agency Recommendation and Petitioner Response
104.418 Amended Petition, Amended Recommendation, and Amended Response
104.419 Insufficient Petition
104.420 Request for Public Hearing
104.422 Public Hearing
104.424 Hearing Notice
104.426 Burden of Proof
104.428 Board Action

SUBPART E: TIME-LIMITED WATER QUALITY STANDARDS

Section
104.500 Purpose

104.505 Applicability and Use
104.510 Severability
104.515 Definitions
104.520 General Procedures
104.525 Stay
104.530 Petition Contents
104.535 Agency Response
104.540 Board Established Classes and Deadlines
104.545 Substantial Compliance Assessment
104.550 Recommendation and Response
104.555 Hearing
104.560 Burden of Proof
104.565 Opinion and Order
104.570 USEPA Review
104.575 Coverage Under Board-Approved Time-Limited Water Quality Standards
104.580 Reevaluation
104.585 Appeal Rights
104.590 Extension

104.APPENDIX A Comparison of Former and Current Rules (Repealed)

AUTHORITY: Subparts B and C: Implementing Sections 5, 35, 36, 37 and 38 of the Environmental Protection Act (Act) [415 ILCS 5/5, 35, 36, 37, and 38] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27]. Subpart D: Implementing Sections 5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5 of the Act [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27]. Subpart E: Implementing and authorized by Sections 4, 5, and 38.5 of the Act [415 ILCS 5/5 and 38.5].

SOURCE: Subpart B: Originally adopted as Chapter I: Procedural Rules, Part IV: Variances, in R70-4, at 1 PCB 43, October 8, 1970; amended in R77-16, 29 PCB 503, at 2 Ill. Reg. 16, p. 3, effective May 1974; amended in R79-9, 35 PCB 433, at 3 Ill. Reg. 51, p. 128, effective December 7, 1979; amended in R80-12, 40 PCB 451, at 5 Ill. Reg. 2763, effective March 2, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10, 62 PCB 87, at 9 Ill. Reg. 1409, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 613, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8803, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2357, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12905, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7973, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. 10049, effective July 5, 2017; amended at 41 Ill. Reg. _____, effective _____.

SUBPART E: TIME-LIMITED WATER QUALITY STANDARDS

Section 104.500 Purpose

a) This Subpart sets forth procedures for obtaining a time-limited water quality standard. A time-limited water quality standard provides relief from water quality standards as set forth in 35 Ill. Adm. Code 302 and 303.

b) This Subpart must be read in conjunction with 35 Ill. Adm. Code 101. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Subpart, the provisions of this Subpart apply.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.505 Applicability and Use

a) A time-limited water quality standard proceeding is a non-adjudicatory proceeding.

b) A time-limited water quality standard may be adopted for a single discharger, multiple dischargers, a watershed, a water body, or a waterbody segment.

c) The extent and coverage of a time-limited water quality standard must be set forth in the Board's order as specified in Section 104.565.

d) A time-limited water quality standard, once adopted by the Board and approved by United States Environmental Protection Agency, must be the applicable standard for the purposes of the Clean Water Act in developing NPDES permit limits and requirements under 35 Ill. Adm. Code 309 for the term of the time-limited water quality standard. Any limitations and requirements necessary to implement the time-limited water quality standard must be included as enforceable conditions of the NPDES permit for any permittee granted coverage under the time-limited water quality standard by the Board or Agency.

e) The Agency may use an approved time-limited water quality standard when issuing certifications under section 401 of the Clean Water Act.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.510 Severability

If any provision of this Subpart or its application to any person is adjudged invalid, the adjudication does not affect the validity as a whole or of any portion not adjudged invalid.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.515 Definitions

a) Unless defined in subsection (b), words shall have the meaning ascribed in the Act and 35 Ill. Adm. Code 101.Subpart B.

b) The following definitions must apply to this Subpart:

"Pollutant Minimization Program" means a structured set of activities to improve processes and pollutant controls that will prevent and reduce pollutant loading.

"Time-limited water quality standard" means a time-limited designated use and criterion for a specific pollutant or water quality parameter that reflects the highest attainable condition during the term of the time-limited water quality standard.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.520 General Procedures

a) A time-limited water quality standard may be sought for multiple uses and multiple parameters by:

1) persons who file with the Board a petition for a time-limited water quality standard under Section 38.5 of the Act; and

2) persons who have a pending petition on February 24, 2017 for a variance from a water quality standard under Section 35 of the Act converted into a petition for a time-limited water quality standard under Section 38.5 of the Act.

b) Parties

1) Petitioner

A) For a single discharger time-limited water quality standard, the person seeking the time-limited water quality standard must be named the Petitioner.

B) For multiple discharger, watershed, waterbody, and waterbody segment time-limited water quality standards, all dischargers seeking the time-limited water quality standard may act collectively as a single petitioner after the Board has established classes under Section 104.540.

2) The Agency must be a participant.

3) Any person may become a participant in the time-limited water quality standard proceeding.

4) The Board must develop and maintain a notice list of persons and organizations that have expressed an interest in, or may, by the nature of their purposes, activities or members, be affected by, any covered activity. The Board must include in the notice list all dischargers or classes of dischargers affected by the water quality standard requested in the petition or amended petition as identified by the Agency under Section 104.535(b)(1).

c) Filing and Service. Unless otherwise provided by this Part, all documents must be served and filed in accordance with 35 Ill. Adm. Code 101.Subpart C.

BOARD NOTE: The Board encourages persons addressing the same pollutants in the same waterbody, waterbody segment or watershed to join in filing a joint petition whenever possible, collectively satisfying the burden of proof outlined in Section 104.555. When multiple petitions addressing the same pollutants in the same waterbody, waterbody segment or watershed are filed separately, the Board may join additional parties under 35 Ill. Adm. Code 101.403 and/or consolidate the petitions under 35 Ill. Adm. Code 101.406. The Board also may incorporate materials and evidence filed in support of one petition as evidence in support of a petition addressing similar issues. (See 35 Ill. Adm. Code 101.306.)

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.525 Stay

a) The effectiveness of a water quality standard from which relief is sought must be stayed as to the following persons from the effective date of the water quality standard until the stay is terminated as provided in this Section:

1) any person who has a petition for a variance seeking relief from a water quality standard under Section 35 of the Act converted into a petition for a time-limited water quality standard under Section 38.5 of the Act;

2) any person who files a petition for a time-limited water quality standard within 35 days after the effective date of the water quality standard from which relief is sought; and

3) any person who is a member of a class of dischargers that is identified in a Board order under Section 104.540 that concerns a petition for a time-limited water quality standard that was filed within 35 days after the effective date of the water quality standard from which relief is sought and who files a petition for a time-limited water quality standard before the deadline established for that class under Section 104.540.

b) For any person for which the effectiveness of the water quality standard is stayed under subsection (a), and the Board has determined that his or her petition is in substantial compliance as provided in Section 104.545, the stay must continue until the Board:

1) denies the petition and all rights to judicial review of the Board's order denying the petition are exhausted; or

2) adopts the time-limited water quality standard and the United States Environmental Protection Agency either:

A) approves the time-limited water quality standard; or

B) disapproves the time-limited water quality standard for failure to comply with 40 CFR 131.14.

c) For any person for which the effectiveness of the water quality standard is stayed under subsection (a), and the Board has determined that his or her petition is not in substantial compliance as provided in Section 104.545, the following must apply:

1) if the person files an amended petition by the deadline established by the Board in Section 104.540 and the amended petition is in substantial compliance as provided in Section 104.545, the stay must continue until the Board:

A) denies the petition and all rights to judicial review of the Board's order denying the petition are exhausted; or

B) adopts the time-limited water quality standard and USEPA either:

i) approves the time-limited water quality standard; or

ii) disapproves the time-limited water quality standard for failure to comply with 40 CFR 131.14.

2) if the person files an amended petition by the deadline established by the Board in Section 104.540, but the amended petition is not in substantial compliance as provided in Section 104.545, the Board must deny the amended petition, and the stay must continue until all rights to judicial review are exhausted.

3) if the person fails to file an amended petition by the deadline established by the Board in Section 104.540, the Board must dismiss the original petition and the stay must continue until all rights to judicial review are exhausted.

d) If a person other than a person described in subsection (a) files a petition for a time-limited water quality standard, the effectiveness of the water quality standard from which relief is sought must not be stayed as to that person, but the person may proceed with his or her petition for a time-limited water quality standard by complying with 40 CFR 131.14, Section 38.5 of the Act, and this Part.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.530 Petition Contents

a) All time-limited water quality standard petitions or amended petitions must include:

1) A statement indicating the type of time-limited water quality standard sought:

A) single discharger;

B) multiple dischargers; or

C) watershed, water body, or waterbody segment;

2) identification of the pollutant or water quality parameter for which a time-limited water quality standard is sought;

3) the location of the petitioner's activity and the location of the points of its discharge;

4) a map of the proposed watershed, water body or waterbody segment to which the time-limited water quality standard will apply;

5) designated uses of the water body or waterbody segment identified in subsection (a)(4);

6) data describing the nature and extent of the present or anticipated failure to meet the water quality standard or standards and facts that support compliance with the water quality standards regulation or regulations cannot be achieved by any required compliance date;

7) a demonstration that attainment of the designated use or uses and criterion or criteria is not feasible throughout the term of the time-limited water quality standard because of one or more of the factors listed in Section 104.560(b).

8) an identification, including the Board's docket number, of any prior water quality standards variances/time-limited water quality standards issued to

the petitioner, watershed, water body, waterbody segment, and, if known, the petitioner's predecessors, concerning similar relief;

9) an identification, by name and permit number, of the permits held by dischargers that may be affected by the adoption of the time-limited water quality standard;

10) an identification and description of any process, activity, or source that contributes to a violation of a water quality standard, including the material used in that process or activity

11) a description and copy of all pollution minimization plans currently being implemented or have been implemented;

12) the proposed highest attainable condition of the watershed, water body, or waterbody segment identified in subsection (a)(4) expressed as set forth in Section 104.565(d)(4), including projected changes in the highest attainable condition throughout the proposed term of the time-limited water quality standard;

13) a demonstration of the pollutant control activities proposed to achieve the highest attainable condition, including those activities identified through a Pollutant Minimization Program;

14) the proposed term of the time-limited water quality standard that is only as long as necessary to achieve the highest attainable condition, which includes a description of the relationship between the proposed pollution control activities and the proposed term;

15) a proposed reevaluation schedule to reevaluate the highest attainable condition during the term of the time-limited water quality standard, if the proposed term of the time-limited water quality standard is longer than five years under Section 104.580; and

16) any other documentation required to support the petitioner's burden of proof in Section 104.560.

b) For a watershed, water body or waterbody segment time-limited water quality standard, the petition or amended petition must also include:

1) identification and documentation of any cost-effective and reasonable best management practices for nonpoint source controls related to the pollutant or water quality parameter and watershed, water body, or waterbody segment specified in the time-limited water quality standard that could be implemented to make progress towards attaining the underlying designated use and criterion; and

2) if the petition is for an extension of an existing water quality standard, an explanation of the extent best management practices for nonpoint source controls were implemented to address the pollutant or water quality parameter subject to the time-limited water quality standard and the water quality progress achieved.

c) For a watershed, water body or waterbody segment time-limited water quality standard, the petition or amended petition may also include proposed eligibility criteria to be adopted by the Board to be used at the time of renewal or modification of an individual's federal NPDES permit or at the time an individual files an application for certification under section 401 of the federal Clean Water Act to obtain coverage under a Board-approved time-limited water quality standard.

d) For a multiple discharger time-limited water quality standard, the petition may include proposed eligibility criteria to be adopted by the Board to be used at the time of renewal or modification of an individual's federal NPDES permit or at the time an individual files an application for certification under section 401 of the federal Clean Water Act to obtain coverage under a Board-approved time-limited water quality standard.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.535 Agency Response

a) The Agency must file a response with the Board within 21 days after the filing of the initial petition.

b) The Agency response must:

1) identify the discharger or classes of dischargers, including applicable permit numbers, affected by the water quality standard or standards from which relief is sought in the petition;

2) identify the watershed, water bodies, or waterbody segments, including the receiving stream, affected by the water quality standard or standards from which relief is sought in the petition;

3) identify the appropriate type of time-limited water quality standard, based on factors such as the nature of the pollutant, the condition of the affected water body, and the number and type of dischargers; and

4) recommend prompt deadlines by which each class of dischargers identified in subsection (b)(1) must file a substantially compliant petition to stay the effectiveness of a water quality standard or standards under Section 104.525.

c) The petitioner or any person may file a question or response to the Agency's response within 14 days after the Agency files its response.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.540 Board Established Classes and Deadlines

Within 30 days after receipt of a response from the Agency under Section 104.535, the Board must enter a final order that delineates the geographic scope of the time-limited water quality standard, establishes the discharger or classes of dischargers that may be covered by the time-limited water quality standard, and establishes prompt deadlines by which the discharger and dischargers in the identified classes must, for the purposes of the stay, file with the Board either:

a) a petition for a time-limited water quality standard, if the petition has not been previously filed; or

b) an amended petition for a time-limited water quality standard, if the petition has been previously filed and it is necessary to file an amended petition to maintain a stay under Section 104.525.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.545 Substantial Compliance Assessment

a) As soon as practicable after entering an order under Section 104.540, the Board must conduct an evaluation of the petition to assess its substantial compliance with Section 104.530.

b) If the Board determines in a final order that the petition is in substantial compliance, the Agency must file a recommendation under Section 104.550.

c) If the Board determines in an interim order that the petition is not in substantial compliance, the Board must identify the deficiencies in the petition that must be corrected for the petition to be in substantial compliance with Section 104.530.

d) If effectiveness of the water quality standard from which relief is sought is stayed under Section 104.525 and the Board determines in an interim order that the petition is not in substantial compliance:

1) the petitioner must file an amended petition by the deadlines adopted by the Board under Section 104.540; and

2) the Board must enter, after the deadlines established under Section 104.540, a final order that determines whether the amended petition is in substantial compliance with Section 104.530

e) Any party may file a motion for reconsideration under 35 Ill. Adm. Code 101.520 of a final Board order determining whether the amended petition is in substantial compliance with Section 104.530.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.550 Recommendation and Response

a) Unless otherwise ordered by the hearing officer or the Board, the Agency must file a recommendation with the Board within 45 days after the Board determines that a petition is in substantial compliance under Section 104.545.

b) At a minimum, the recommendation must include:

1) The Agency's analysis of:

A) whether the petitioner met its burden of proof as specified in Section 104.560, including petitioner's proposed highest attainable condition of the watershed, water body, or waterbody segment;

B) whether the proposed time-limited water quality standard is consistent with applicable federal laws and regulations, and satisfies the requirements of Section 38.5 of the Act and this Part; and

C) the petitioner's proposed eligibility criteria to be adopted by the Board to be used at the time of renewal or modification of an individual's federal NPDES permit or at the time an individual files an application for certification under section 401 of the federal Clean Water Act to obtain coverage under a Board-approved time-limited water quality standard, when applicable;

2) any information the Agency believes relevant to the disposition of the petition, including any past or pending enforcement actions against petitioner;

3) whether the Board should adopt, adopt with conditions, or deny the petitioner's requested time-limited water quality standard; and

4) the Agency's recommended term of the time-limited water quality standard.

c) The petitioner or any person may file a question or response to the Agency's recommendation within 14 days after the Agency files its recommendation.

d) Concurrent with the filing of the recommendation with the Board, the Agency must transmit a copy of its recommendation, including a copy of the time-limited water quality standard petition, to USEPA.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.555 Hearing

a) The Board must hold a public hearing on the petition.

b) Hearing Notice

1) The Hearing Officer will schedule the hearing and give the petitioner, participants and those individuals on the notice list maintained by the Board under Section 104.520(b)(4) at least 45 days' written notice of a hearing.

2) The Clerk must publicize notice, both on the Board's website and in a newspaper of general circulation in the county where the facility or pollution source is located, within 45 days of the hearing.

3) The notice must identify the matters to be discussed at the hearing and must include information on the availability of relevant materials and procedures for obtaining further information.

4) For a watershed, water body, or waterbody segment time-limited water quality standard, the notice must include identification and documentation of any cost-effective and reasonable best management practices for nonpoint source controls related to the pollutant or water quality parameter and water body or waterbody segment specified in the petitioned time-limited water quality standard that could be implemented to make progress towards attaining the underlying designated use and criterion.

c) The Board must make the following available to the public at least 30 days before the hearing:

1) reports, documents, data relevant to the discussion at the public hearing;

2) the Agency recommendation; and

3) for watershed, water body, and waterbody segment time-limited water quality standard petitions, the proposed best management practices for nonpoint source controls.

d) Except as otherwise provided in this Section, the hearings will be conducted under 35 Ill. Adm. Code 101.Subpart F.

e) The Hearing Officer must schedule witnesses in advance to ensure maximum participation and allotment of adequate time. The Hearing Officer must reserve some time for unscheduled testimony and may consider reserving blocks of time for major categories of witnesses.

f) During the hearing, the Hearing Officer must inform the audience of the issues involved in the decision to be made, the considerations the Board will take into account, and the information that is particularly solicited from the public.

g) Public comments must be filed within 21 days after the hearing transcript is available unless the Hearing Officer specifies a different date. Any person may file written comments in a time-limited water quality standard.

h) The Agency must notify USEPA of the availability of the hearing transcript and inform USEPA of the comment deadline.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.560 Burden of Proof

a) The burden of proof is on the petitioner.

b) The petitioner must provide justification that attainment of the designated use and criterion is not feasible throughout the term of the time-limited water quality standard because of one of the following factors:

1) Naturally occurring pollutant concentrations prevent the attainment of the use;

2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met;

3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place;

4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate that modification in a way that would result in the attainment of the use;

5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses;

6) Controls more stringent than those required by sections 301(b) and 306 of the Clean Water Act would result in substantial and widespread economic and social impact; or

7) Actions necessary to facilitate lake, wetland, or stream restoration through dam removal or other significant reconfiguration activities preclude attainment of the designated use and criterion while the actions are being implemented.

c) The petitioner must demonstrate that the term of the time-limited water quality standard is only as long as necessary to achieve the highest attainable condition. This demonstration must justify the term of the time-limited water quality standard by describing the pollutant control activities to achieve the highest attainable condition, including those activities through a Pollutant Minimization Program.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.565 Opinion and Order

a) When the Board adopts a time-limited water quality standard, the Board must maintain, in its standards, the underlying designated use and criterion addressed by the time-limited water quality standard, unless the Board adopts and USEPA approves a revision to the underlying designated use and criterion consistent with 40 CFR 131.10 and 131.11.

b) A time-limited water quality standard may not be adopted if the designated use and criterion addressed by the time-limited water quality standard can be achieved

by implementing technology based effluent limits required under sections 301(b) and 306 of the Clean Water Act and 35 Ill. Adm. Code 304.

c) The Board may not adopt a time-limited water quality standard if petitioner fails to meet its burden of proof as set forth in Section 104.560.

d) All orders adopting a time-limited water quality standard must include:

1) Identification of the pollutant or water quality parameter;

2) Applicability

A) Watershed, Water Body, Waterbody Segment and Multiple Discharger

i) identification of the watershed, water body, or waterbody segment to which the time-limited water quality standard applies;

ii) eligibility criteria that may be used by new or existing dischargers or classes of dischargers to obtain coverage under the time-limited water quality standard during its duration; and

iii) the list of persons covered under the time-limited water quality standard at the time of the Board's adoption.

B) Single Discharger

i) identification of the water body or waterbody segment to which the time-limited water quality standard applies; and

ii) the person covered under the time-limited water quality standard.

3) The time-limited water quality standard requirements and conditions that apply throughout the term of the time-limited water quality standard:

A) must represent the highest attainable condition of the watershed, water body, or waterbody segment applicable throughout the term of the time-limited water quality standard based on petitioner's demonstration required by Section 104.560; and

B) must not result in any lowering of the currently attained ambient water quality, unless the petitioner demonstrates that a time-limited water quality standard is necessary for restoration activities under Section 104.560(b)(7).

4) The highest attainable condition of the waterbody or water segment as a quantifiable expression of one of the following:

A) For a single discharger and a multiple discharger time-limited water quality standard:

i) The highest attainable interim criterion;

ii) The interim effluent condition that reflects the greatest pollutant reduction achievable; or

iii) If no additional feasible pollutant control technology can be identified, the interim criterion or interim effluent condition that reflects the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the Board adopts the time-limited water quality standard, and the adoption and implementation of a Pollutant Minimization Program.

B) For a time-limited water quality standard applicable to a watershed, water body, or a waterbody segment:

i) The highest attainable interim use and interim criterion; or

ii) If no additional feasible pollutant control technology can be identified, the interim use and interim criterion that reflect the greatest pollutant reduction achievable with the pollutant control technologies installed at the time the Board adopts the time-limited water quality standard, and

the adoption and implementation of a Pollutant Minimization Program.

5) A statement providing that the requirements of the time-limited water quality standard are either the highest attainable condition identified at the time of the adoption of the time-limited water quality standard, or the highest attainable condition later identified during any reevaluation consistent with Section 104.580, whichever is more stringent.

6) The term of the time-limited water quality standard, expressed as an interval of time from the date of USEPA approval or a specific date.

7) For a time-limited water quality standard with a term greater than five years, a specified frequency to reevaluate the highest attainable condition pursuant Section 104.580. The reevaluation must occur no less frequently than every five years after both Board and USEPA approval of the time-limited water quality standard.

8) A provision that the time-limited water quality standard will no longer be the applicable water quality standard for purposes of the Clean Water Act if the petitioner does not conduct a reevaluation consistent with the frequency specified in the time-limited water quality standard or the results are not submitted to USEPA as required by Section 104.580.

e) Any party may file a motion for reconsideration, under 35 Ill. Adm. Code 101.520, of a final Board order entered under this Section.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.570 USEPA Review

a) Before a time-limited water quality standard becomes effective for Clean Water Act purposes, the Agency must submit the time-limited water quality standard to USEPA and obtain USEPA approval in accordance with section 303(c) of the Clean Water Act and 40 CFR 131.20 and 131.21.

b) The Agency must file USEPA's decision with the Board.

c) If USEPA disapproves of a Board adopted time-limited water quality standard, the petitioner may file a Petition to Modify a Time-Limited Water Quality Standard.

1) The petition to modify must address all deficiencies raised by USEPA and must be served on all parties to the Board's proceeding adopting the time-limited water quality standard.

2) The Board must automatically incorporate the record from the Board's proceeding adopting the time-limited water quality standard.

3) The Board must accept public comments for at least 30 days after a petition to modify is filed.

4) If the Board, in its discretion, concludes a hearing would be advisable, a hearing must be held.

5) Any order issued by the Board modifying a previously granted time-limited water quality standard must comply with Section 104.565.

6) The Agency must submit any order issued by the Board modifying a previously granted time-limited water quality standard to USEPA for review and approval.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.575 Coverage Under Board-Approved Time-Limited Water Quality Standards

a) Any discharger that has not obtained a time-limited water quality standard may obtain coverage under a Board-approved time-limited water quality standard by satisfying, at the time of renewal or modification of that person's NPDES permit, or at the time the person files an application for certification under section 401 of the federal Clean Water Act, the Board-approved criteria for coverage under the time-limited water quality standard.

b) Any applicant obtaining coverage under a Board-approved time-limited water quality standard must comply with the requirements and conditions that apply throughout the term of the time-limited water quality standard established under Section 104.565(d)(3).

c) Any applicant obtaining coverage under a Board-approved time-limited water quality standard must participate in any reevaluations conducted under Section 104.580.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.580 Reevaluation

a) Proposed Reevaluation. When a time-limited water quality standard has a term greater than five years and the Board accordingly sets a schedule for reevaluation:

1) The petitioner and any person granted coverage under Section 104.575 must file its proposed reevaluation with the Board according to the reevaluation frequency set forth in the Board's order adopting the time-limited water quality standard under Section 104.565(d)(7).

2) Petitioner must serve one copy of the proposed reevaluation on the Agency, each participant, and each member of the notice list maintained by the Board under Section 104.520(b)(4).

3) The proposed reevaluation must assess the highest attainable condition using all existing and readily available information.

b) The clerk must publicize notice of the proposed reevaluation on the Board's website and in a newspaper of general circulation in the county where the facility or pollution source is located.

c) The Board must accept public comments for a period not shorter than 30 days.

d) The Board must reevaluate the highest attainable conditions using all existing and readily available information.

e) The Agency must submit the Board's reevaluation opinion and order to USEPA for approval within 30 days after issuance of the Board's order.

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.585 Appeal Rights

Any person who is adversely affected or threatened by a final Board order entered under this Subpart *may obtain judicial review of the Board order by filing a petition for review within 35 days after the date the Board order was served on the person affected by the order, under the provisions of the Administrative Review Law* [735 ILCS 5/Art. III], *and the rules adopted pursuant thereto, except that review shall be afforded directly in the appellate court for the district in which the cause of action arose and not in the circuit court. For purposes of judicial review under this* Section, *a person is deemed to have been served with the Board's final order on the date on which the order is first published by the Board on its website.* [415 ILCS 5/38.5(j)]

(Source: Added at 41 Ill. Reg._____, effective _____)

Section 104.590 Extension

a) If, at the end of the time-limited water quality standard, the underlying designated use remains unattainable, the petitioner may seek an extension of an existing time-limited water quality standard, consistent with the requirements of this Subpart.

b) A petition to extend a time-limited water quality standard previously granted by the Board is a new petition for a time-limited water quality standard before the Board, and must be filed in accordance with this Subpart and 35 Ill. Adm. Code 101.Subpart C, including payment of the filing fee under Section 104.520(c) and 35 Ill. Adm. Code 101.302(e)(6).

c) In addition to the requirements of Section 104.530, the petition for extension of the time-limited water quality standard must contain:

1) A detailed explanation showing that satisfactory progress toward attaining the designated use has been made during the term of the prior time-limited water quality standard and that additional time is needed to make further progress;

2) a demonstration of whether conditions have changed such that the designated use and criterion are not attainable;

3) a demonstration of whether new or additional information has become available to indicate that the designated use and criterion are not attainable in the future;

4) documentation showing that the requirements and conditions established by the Board that applied throughout the term of the prior time-limited water quality standard have been fully met, or, if any requirement or condition has not been fully met, a detailed explanation of the reason or reasons that the requirement has not been fully met; and

5) a motion to incorporate any material from the record of the prior time-limited water quality standard proceeding in accordance with 35 Ill. Adm. Code 101.306.

(Source: Added at 41 Ill. Reg._____, effective _____)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Dealers, Wreckers, Transporters and Rebuilders

2) Code Citation: 92 Ill. Adm. Code 1020

3) Section Number: 1020.12 — Proposed Action: New Section

4) Statutory Authority: Implementing Chapter 5 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 5 and 2-104(b)].

5) Complete Description of the Subjects and Issues Involved: Establishes place of business administrative rules for manufactured home dealers and community-based manufactured home dealers. Outlines rules for minimum lot requirements, hours of operation, and record keeping requirements. Includes requirements for supplemental lots, trade-shows exhibitions, display exhibitions, and off-sight sales. Provides that, in lieu of criminal complaints, the Illinois Secretary of State Department of Police may issue administrative citations for violations of the administrative rules or the Illinois Vehicle Code.

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 rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government.

12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Written comments may be submitted within 45 days to:

Carrie Leitner
302 Howlett Building
Springfield IL 62756

217/782-1947
cleitner@ilsos.net

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: See above.

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

C) Types of professional skills necessary for compliance: None

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

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 STATE

PART 1020
DEALERS, WRECKERS, TRANSPORTERS AND REBUILDERS

Section
1020.10 Dealers Established Place of Business
1020.12 Dealers Established Place of Business for Manufactured Homes
1020.20 Required Records for Automotive Parts Recyclers Rebuilders, New Vehicle Dealers, Used Vehicle Dealers, Repairers and Out-of-State Salvage Vehicle Buyers
1020.30 Records Required Upon Removal of Dash Assemblies with Vehicle Identification Number Plate Attached
1020.40 Inspection of Licensees' Records and Premises
1020.50 Consignment Sales by Dealers
1020.70 Rebuilders Not to Engage in Retail Selling of Salvage or Rebuilt Vehicles
1020.80 Inspection of Rebuilt Vehicles

AUTHORITY: Implementing Chapter 5 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 5 and 2-104(b)].

SOURCE: Filed March 5, 1975; amended at 2 Ill. Reg. 33, p. 144, effective August 8, 1978; amended at 5 Ill. Reg. 3835, effective March 27, 1981; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 5260, effective April 4, 1983; amended at 8 Ill. Reg. 14657, effective August 1, 1984; amended at 8 Ill. Reg. 22884, effective November 16, 1984; amended at 12 Ill. Reg. 13612, effective August 15, 1988; amended at 12 Ill. Reg. 17962, effective November 1, 1988; amended at 14 Ill. Reg. 8704, effective June 1, 1990; amended at 19 Ill. Reg. 11640, effective August 1, 1995; amended at 20 Ill. Reg. 11356, effective August 1, 1996; amended at 22 Ill. Reg. 11527, effective July 1, 1998; amended at 38 Ill. Reg. 2291, effective December 26, 2013; amended at 41 Ill. Reg. _____, effective _____.

Section 1020.12 Dealers Established Place of Business for Manufactured Homes

a) Each person or entity seeking to be or already duly licensed as a community-based manufactured home dealer or a manufactured home dealer under the Illinois Vehicle Code (IVC) [625 ILCS 5] shall maintain an established place of business

that shall, in addition to those requirements in IVC Section 5-100, meet the following requirements:

1) Have office facilities in a building for maintaining and keeping books and records as are required. The office facilities shall be permanently mounted on a fixed foundation and may not include a trailer with axle attached and still moveable. It may include, however, a manufactured home on a contiguous tract of land that contains sites for 5 or more independent manufactured homes or a manufactured dealer lot with tires removed and utilities attached.

2) Be properly and permanently equipped with the necessary office equipment and machines and documents and papers adequate to properly conduct business as a community-based manufactured home dealer or manufactured home dealer and must be within a permanent building or structure as required in subsection (a)(1).

3) Be equipped with an operating telephone for inbound and outbound calls, have the business telephone number published in the telephone directory generally available in the dealership area or on a easily identifiable internet website, and be adequately equipped with operating electric lights.

4) Have the name of the dealership posted on the front entrance door.

5) Have posted on the front entrance door a sign setting forth the days and regular and reasonable hours when open for business. A community-based manufactured home dealer or a manufactured home dealership shall not be deemed as being open for business unless at least one employee, who is able to conduct regular business, is on the premises and available to the public. The community-based manufactured home dealer or a manufactured home dealer must be operated consistent with general dealer practices. The community-based manufactured home dealer must be open for business at least 3 days out of each 7 days in a week at each location, including any supplemental locations, and a minimum of 6 consecutive hours per day. A manufactured home dealership must be open for business at least 5 days out of each 7 days in a week, and a minimum of 4 consecutive hours per day. However, a manufactured home dealer that operates the dealerships less than 12 months in a calendar year shall state in the license application those months in which the dealership is closed

and shall not be required to maintain regular business hours during the period of closure. The months of closure shall also be posted in a prominent place for the public to see in the dealership office.

6) A manufactured home dealer shall maintain a lot (the area not occupied by a building) that shall be surfaced with rock or better surface material and that shall be properly illuminated, if open after sundown, so that manufactured homes for sale can be properly inspected by any prospective customer.

A) The lot used for sale of manufactured homes shall be separate and apart from any other business. In addition, if a new or used dealer is selling both new and used manufactured homes, the new manufactured homes shall be parked separately and apart from used manufactured homes.

B) The lot requirement described in this subsection (a)(6) shall not be applicable if the place of business has an indoor showroom, properly illuminated, for the display of manufactured homes held for sale.

C) The separate lot requirement specified in subsection (a)(6)(A) shall not prohibit the operation by the manufactured home dealer of other businesses on the same premises, which shall include the lot, provided that the businesses are reasonably related to the sale or operation of new or used manufactured homes, if the sale of new or used manufactured homes constitutes at least 50% of the gross revenues of the license holder. Businesses reasonably related to the sale or operation of manufactured homes shall include only the sale of manufactured home parts and accessories, the leasing of manufactured homes, insuring manufactured homes, and financing of manufactured homes sold by the licensed dealers engaged in these businesses. Licensed manufactured home dealers engaged in operating businesses other than those stated in this subsection (a)(6)(C) shall remove unauthorized businesses or modify them to comply with this Section within 60 days after notification by the Secretary of State, or be subject to the revocation or suspension of their dealer's license.

7) Dealership in a Department Store − When a manufactured home dealer maintains a place of business within a department store, the dealership shall be separated from other operations of the department store.

8) Sign – Display a permanent sign bearing the name of the community-based manufactured home dealer at the entrance of the community. If the business is a manufactured home dealership, the sign shall be properly illuminated if open after sundown and shall be visible from the highway, as defined in IVC Section 1-126, leading to the established place of business.

9) Display a federally required pricing document on all new manufactured homes held for sale.

10) If the premises are leased, the lease must be for at least the duration of the current licensure period.

b) Supplemental Lots
An Illinois licensed manufactured home dealer may operate as an additional place of business a permanent supplemental lot that meets all the requirements of subsection (a), except the records required to be kept shall be maintained at the principal place of business of the manufactured home dealership, as defined by IVC Section 5-101.2, unless the supplemental lot is more than one mile from the main dealership. The one mile shall be measured by the most direct road between the manufactured home dealership and the supplemental lot.

1) A licensed manufactured home dealer shall apply for the supplemental lot authorization when files the application required by IVC Section 5-101 or 5-102 or may file an application to add a supplemental lot during the license period.

2) The fee for a license to operate a supplemental lot is $25 or $12.50 as provided in IVC Sections 5-101(b)(7) and 5-102(b)(5).

3) No vehicle sales at supplemental lots shall be allowed on Sundays except as provided in IVC Section 5-106.

c) Trade Show Exhibition, Display Exhibition and Off Site Sale

NOTICE OF PROPOSED AMENDMENT

A licensed manufactured home dealer may operate as an additional place of business an exhibition area in a trade show exhibition, display exhibition or off site sale, provided:

1) The trade show exhibition, display exhibition or off site sale must be conducted separately and away from the licensed manufactured home dealer's established and additional places of business.

2) The licensed dealer has a currently valid manufactured home dealer's license issued by the Secretary of State of Illinois or another state when applicable.

3) The applicant manufactured home dealer meets the requirements of subsection (c)(7), (8) or (9).

4) No permit granted for an additional location in a trade show exhibition, display exhibition or off site sale may be transferred or removed to another location.

5) The licensed manufactured home dealer has provided the Secretary of State with a copy of:

A) the written contract with the agency, person or other entity sponsoring, creating or supervising the trade show exhibition, display exhibition or off site sale; and

B) an application for the trade show exhibition, display exhibition or off site sale permit:

i) containing the name of the manufactured home dealership, its license number, and the location and dates of the trade show exhibition, display exhibition or off site sale; and

ii) signed by the licensed manufactured home dealer.

6) Trade Show Exhibitions

A) A permit for an additional location granted for a trade show exhibition shall in no event be valid for more than 30 days from

the date of the first day of the trade show exhibition for which it is granted.

B) The fee for a permit to operate in a trade show exhibition shall be $10.00 per permit.

C) No manufactured homes may be offered for sale.

D) Each trade show exhibition must have a minimum of 3 licensed participants, at least 2 of whom must be licensed under IVC Section 5-101, 5-101.2 or 5-102 who all meet the requirements in subsections (c)(1) through (6).

E) A trade show exhibition of new manufactured homes shall only have participants licensed as new manufactured home dealers, at least 2 of whom must be licensed under IVC Section 5-101.2 and meet the requirements in subsections (c)(1) through (6).

7) Display Exhibitions

A) Only a manufactured home dealer licensed under IVC Section 5-101.2 or 5-102 who also meets the requirements of subsections (c)(1) through (6) may participate in a display exhibition.

B) A permit for an additional location granted for a display exhibition shall in no event be valid for more than 30 days from the date of the first day of the display exhibition for which it is granted.

C) The fee for a permit to operate in a display exhibition shall be $10.00 per permit.

D) No manufactured homes may be offered for sale.

8) Off Site Sales

A) Only a dealer licensed under IVC Section 5-101.2 or 5-102 who also meets the requirements of subsections (c)(1) through (6) may conduct an off site sale.

B) The off site sale must not be conducted out of the licensed dealer's relevant market area, as defined in IVC Section 5-100.

C) A permit for an additional location granted for an off site sale shall in no event be valid for more than 7 days from the date of the first day of the off site sale for which it is granted.

D) The fee for a permit to operate an off site sale shall be $25 per permit.

d) In lieu of a criminal complaint, the Secretary of State Department of Police may issue an administrative citation to a party licensed under IVC Chapter 5 for any violation of the IVC or any administrative rule adopted by the Secretary under the IVC. If an administrative citation is issued, a minimum of 3 separate violations must be present at the time of the investigation or inspection and any violations shall result in a $50 penalty per violation. Any party that receives an administrative citation that results in a monetary penalty may either pay the penalty or contest the administrative citation through the Secretary's administrative hearing process (see 92 Ill. Adm. Code 1000.Subpart A). If a licensee agrees to pay the administrative citation, the licensee waives his or her ability to contest the administrative citation through the administrative hearing process. If a licensee pays the penalty as a result of an administrative citation but receives subsequent administrative citations pursuant to a subsequent investigation or inspection, and the licensee disputes the subsequent administrative citations through the administrative hearing process, the Secretary may use any previous administrative citations as evidence to establish a pattern or habit of violations. A licensee shall have 90 calendar days after receiving the administrative citation to either pay the penalty or file a request for an administrative hearing. Failure to either pay the administrative citation or file a timely request for an administrative hearing may result in the denial of a license renewal until the penalty is paid in full or an administrative hearing is scheduled to adjudicate the contested administrative citations.

(Source: Added at 41 Ill. Reg. _____, effective _____)

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Public Information, Rulemaking and Organization

2) Code Citation: 2 Ill. Adm. Code 5100

3)

Section Numbers:	Adopted Actions:
5100.10	Repealed
5100.110	Repealed
5100.210	Repealed
5100.220	Repealed
5100.230	Repealed
5100.240	Repealed
5100.250	Repealed
5100.260	Repealed
5100.270	Repealed
5100.280	Repealed
5100.290	Repealed
5100.300	Repealed
5100.310	Repealed
5100.320	Repealed
5100.330	Repealed

4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act (5 ILCS 100/5-15) and authorized by Section 4-6(d) of the Public Community College Act (110 ILCS 805).

5) Effective Date of Repealer: August 28, 2017

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

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted rules including any material incorporated is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposed published in the *Illinois Register*: 41 Ill. Reg. 5690; May 26, 2017

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED REPEALER

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 repealer replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Repealer: The administrative rules governing State Community College of East St. Louis remain in place, despite its abolishment in 1996 and the repeal of Article IV of the Public Community College Act.

16) Information and questions regarding this adopted repealer shall be directed to:

Matt Berry
Legislative and External Affairs Liaison
Illinois Community College Board
401 East Capitol Ave.
Springfield IL 62701-1711

217-785-7411
matt.berry@illinois.gov

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

3)

Section Numbers:	Adopted Actions:
1501.701	Repealed
1501.702	Repealed
1501.703	Repealed
1501.704	Repealed
1501.705	Repealed
1501.706	Repealed
1501.707	Repealed

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

5) Effective Date of Rules: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposed published in the *Illinois Register*: 41 Ill. Reg. 5698; May 26, 2017

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes

Section Numbers: Proposed Actions: *Illinois Register* Citations:

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

1501.201	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.303	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.308	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.406	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.503	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.504	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.506	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.510	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.511	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.516	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.518	Repealed	41 Ill. Reg. 7029; June 23, 2017
1501.519	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.521	Repealed	41 Ill. Reg. 7029; June 23, 2017
1501.523	Repealed	41 Ill. Reg. 7029; June 23, 2017
1501.601	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.602	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.603	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.604	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.605	Repealed	41 Ill. Reg. 7029; June 23, 2017
1501.607	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.608	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.609	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.610	Amendment	41 Ill. Reg. 7029; June 23, 2017
1501.301	Amendment	41 Ill. Reg. 7712; July 7, 2017
1501.310	New Section	41 Ill. Reg. 7712; July 7, 2017

15) Summary and Purpose of Rules: The administrative rules governing State Community College of East St. Louis remain in place, despite its abolishment in 1996 and the repeal of Article IV of the Public Community College Act.

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

Matt Berry
Legislative and External Affairs Liaison
Illinois Community College Board
401 East Capitol Ave.
Springfield IL 62701-1711

217/785-7411

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

matt.berry@illinois.gov

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 1501
ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section
1501.101 Definition of Terms and Incorporations by Reference
1501.102 Advisory Groups
1501.103 Rule Adoption (Recodified)
1501.104 Manuals
1501.105 Advisory Opinions
1501.106 Executive Director
1501.107 Information Request (Recodified)
1501.108 Organization of ICCB
1501.109 Appearance at ICCB Meetings
1501.110 Appeal Procedure
1501.111 Reporting Requirements (Repealed)
1501.112 Certification of Organization (Repealed)
1501.113 Administration of Detachments and Subsequent Annexations
1501.114 Recognition

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section
1501.201 Reporting Requirements
1501.202 Certification of Organization
1501.203 Delineation of Responsibilities
1501.204 Maintenance of Documents or Information
1501.205 Recognition Standards (Repealed)

SUBPART C: PROGRAMS

Section
1501.301 Definition of Terms
1501.302 Units of Instruction, Research, and Public Service

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

1501.303 Program Requirements
1501.304 Statewide and Regional Planning
1501.305 College, Branch, Campus, and Extension Centers
1501.306 State or Federal Institutions (Repealed)
1501.307 Cooperative Agreements and Contracts
1501.308 Reporting Requirements
1501.309 Course Classification and Applicability

SUBPART D: STUDENTS

Section
1501.401 Definition of Terms
1501.402 Admission of Students
1501.403 Student Services
1501.404 Academic Records
1501.405 Student Evaluation
1501.406 Reporting Requirements

SUBPART E: FINANCE

Section
1501.501 Definition of Terms
1501.502 Financial Planning
1501.503 Audits
1501.504 Budgets
1501.505 Student Tuition
1501.506 Published Financial Statements
1501.507 Credit Hour Claims
1501.508 Special Populations Grants (Repealed)
1501.509 Workforce Preparation Grants (Repealed)
1501.510 Reporting Requirements
1501.511 Chart of Accounts
1501.514 Business Assistance Grants (Repealed)
1501.515 Advanced Technology Equipment Grant (Repealed)
1501.516 Capital Renewal Grants
1501.517 Retirees Health Insurance Grants (Repealed)
1501.518 Uncollectible Debts
1501.519 Special Initiatives Grants
1501.520 Lincoln's Challenge Scholarship Grants

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

1501.521 Technology Enhancement Grants
1501.522 Deferred Maintenance Grants (Repealed)
1501.523 Foundation Matching Grants

SUBPART F: CAPITAL PROJECTS

Section
1501.601 Definition of Terms
1501.602 Approval of Capital Projects
1501.603 State Funded Capital Projects
1501.604 Locally Funded Capital Projects
1501.605 Project Changes
1501.606 Progress Reports (Repealed)
1501.607 Reporting Requirements
1501.608 Approval of Projects in Section 3-20.3.01 of the Act
1501.609 Completion of Projects Under Section 3-20.3.01 of the Act
1501.610 Demolition of Facilities

SUBPART G: STATE COMMUNITY COLLEGE

Section
1501.701 Definition of Terms (Repealed)
1501.702 Applicability (Repealed)
1501.703 Recognition (Repealed)
1501.704 Programs (Repealed)
1501.705 Finance (Repealed)
1501.706 Personnel (Repealed)
1501.707 Facilities (Repealed)

SUBPART H: PERSONNEL

Section
1501.801 Definition of Terms
1501.802 Sabbatical Leaves

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective April 22, 1997; amended at 22 Ill. Reg. 2087, effective January 12, 1998; amended at 22 Ill. Reg. 17472, effective July 10, 1998; amended at 24 Ill. Reg. 249, effective December 21, 1999; amended at 24 Ill. Reg. 17522, effective November 20, 2000; amended at 25 Ill. Reg. 7161, effective May 18, 2001; emergency amendment at 25 Ill. Reg. 12863, effective September 28, 2001, for a maximum of 150 days; emergency expired February 24, 2002; amended at 26 Ill. Reg. 646, effective January 7, 2002; amended at 27 Ill. Reg. 17204, effective October 31, 2003; amended at 28 Ill. Reg. 14092, effective October 18, 2004; amended at 29 Ill. Reg. 6239, effective April 25, 2005; amended at 30 Ill. Reg. 2755, effective February 21, 2006; amended at 32 Ill. Reg. 16396, effective September 23, 2008; amended at 40 Ill. Reg. 14054, effective September 29, 2016; amended at 41 Ill. Reg. 11274, effective August 28, 2017.

SUBPART G: STATE COMMUNITY COLLEGE

Section 1501.701 Definition of Terms (Repealed)

~~CUSAS. Comptroller's Unified Statewide Accounting System.~~

~~Exempt Staff. Staff members who are exempt from State Universities Civil Service regulations.~~

~~Experimental. For purposes of this Subpart, the term "experimental" relates to the content and/or delivery of instructional and public service programs. The primary criterion will be whether any unique educational, social, and economic needs of the district's citizens, as those needs are identified by demographic and census data, are being addressed by non-traditional, innovative means.~~

~~ICCB Grants. For purposes of this Subpart, an ICCB grant is a direct state appropriation to State Community College of East St. Louis.~~

~~SCC. State Community College of East St. Louis.~~

(Source: Repealed at 41 Ill. Reg. 11274, effective August 28, 2017)

Section 1501.702 Applicability (Repealed)

~~In addition to this Subpart, SCC is responsible for compliance with Subparts B, C, D, E, F, and H, except Sections 1501.503 (a) and (b), 1501.504, 1501.505, 1501.506, 1501.508, 1501.509, 1501.510 (c) and (d), 1501.511, 1501.512, 1501.513, and 1501.603(b)(4).~~

(Source: Repealed at 41 Ill. Reg. 11274, effective August 28, 2017)

Section 1501.703 Recognition (Repealed)

~~The standards used as a basis for evaluating SCC for recognition purposes are those identified in Section 1501.114, except those excluded because of the applicability provisions of Section 1501.702. In addition, SCC shall be evaluated for its compliance with those rules identified in Section 1501.704 and 707.~~

(Source: Repealed at 41 Ill. Reg. 11274, effective August 28, 2017)

Section 1501.704 Programs (Repealed)

~~In addition to those criteria identified for ICCB approval of new units of instruction in Section~~

~~1501.302(a) and for the college's review and evaluation of existing programs in Section 1501.303(d)(2), SCC programs will be reviewed and evaluated for their appropriateness to the experimental nature of the college as specified in Section 104.6(a) of the Act.~~

(Source: Repealed at 41 Ill. Reg. 11274, effective August 28, 2017)

Section 1501.705 Finance (Repealed)

~~a) Accounting Procedures. SCC shall keep records and follow accounting procedures specified in the CUSAS Manual.~~

~~b) State Audit. Three (3) copies of the audit conducted or contracted by the Auditor General of the State of Illinois on all state appropriated funds of the college shall be submitted to the ICCB within thirty (30) days of its completion.~~

~~c) Other Audits. One (1) copy of each financial audit, other than the audit described in 1501.705(b), shall be submitted to the ICCB within thirty (30) days of its completion.~~

~~d) Annual Budget Request. An annual budget request shall be submitted to the ICCB by September 15 of each year in a format prescribed by the ICCB.~~

~~e) Adoption of an Annual Budget. The annual budget adopted by the SCC Board of Trustees shall be submitted to the ICCB for approval within forty-five (45) days after the beginning of the fiscal year. The budget shall be submitted in a format prescribed by the ICCB.~~

~~f) Appropriation Transfers. Any appropriation transfer request shall be submitted to the ICCB for approval within fifteen (15) days of its approval by the SCC Board of Trustees.~~

~~g) Amendments to the Annual Budget. Any changes in object within CUSAS expenditure accounts included in the SCC budget shall be submitted to the ICCB for approval.~~

~~h) Monthly Financial Statements. One (1) copy of a monthly financial statement showing itemized expenditures, encumbrances, and remaining balances within each fund held by SCC shall be filed with the ICCB, in a format prescribed by the ICCB, within thirty (30) days after the end of each month.~~

~~i) Deposits and Withdrawals. All funds received by the college shall be recorded and deposited within forty-eight (48) hours of receipt. All deposits and withdrawals shall be posted to the appropriate account within forty-eight (48) hours.~~

~~j) Availability of Financial Records. Financial records of state appropriated funds shall be made available to the ICCB upon request within two (2) working days.~~

~~k) Tuition and Fees. Tuition and fee charges assessed by SCC shall be approved by the ICCB prior to their assessment.~~

~~l) Out-of-District Tuition. SCC shall not assess out-of-district tuition to students who do not reside within the SCC district but reside in Illinois.~~

~~m) Grants, Gifts, and Donations. The ICCB shall approve, prior to its acceptance, any grant, gift, or donation with an actual or appraised value of $10,000 or more.~~

~~n) Contracts. One (1) copy of each contract for materials or services included in an ICCB approved budget shall be filed with the ICCB within fifteen (15) days of the date the contract is signed. Contracts for professional and legal services provided by persons not on the SCC staff shall require prior ICCB approval.~~

~~o) State Reports. One (1) copy of the Fixed Asset Report, the Imprest Fund Reconciliation Report, and the Generally Accepted Accounting Principles Report required by the State Comptroller and the State Treasurer (as set forth in the CUSAS manual) shall be filed with the ICCB within thirty (30) days after the due dates prescribed by these respective agencies.~~

~~p) Property Control. Any acquisition, relocation, and/or disposal of property shall be recorded within forty-eight (48) hours and reported to the State Department of Central Management Services at the end of each month.~~

~~q) Reconciliation of Local Financial Records to State Records. All local financial records shall be reconciled to State Comptroller statements within five (5) working days after receipt of State Comptroller statements.~~

~~r) Processing of Vouchers. State vouchers shall be prepared and forwarded to the Comptroller within five (5) working days after receipt of the invoice voucher for~~

~~materials received or services rendered.~~

~~s) Payroll. All information necessary for the State Department of Central Management Services to prepare payrolls shall be submitted to the State Department of Central Management Services in accordance with procedures established by Central Management Services.~~

(Source: Repealed at 41 Ill. Reg. 11274, effective August 28, 2017)

Section 1501.706 Personnel (Repealed)

~~a) Minimum Qualifications. SCC shall have job descriptions which clearly outline the duties of each exempt position. These descriptions shall include a listing of minimum qualifications for the positions which all candidates must possess. Minimum qualifications for the administrative positions of President, Deans, and Directors shall be approved by the ICCB.~~

~~b) Organizational Changes. SCC shall have an organizational chart which clearly delineates functional and supervisory responsibilities of exempt staff. All organizational changes which result in changes in functional or supervisory responsibilities, which abolish existing positions, which form new positions, or which change job titles shall have prior ICCB approval.~~

~~c) Appointments, Promotions, and Dismissals. SCC shall have policies which set forth its procedures for appointing, promoting, and dismissing employees. A report which demonstrates compliance with these policies shall be prepared for each appointment, promotion or dismissal and shall be placed on file at the college.~~

~~d) Personnel Administration and Supervision. SCC shall have policies which set forth salary and compensation plans, employee benefits, supervisory responsibilities, grievance procedures, employee development and evaluation, use of college property, use of telephone, and other matters appropriate to proper personnel administration and supervision.~~

~~e) Office Hours. Compliance with policies relating to office hours shall be monitored and verified on at least a weekly basis. Such policies shall identify the hours an employee is expected to be on the job during a regular working day.~~

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED AMENDMENTS

(Source: Repealed at 41 Ill. Reg. 11274, effective August 28, 2017)

Section 1501.707 Facilities (Repealed)

~~a) Maintenance of Buildings and Grounds. SCC shall develop and implement a maintenance schedule for all buildings, equipment, and grounds directed toward their proper functioning, neatness of appearance, and health and safety of students and employees.~~

~~b) Utilization of Space and Equipment. SCC shall develop and implement a plan for effective utilization of all instructional space and instructional equipment.~~

~~c) Custodial Services. SCC shall develop and implement a plan for administering efficient and cost-effective custodial services.~~

(Source: Repealed at 41 Ill. Reg. 11274, effective August 28, 2017)

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: State Community College of East Saint Louis

2) Code Citation: 23 Ill. Adm. Code 1600

3)

Section Numbers:	Adopted Actions:
1600.10	Repealed
1600.210	Repealed
1600.220	Repealed
1600.230	Repealed
1600.240	Repealed
1600.305	Repealed
1600.310	Repealed
1600.320	Repealed
1600.325	Repealed
1600.330	Repealed
1600.335	Repealed
1600.340	Repealed
1600.345	Repealed
1600.350	Repealed
1600.360	Repealed
1600.370	Repealed
1600.380	Repealed
1600.390	Repealed
1600.405	Repealed
1600.410	Repealed
1600.415	Repealed
1600.420	Repealed
1600.425	Repealed
1600.430	Repealed
1600.435	Repealed
1600.440	Repealed
1600.445	Repealed
1600.450	Repealed
1600.455	Repealed
1600.460	Repealed
1600.465	Repealed
1600.470	Repealed
1600.475	Repealed
1600.480	Repealed

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED REPEALER

1600.485	Repealed
1600.490	Repealed
1600.492	Repealed
1600.495	Repealed
1600.510	Repealed
1600.610	Repealed
1600.620	Repealed
1600.630	Repealed
1600.640	Repealed
1600.650	Repealed
1600.660	Repealed
1600.670	Repealed
1600.680	Repealed
1600.690	Repealed
1600.710	Repealed
1600.720	Repealed
1600.730	Repealed
1600.740	Repealed
1600.750	Repealed
1600.760	Repealed
1600.770	Repealed
1600.780	Repealed
1600.810	Repealed
1600.820	Repealed

4) Statutory Authority: Implementing Sections 4-1 et seq. and authorized by Section 4-6(d) of the Public Community College Act [110 ILCS 805].

5) Effective Date of Repealer: August 28, 2017

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

7) Does this repealer contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposed published in the *Illinois Register*: 41 Ill. Reg. 5709; May 26, 2017

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF ADOPTED REPEALER

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

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

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Repealer: The administrative rules governing State Community College of East St. Louis remained in place, despite its abolishment in 1996 and the repeal of Article IV of the Public Community College Act.

16) Information and questions regarding this adopted repealer shall be directed to:

Matt Berry
Legislative and External Affairs Liaison
Illinois Community College Board
401 East Capitol Ave.
Springfield IL 62701-1711

217/785-7411
matt.berry@illinois.gov

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Sales Finance Agency Act

2) Code Citation: 38 Ill. Adm. Code 160

3)

Section Numbers:	Adopted Actions:
160.500	Repealed
160.505	Repealed
160.510	Repealed
160.515	Repealed
160.520	Repealed
160.525	Repealed
160.530	Repealed
160.535	Repealed
160.540	Repealed
160.545	Repealed
160.550	Repealed
160.555	Repealed
160.560	Repealed
160.565	Repealed
160.570	Repealed
160.575	Repealed
160.580	Repealed
160.APPENDIX A	Repealed
160.APPENDIX B	Repealed

4) Statutory Authority: Implementing and authorized by Section 8(9) of the Sales Finance Agency Act [205 ILCS 660/8(9)].

5) Effective Date of Rules: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Financial Institutions and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 5022; May 19, 2017

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: A few technical corrections were made to the proposed version, but no substantive changes were made.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is repealing the Sections listed above under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.

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

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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

PART 160
SALES FINANCE AGENCY ACT

SUBPART A: GENERAL PROVISIONS

Section

160.1 Application for License/Controlling Person
160.5 Definitions
160.10 Minimum Requirements for Office Records
160.20 Transaction Register
160.30 Individual Account Cards
160.40 File of Original Papers
160.50 Cash Book
160.55 Permanent File
160.60 Alphabetical Record of Buyers, Co-Purchasers and Obligors
160.70 Payments
160.80 Delinquency Charges (Default Charges)
160.90 Cancellation and Return of Documents
160.100 Extensions – Renewals – Rebates
160.110 Hypothecation of Security Instruments
160.120 Legal Forms
160.130 Judgments
160.140 Sale of Security
160.150 Trouble File
160.160 Lien Charges
160.170 Insurance
160.180 Office and Office Hours
160.190 Advertising
160.200 Business Source and Affiliates
160.210 Examination Remittances
160.220 Credit Practices
160.230 General
160.240 Hearing Procedures
160.250 Servicing of Accounts by Contract
160.260 Off-site Records

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

160.270 Revocation or Suspension of License

SUBPART B: HIGH RISK HOME LOANS

160.500 Definitions (Repealed)
160.505 Applicability of Rule (Repealed)
160.510 Good Faith Requirements (Repealed)
160.515 Fraudulent or Deceptive Practices (Repealed)
160.520 Prohibited Refinances (Repealed)
160.525 Negative Amortization (Repealed)
160.530 Negative Equity (Repealed)
160.535 Balloon Payments (Repealed)
160.540 Financing of Certain Points and Fees (Repealed)
160.545 Financing of Single Premium Insurance Products (Repealed)
160.550 Lending Without Due Regard to Ability to Repay (Repealed)
160.555 Verification of Ability to Repay (Repealed)
160.560 Payments to Contractors (Repealed)
160.565 Counseling Prior to Perfecting Foreclosure (Repealed)
160.570 Mortgage Awareness Program (Repealed)
160.575 Offer of Mortgage Awareness Program (Repealed)
160.580 Third Party Review (Repealed)

160.APPENDIX A Estimated Monthly Income and Expenses Worksheet (Repealed)
160.APPENDIX B Mortgage Ratio Worksheet (Repealed)

AUTHORITY: Implementing and authorized by Section 13 of the Sales Finance Agency Act [205 ILCS 660/13].

SOURCE: Filed September 21, 1970; amended at 5 Ill. Reg. 1358, effective February 3, 1981; codified at 7 Ill. Reg. 11728; amended at 9 Ill. Reg. 1370, effective January 17, 1985; amended at 12 Ill. Reg. 17844, effective October 24, 1988; amended at 19 Ill. Reg. 49, effective December 22, 1994; emergency amendment at 22 Ill. Reg. 1543, effective January 2, 1998; amended at 22 Ill. Reg. 13699, effective July 14, 1998; amended at 25 Ill. Reg. 6261, effective May 17, 2001; amended at 26 Ill. Reg. 14248, effective October 1, 2002; amended at 41 Ill. Reg. 11289, effective August 28, 2017.

SUBPART B: HIGH RISK HOME LOANS

Section 160.500 Definitions (Repealed)

~~"Approved Credit Counselor" means a credit counselor as approved by the Director of the Department of Financial Institutions.~~

~~"Good faith" means honesty in fact in the conduct of the transaction.~~

~~"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.~~

~~"Points and fees" means:~~

~~all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);~~

~~the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;~~

~~all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.~~

~~"Subject loan" is the term used to describe any loan to which this Subpart applies pursuant to Section 160.505.~~

~~"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.505 Applicability of Rule (Repealed)

~~This Subpart shall apply to a home equity loan in which:~~

~~a) At the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month~~

~~immediately preceding the month in which the application for the loan is received by the lender; or~~

~~b) The total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.~~

~~However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions included).~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.510 Good Faith Requirements (Repealed)

~~a) Any disclosure or action required by this Subpart shall be made in good faith.~~

~~b) No lender shall accept a fee or charge for a subject loan application unless the licensee is able to demonstrate to the Director that, if its subject loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued for such loan for the amount, term, rate, charges and other conditions set forth in the loan application and the applicable disclosures and documents required and that the loan has a reasonable likelihood of being repaid by the applicant.~~

~~c) A lender who has accepted an application for a subject loan shall make a good faith effort to process the application within the time specified in the loan application.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.515 Fraudulent or Deceptive Practices (Repealed)

~~a) No lender shall employ fraudulent or deceptive acts or practices in the making of a subject loan, including deceptive marketing and sales efforts.~~

~~b) No lender shall make a subject loan that includes a penalty provision for prepayment made:~~

~~1) after the expiration of the 36 month period following the date the loan was made; or~~

~~2) that is more than:~~

~~A) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or~~

~~B) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or~~

~~C) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.520 Prohibited Refinances (Repealed)

~~No lender shall refinance any subject loan, where such refinancing charges additional points and fees, within a 12 month period after the original loan agreement was signed, unless the refinancing results in a financial benefit to the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.525 Negative Amortization (Repealed)

~~No lender shall make a subject loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.530 Negative Equity (Repealed)

~~No lender shall make a subject loan where the loan amount exceeds the value of the property securing the loan, plus reasonable closing costs not to exceed 5% of the total loan amount.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.535 Balloon Payments (Repealed)

~~No lender shall make a subject loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.540 Financing of Certain Points and Fees (Repealed)

~~No lender shall make a subject loan that finances points and fees in excess of 6% of the total loan amount.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.545 Financing of Single Premium Insurance Products (Repealed)

~~No lender shall make a subject loan, which finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.550 Lending Without Due Regard to Ability to Repay (Repealed)

~~No lender shall make a subject loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly~~

~~gross income.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.555 Verification of Ability to Repay (Repealed)

~~No lender shall make a subject loan prior to verifying the borrower's ability to repay the loan. Such verification shall require, at a minimum, the following:~~

~~a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the Director.~~

~~b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.~~

~~c) A credit report is obtained regarding the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.560 Payments to Contractors (Repealed)

~~No lender shall make a payment of any proceeds of a subject loan to a contractor under a home improvement contract other than:~~

~~a) by instrument payable to the borrower or jointly to the borrower and the contractor; or~~

~~b) at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.565 Counseling Prior to Perfecting Foreclosure (Repealed)

~~a) In the event that a subject loan becomes delinquent by more than 30 days, the lender shall send a notice advising the borrower of the availability of consumer credit counseling.~~

~~b) The notice required under subsection (a) shall, at a minimum, include the following language notice:~~

~~"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DEPARTMENT OF FINANCIAL INSTITUTIONS AT 1-888-298-8089."~~

~~c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.~~

~~d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.~~

~~1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. The lender or its agent, the approved consumer credit counselor, and the borrower may modify the debt management plan.~~

~~2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.~~

~~e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.~~

~~f) This Section applies only to subject loans as defined by Section 160.500.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 160.570 Mortgage Awareness Program (Repealed)

~~a) The Mortgage Awareness Program is a counseling and educational program that is provided by the Director.~~

~~b) The minimum requirements for the core curriculum of the Mortgage Awareness Program shall include:~~

~~1) Explanation of the amount financed;~~

~~2) Explanation of the finance charge;~~

~~3) Explanation of the annual percentage rate;~~

~~4) Explanation of the total payments;~~

~~5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees and all other charges and fees;~~

~~6) Explanation of any right of rescission;~~

~~7) Explanation of foreclosure procedures;~~

~~8) Explanation of the debt ratio, including total debt to income ratio, loan debt to income ratio, and loan debt to value of residence;~~

~~9) Explanation of adjustable rate mortgage;~~

~~10) Explanation of balloon payments;~~

~~11) Explanation of credit options;~~

~~12) Explanation of each item that appears on the good faith estimate;~~

~~13) Explanation of pre-payment penalties.~~

~~c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Director.~~

~~d) Prior to issuing a certificate of completion, counselors shall privately meet and discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or is contemplating.~~

~~e) Counseling session attendees must also be provided with a brochure that contains information covered by the Mortgage Awareness Program.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.575 Offer of Mortgage Awareness Program (Repealed)

~~a) Any lender, prior to making a subject loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.~~

~~b) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in a Mortgage Awareness Program.~~

~~c) The borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (a) and that such waiver is in writing in a form approved by the Director.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.580 Third Party Review (Repealed)

~~In the case of each subject loan, upon approval of the loan application, the lender shall advise the borrower in writing of the opportunity to seek independent review of the loan terms in order to determine affordability of the loan. When and if the General Assembly appropriates adequate funding to the Department of Financial Institutions specifically for this program:~~

~~a) Every borrower who chooses to participate in the independent review provided in this Section shall submit information requested on the worksheets outlined in Appendix A and B.~~

~~b) The Department shall provide the borrower with a review of the worksheets and inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget. The Department shall also~~

~~provide a projection of the payments required under the terms of the loan based upon a review of loan information pertaining to balloon payments, adjustable interest rates and other items disclosed by the loan documents affecting the amount of payment.~~

~~c)~~ ~~The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.~~

~~If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 160.APPENDIX A Estimated Monthly Income and Expenses Worksheet (Repealed)

~~ESTIMATED MONTHLY INCOME:~~

~~1.~~	~~Paycheck (Net/"Take Home")~~	~~$~~ _____	
~~2.~~	~~Interest/Dividends~~	_____	
~~3.~~	~~Social Security/Pension~~	_____	
~~4.~~	~~Alimony/Child Support~~	_____	
~~5.~~	~~Other~~	_____	
~~6.~~	~~Total Estimated Monthly Income (Add Lines 1 through 5)~~		~~$~~ _____

~~ESTIMATED MONTHLY EXPENSES:~~

~~7.~~	~~Mortgages/Rent~~	~~$~~ _____
~~8.~~	~~Homeowner's/Renter's Insurance~~	_____
~~9.~~	~~Real Estate Taxes~~	_____
~~10.~~	~~Water & Sewer~~	_____
~~11.~~	~~House Repairs~~	_____
~~12.~~	~~Groceries~~	_____
~~13.~~	~~Telephone~~	_____
~~14.~~	~~Gas (House)~~	_____
~~15.~~	~~Electric~~	_____
~~16.~~	~~Credit Cards~~	_____
~~17.~~	~~Car Payment(s)~~	_____
~~18.~~	~~Car Insurance~~	_____
~~19.~~	~~Licenses (Car)~~	_____
~~20.~~	~~Gas (Car)~~	_____
~~21.~~	~~Car Repairs/Maintenance~~	_____
~~22.~~	~~Clothing~~	_____
~~23.~~	~~Medical/Dental~~	_____
~~24.~~	~~Medical Insurance~~	_____
~~25.~~	~~Prescriptions~~	_____
~~26.~~	~~Loan Payments (Not included in Lines 2 or 17)~~	_____
~~27.~~	~~Tuition~~	_____
~~28.~~	~~Contribution~~	_____

~~29.~~	~~Cellular Telephone~~	_____	
~~30.~~	~~Pager~~	_____	
~~31.~~	~~Recreation/Vacation~~	_____	
~~32.~~	~~Other Insurance (Life, etc.)~~	_____	
~~33.~~	~~Income Taxes~~	_____	
~~34.~~	~~Alimony/Child Support~~	_____	
~~35.~~	~~Transportation~~	_____	
~~36.~~	~~Miscellaneous~~	_____	
~~37.~~	~~Other~~	_____	
~~38.~~	~~Total Estimated Monthly Expenses (Add Lines 7 through 37)~~		~~$~~ _____
~~39.~~	~~*Excess/Deficit (Subtract Line 38 from Line 6)~~		~~$~~ _____

~~*If line 38 is greater than Line 6, your estimated monthly expenses exceed your estimated monthly income.~~

_____

~~Borrower's Signature~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

Section 160.APPENDIX B Mortgage Ratio Worksheet (Repealed)

~~Part I~~

~~LOAN-TO-VALUE RATIO~~

~~1. Mortgage Amount(s)~~ ~~$~~ _____

~~2. Appraised Value~~ ~~$~~ _____

~~3. Line 1 divided by Line 2~~

~~Note: This is the Percentage of the purchase price appraised value of your home that will be allocated to your total mortgage. A percentage rate over 80% may result in you incurring additional costs.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

~~Part II~~

~~INCOME RATIO~~

~~MONTHLY HOUSING EXPENSES:~~

~~1.~~	~~Principal and Interest Payment~~	~~$~~ _____	
~~2.~~	~~Homeowner's Insurance~~	_____	
~~3.~~	~~Real Estate Tax~~	_____	
~~4.~~	~~Mortgage Insurance Premium~~	_____	
~~5.~~	~~Homeowner's Assoc. Fee~~	_____	
~~6.~~	~~Ground Rents~~	_____	
~~7.~~	~~Payments on Existing or Proposed 2nd Mortgage~~	_____	
~~8.~~	~~Total Housing Expense (Add Lines 1 through 7)~~	~~$~~ _____	
~~9.~~	~~Gross Salary~~	~~$~~ _____	
~~10~~	~~Dividends/Interest~~	_____	
~~11.~~	~~Social Security/Pension~~	_____	
~~12.~~	~~Alimony/Child Support~~	_____	
~~13.~~	~~Other~~	_____	
~~14.~~	~~Total Gross Income~~		~~$~~ _____
~~15.~~	~~Divide Line 8 by Line 14~~		_____

~~Note: This is the percentage of your gross monthly income that will be allocated to your mortgage expenses.~~

~~Part III~~

~~LONG-TERM DEBT RATIO~~

~~MONTHLY EXPENSES:~~

~~1.~~	~~Total Housing Expenses (Part II, Line 8)~~	~~$~~ _____	
~~2.~~	~~Credit Cards~~	_____	
~~3.~~	~~Car Payments~~	_____	
~~4.~~	~~Loans (Not Included on Line 1 or Line 3)~~	_____	
~~5.~~	~~Alimony/Child Support~~	_____	
~~6.~~	~~Total Expenses (Lines 1 through 5)~~		~~$~~ _____

~~MONTHLY INCOME:~~

~~7.~~	~~Total Gross Income (Part II, Line 14)~~	~~$~~ _____
~~8.~~	~~Divided Line 6 by Line 7~~	_____

~~Note: This is the percentage of your gross monthly income that will be allocated to your mortgage expenses and other debt that you pay on a monthly basis.~~

_____

~~Borrower's Signature~~

(Source: Repealed at 41 Ill. Reg. 11289, effective August 28, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Credit Union Act

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

3)

Section Numbers:	Adopted Actions:
190.500	Repealed
190.505	Repealed
190.510	Repealed
190.515	Repealed
190.520	Repealed
190.525	Repealed
190.530	Repealed
190.535	Repealed
190.540	Repealed
190.545	Repealed
190.550	Repealed
190.555	Repealed
190.560	Repealed
190.565	Repealed
190.570	Repealed
190.575	Repealed
190.580	Repealed
190.APPENDIX A	Repealed
190.APPENDIX B	Repealed

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

5) Effective Date of Rules: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Financial Institutions and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 5041; May 19, 2017

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is repealing the Sections listed above, under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.

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

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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

PART 190
ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: HIGH RISK HOME LOANS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section
190.500 Definitions (Repealed)
190.505 Applicability of Rule (Repealed)
190.510 Good Faith Requirements (Repealed)
190.515 Fraudulent or Deceptive Practices (Repealed)
190.520 Prohibited Refinances (Repealed)
190.525 Negative Amortization (Repealed)
190.530 Negative Equity (Repealed)
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190.560 Payments to Contractors (Repealed)
190.565 Counseling Prior to Perfecting Foreclosure (Repealed)
190.570 Mortgage Awareness Program (Repealed)
190.575 Offer of Mortgage Awareness Program (Repealed)
190.580 Third Party Review (Repealed)

SUBPART C: PAYDAY LOANS

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

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

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

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

effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998; emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. 18919, effective December 4, 2006; amended at 32 Ill. Reg. 1377, effective January 16, 2008; amended at 34 Ill. Reg. 10500, effective July 12, 2010; amended at 37 Ill. Reg. 12450, effective July 16, 2013; amended at 38 Ill. Reg. 19910, effective October 17, 2014; amended at 41 Ill. Reg. 4764, effective May 1, 2017; amended at 41 Ill. Reg. 11307, effective August 28, 2017.

SUBPART B: HIGH RISK HOME LOANS

Section 190.500 Definitions (Repealed)

~~"Approved credit counselor" means a credit counselor approved by the Secretary.~~

~~"Good faith" means honesty in fact in the conduct of the transaction.~~

~~"Home equity loan" means any loan secured by the borrower's primary residence, when the proceeds are not used as purchase money for the residence.~~

~~"Points and fees" means:~~

~~all items required to be disclosed as points and fees under 12 CFR 226.32(2013, with no later editions or amendments);~~

~~the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;~~

~~all compensation paid directly or indirectly to a mortgage broker,~~

~~including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4 (2013, with no later editions or amendments).~~

~~"Subject loan" is the term used to describe any loan to which this Subpart applies, pursuant to Section 190.505.~~

~~"Total loan amount" has the same meaning as ascribed in 12 CFR 226.32 (2013, with no later editions or amendments) and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.505 Applicability of Rule (Repealed)

~~a) This Subpart shall apply to a home equity loan in which:~~

~~1) At the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the loan is received by the lender; or~~

~~2) The total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.~~

~~b) However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2013, with no later editions or amendments).~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.510 Good Faith Requirements (Repealed)

~~a) Any disclosure or action required by this Subpart shall be made in good faith.~~

~~b) No lender shall accept a fee or charge for a subject loan application unless the licensee is able to demonstrate to the Secretary that, if its subject loan requirements are met, there is a reasonable likelihood that a loan commitment will be issued for the loan for the amount, term, rate, charges and other conditions set forth in the loan application and the applicable disclosures and documents required and that the loan has a reasonable likelihood of being repaid by the applicant.~~

~~c) A lender who has accepted an application for a subject loan shall make a good faith effort to process the application within the time specified in the loan application.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.515 Fraudulent or Deceptive Practices (Repealed)

~~a) No lender shall employ fraudulent or deceptive acts or practices in the making of a subject loan, including deceptive marketing and sales efforts.~~

~~b) No lender shall make a subject loan that includes a penalty provision for prepayment made:~~

~~1) after the expiration of the 36 month period following the date the loan was made; or~~

~~2) that is more than:~~

~~A) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or~~

~~B) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or~~

~~C) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.520 Prohibited Refinances (Repealed)

~~No lender shall refinance any subject loan, where such refinancing charges additional points and fees, within a 12 month period after the original loan agreement was signed, unless the refinancing results in a financial benefit to the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.525 Negative Amortization (Repealed)

~~No lender shall make a subject loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.530 Negative Equity (Repealed)

~~No lender shall make a subject loan where the loan amount exceeds the value of the property securing the loan, plus reasonable closing costs not to exceed 5% of the total loan amount.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.535 Balloon Payments (Repealed)

~~No lender shall make a subject loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.540 Financing of Certain Points and Fees (Repealed)

~~No lender shall make a subject loan that finances points and fees in excess of 6% of the total loan amount.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.545 Financing of Single Premium Insurance Products (Repealed)

~~No lender shall make a subject loan, which finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance previously calculated and paid on a monthly basis shall not be considered to be financed by the lender.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.550 Lending Without Due Regard to Ability to Repay (Repealed)

~~No lender shall make a subject loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.555 Verification of Ability to Repay (Repealed)

~~No lender shall make a subject loan prior to verifying the borrower's ability to repay the loan. The verification shall require, at a minimum, the following:~~

~~a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the Secretary.~~

~~b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.~~

~~c) A credit report is obtained regarding the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.560 Payments to Contractors (Repealed)

~~No lender shall make a payment of any proceeds of a subject loan to a contractor under a home improvement contract other than:~~

~~a) by instrument payable to the borrower or jointly to the borrower and the contractor; or~~

~~b) at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.565 Counseling Prior to Perfecting Foreclosure (Repealed)

~~a) In the event that a subject loan becomes delinquent by more than 30 days, the lender shall send a notice advising the borrower of the availability of consumer credit counseling.~~

~~b) The notice required under subsection (a) shall, at a minimum, include the following language notice:~~

~~"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DIVISION OF FINANCIAL INSTITUTIONS AT 1-888-298-8089."~~

~~c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.~~

~~d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.~~

~~1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. The lender or its agent, the approved consumer credit counselor, and the borrower may modify the debt management plan.~~

~~2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.~~

~~e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.~~

~~f) This Section applies only to subject loans as defined by Section 190.500.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.570 Mortgage Awareness Program (Repealed)

~~a) The Mortgage Awareness Program is a counseling and educational program that is provided by the Secretary.~~

~~b) The minimum requirements for the core curriculum of the Mortgage Awareness Program shall include an explanation of:~~

~~1) the amount financed;~~

~~2) the finance charge;~~

~~3) the annual percentage rate;~~

~~4) the total payments;~~

~~5) the loan costs, including broker's fees, finance charges, points, origination fees and all other charges and fees;~~

~~6) any right of rescission;~~

~~7) foreclosure procedures;~~

~~8) the debt ratio, including total debt to income ratio, loan debt to income ratio, and loan debt to value of residence;~~

~~9) adjustable rate mortgage;~~

~~10) balloon payments;~~

~~11) credit options;~~

~~12) each item that appears on the good faith estimate;~~

~~13) pre-payment penalties.~~

~~c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Secretary.~~

~~d) Prior to issuing a certificate of completion, counselors shall privately meet and discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or is contemplating.~~

~~e) Counseling session attendees must also be provided with a brochure that contains information covered by the Mortgage Awareness Program.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.575 Offer of Mortgage Awareness Program (Repealed)

~~a) Any lender, prior to making a subject loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.~~

~~b) No lender shall offer less favorable loan terms to a borrower due to a borrower's~~

~~participation in a Mortgage Awareness Program.~~

~~c)~~ ~~The borrower may waive participation in the program, provided that the waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (a) and that the waiver is in writing in a form approved by the Secretary.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.580 Third Party Review (Repealed)

~~In the case of each subject loan, upon approval of the loan application, the lender shall advise the borrower in writing of the opportunity to seek independent review of the loan terms in order to determine affordability of the loan. When and if the General Assembly appropriates adequate funding to the Division of Financial Institutions specifically for this program:~~

~~a)~~ ~~Every borrower who chooses to participate in the independent review provided in this Subpart shall submit information requested on the worksheets outlined in Appendix A and B.~~

~~b)~~ ~~The Division shall provide the borrower with a review of the worksheets and inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget. The Division shall also provide a projection of the payments required under the terms of the loan based upon a review of loan information pertaining to balloon payments, adjustable interest rates and other items disclosed by the loan documents affecting the amount of payment.~~

~~c)~~ ~~The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.~~

~~If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 190.APPENDIX A Estimated Monthly Income and Expenses Worksheet (Repealed)

~~ESTIMATED MONTHLY INCOME:~~

~~1.~~	~~Paycheck (Net/"Take Home")~~	~~$~~ _____	
~~2.~~	~~Interest/Dividends~~	_____	
~~3.~~	~~Social Security/Pension~~	_____	
~~4.~~	~~Alimony/Child Support~~	_____	
~~5.~~	~~Other~~	_____	
~~6.~~	~~Total Estimated Monthly Income (Add Lines 1 through 5)~~		~~$~~ _____

~~ESTIMATED MONTHLY EXPENSES:~~

~~7.~~	~~Mortgages/Rent~~	~~$~~ _____
~~8.~~	~~Homeowner's/Renter's Insurance~~	_____
~~9.~~	~~Real Estate Taxes~~	_____
~~10.~~	~~Water & Sewer~~	_____
~~11.~~	~~House Repairs~~	_____
~~12.~~	~~Groceries~~	_____
~~13.~~	~~Telephone~~	_____
~~14.~~	~~Gas (House)~~	_____
~~15.~~	~~Electric~~	_____
~~16.~~	~~Credit Cards~~	_____
~~17.~~	~~Car Payments~~	_____
~~18.~~	~~Car Insurance~~	_____
~~19.~~	~~Licenses (Car)~~	_____
~~20.~~	~~Gas (Car)~~	_____
~~21.~~	~~Car Repairs/Maintenance~~	_____
~~22.~~	~~Clothing~~	_____
~~23.~~	~~Medical/Dental~~	_____
~~24.~~	~~Medical Insurance~~	_____
~~25.~~	~~Prescriptions~~	_____
~~26.~~	~~Loan Payments (Not included in Line 2 or 17)~~	_____
~~27.~~	~~Tuition~~	_____

~~28.~~	~~Contribution~~	_____	
~~29.~~	~~Cellular Telephone~~	_____	
~~30.~~	~~Pager~~	_____	
~~31.~~	~~Recreation/Vacation~~	_____	
~~32.~~	~~Other Insurance (Life, etc.)~~	_____	
~~33.~~	~~Income Taxes~~	_____	
~~34.~~	~~Alimony/Child Support~~	_____	
~~35.~~	~~Transportation~~	_____	
~~36.~~	~~Miscellaneous~~	_____	
~~37.~~	~~Other~~	_____	
~~38.~~	~~Total Estimated Monthly Expenses (Add Lines 7 through 37)~~		~~$~~ _____
~~39.~~	~~*Excess/Deficit (Subtract Line 38 from Line 6)~~		~~$~~ _____

~~*If Line 38 is greater than Line 6, your estimated monthly expenses exceed your estimated monthly income.~~

_____

~~Borrower's Signature~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

Section 190.APPENDIX B Mortgage Ratio Worksheet (Repealed)

~~Part I~~

~~LOAN-TO-VALUE RATIO~~

~~1. Mortgage Amount(s)~~ ~~$~~ _____

~~2. Appraised Value~~ ~~$~~ _____

~~3. Line 1 divided by Line 2~~ _____

~~Note: This is the Percentage of the purchase price appraised value of your home that will be allocated to your total mortgage. A percentage rate over 80% may result in you incurring additional costs.~~

~~Part II~~

~~INCOME RATIO~~

~~MONTHLY HOUSING EXPENSES:~~

~~1.~~	~~Principal and Interest Payment~~	~~$~~ _____	
~~2.~~	~~Homeowner's Insurance~~	_____	
~~3.~~	~~Real Estate Tax~~	_____	
~~4.~~	~~Mortgage Insurance Premium~~	_____	
~~5.~~	~~Homeowner's Assoc. Fee~~	_____	
~~6.~~	~~Ground Rents~~	_____	
~~7.~~	~~Payments on Existing or Proposed 2nd Mortgage~~	_____	
~~8.~~	~~Total Housing Expense (Add Lines 1 through 7)~~	~~$~~ _____	
~~9.~~	~~Gross Salary~~	~~$~~ _____	
~~10.~~	~~Dividend/Interest~~	_____	
~~11.~~	~~Social Security/Pension~~	_____	
~~12.~~	~~Alimony/Child Support~~	_____	
~~13.~~	~~Other~~	_____	
~~14.~~	~~Total Gross Income~~		~~$~~ _____
~~15.~~	~~Divide Line 8 by Line 14~~		_____

~~Note: This is the percentage of your gross monthly income that will be allocated to your mortgage expenses.~~

~~Part III~~

~~LONG-TERM DEBT RATIO~~

~~MONTHLY EXPENSES:~~

~~1.~~	~~Total Housing Expenses (Part II, Line 8)~~	~~$~~ _____	
~~2.~~	~~Credit Cards~~	_____	
~~3.~~	~~Car Payments~~	_____	
~~4.~~	~~Loans (Not Included on Line 1 or Line 3)~~	_____	
~~5.~~	~~Alimony/Child Support~~	_____	
~~6.~~	~~Total Expenses (Lines 1 through 5)~~		~~$~~ _____

~~MONTHLY INCOME:~~

~~7.~~	~~Total Gross Income (Part II, Line 14)~~	~~$~~ _____
~~8.~~	~~Divided Line 6 by Line 7~~	_____

~~Note: This is the percentage of your gross monthly income that will be allocated to your mortgage expenses and other debt that you pay on a monthly basis.~~

_____

~~Borrower's Signature~~

(Source: Repealed at 41 Ill. Reg. 11307, effective August 28, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Reverse Mortgage Loans

2) Code Citation: 38 Ill. Adm. Code 300

3)

Section Numbers:	Adopted Actions:
300.10	Repealed
300.20	Repealed
300.30	Repealed

4) Statutory Authority: Implementing and authorized by Section 5a of the Illinois Banking Act [205 ILCS 5/5a].

5) Effective Date of Repealer: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the principal office of the Division of Financial Institutions and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4862; May 12, 2017

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: One technical correction was made since first notice text was published, but no substantive changes were made.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is repealing this Part under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use

plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.

16) Information and questions regarding this adopted repealer shall be directed to:

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Minimum Organizational Capital Requirements for Banks and Trust Companies

2) Code Citation: 38 Ill. Adm. Code 310

3) Section Number: 310.340 — Adopted Action: Repealed

4) Statutory Authority: Implementing Section 7 of the Illinois Banking Act [205 ILCS 5/7] and Section 2-7 of the Corporate Fiduciary Act [205 ILCS 620/2-7] and authorized by Section 48(b)(6) of the Illinois Banking Act [205 ILCS 5/48(b)(6)] and Section 5-1(a) of the Corporate Fiduciary Act [205 ILCS 620/5-1(a)].

5) Effective Date of Rule: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Division of Banking and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4866; May 12, 2017

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between Proposal and Final Version: A few technical corrections were made to the proposed version, but no substantive changes were made.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is repealing Section 3103.340 under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to

date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative; are not unduly burdensome to businesses or social service providers or receiptients and are statutorily authorized.

16) Information and questions regarding this adopted rule shall be directed to:

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~OFFICE OF BANKS AND REAL ESTATE~~

PART 310
MINIMUM ORGANIZATIONAL CAPITAL REQUIREMENTS
FOR BANKS AND TRUST COMPANIES

SUBPART A: SCOPE AND DEFINITIONS

Section
310.100 Scope and Authority
310.110 Definitions

SUBPART B: BANKS

Section
310.200 Minimum Organizational Capital Requirements for Banks
310.210 When Greater Capital Requirements May Be Necessary
310.220 Exceptions to Minimum Organizational Capital Requirements for Banks

SUBPART C: TRUST COMPANIES

Section
310.300 Minimum Organizational Capital Requirements for Trust Companies
310.310 When Greater Capital Requirements May Be Necessary
310.320 Exceptions to Minimum Organizational Capital Requirements for Trust Companies
310.330 Merger or Consolidation of Trust Companies
310.340 Adequacy of Capital Investments of Trust Companies (Repealed)

AUTHORITY: Implementing Section 7 of the Illinois Banking Act [205 ILCS 5/7] and Section 2-7 of the Corporate Fiduciary Act [205 ILCS 620/2-7] and authorized by Section 48(b)(6) of the Illinois Banking Act [205 ILCS 5/48(b)(6)] and Section 5-1(a) of the Corporate Fiduciary Act [205 ILCS 620/5-1(a)].

SOURCE: Adopted at 28 Ill. Reg. 1045, effective January 5, 2004; amended at 41 Ill. Reg. 11328, effective August 28, 2017.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

SUBPART C: TRUST COMPANIES

Section 310.340 Adequacy of Capital Investments of Trust Companies (Repealed)

~~The Office of Banks and Real Estate has adopted administrative rules and regulations under the Corporate Fiduciary Act addressing trust company investments at 38 Ill. Adm. Code 399.Subpart B. Section 399.120 states: "For purposes of determining the adequacy of capital, surplus and reserves, a trust company, when purchasing, selling and holding investments for its own accounts, shall be subject to the same limitations and conditions with respect to such investments as are permitted for State banks by the Banking Act. The Commissioner shall disallow any investments that are not so permitted from the calculation of adequate capital, surplus and reserves."~~

(Source: Repealed at 41 Ill. Reg. 11328, effective August 28, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: High Risk Home Loans

2) Code Citation: 38 Ill. Adm. Code 345

3)

Section Numbers:	Adopted Actions:
345.10	Repealed
345.20	Repealed
345.30	Repealed
345.40	Repealed
345.45	Repealed
345.50	Repealed
345.60	Repealed
345.65	Repealed
345.70	Repealed
345.80	Repealed
345.90	Repealed
345.100	Repealed
345.110	Repealed
345.120	Repealed
345.130	Repealed
345.140	Repealed
345.150	Repealed
345.APPENDIX A	Repealed
345.APPENDIX B	Repealed

4) Statutory Authority: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS/48(6)(a)].

5) Effective Date of Repealer: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the principal office of the Division of Banking and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4870; May 12, 2017

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED REPEALER

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

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

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is repealing this Part under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.

16) Information and questions regarding this adopted repealer shall be directed to:

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Predatory Lending Database

2) Code Citation: 38 Ill. Adm. Code 346

3)

Section Numbers:	Adopted Actions:
346.10	Repealed
346.15	Repealed
346.17	Repealed
346.20	Repealed
346.25	Repealed
346.30	Repealed
346.35	Repealed
346.36	Repealed
346.40	Repealed

4) Statutory Authority: Implementing and authorized by Section 70 of the Residential Real Property Disclosure Act [765 ILCS 77/70].

5) Effective Date of Repealer: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the principal office of the Division of Banking and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4890; May 12, 2017

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED REPEALER

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is repealing this Part under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of our Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.

16) Information and questions regarding this adopted rulemaking shall be directed to:

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Savings Bank Act

2) Code Citation: 38 Ill. Adm. Code 1075

3)

Section Numbers:	Adopted Actions:
1075.140	Repealed
1075.3000	Repealed
1075.3100	Repealed
1075.3150	Repealed
1075.3200	Repealed
1075.3225	Repealed
1075.3250	Repealed
1075.3300	Repealed
1075.3325	Repealed
1075.3350	Repealed
1075.3400	Repealed
1075.3450	Repealed
1075.3500	Repealed
1075.3550	Repealed
1075.3600	Repealed
1075.3650	Repealed
1075.3700	Repealed
1075.3750	Repealed

4) Statutory Authority: Implementing and authorized by the Savings Bank Act [205 ILCS 205].

5) Effective Date of Rules: August 28, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Banking and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4899; May 12, 2017

10) Has JCAR issued a Statement of Objection to this rulemaking? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes

Section:	Proposed Action:	*Illinois Register* Citation:
1075.130	Amendment	41 Ill. Reg. 6805; June 16, 2017

15) Summary and Purpose of rulemaking: Pursuant to Executive Order 2016-13, issued by Governor Rauner on October 17, 2016, IDFPR is repealing the Sections listed above under the "Cutting the Red Tape Initiative" to make certain that our regulatory standards are up to date; use plain language where appropriate; provide continuity across the balance of out Title 38 administrative rules; are not unduly burdensome to businesses or social service providers or recipients and are statutorily authorized.

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

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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

PART 1075
SAVINGS BANK ACT

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AUTHORITY: Implementing and authorized by the Savings Bank Act [205 ILCS 205].

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 15029, effective September 4, 1990, for a maximum of 150 days; adopted at 15 Ill. Reg. 1916, effective January 25, 1991; amended at 16 Ill. Reg. 4891, effective March 16, 1992; amended at 17 Ill. Reg. 8894, effective June 7, 1993; expedited correction at 17 Ill. Reg. 18223, effective June 7, 1993; emergency amendment adopted at 18 Ill. Reg. 7016, effective April 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15094, effective September 26, 1994; emergency amendment at 19 Ill. Reg. 10277, effective June 29, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15474, effective October 31, 1995; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6719, effective March 30, 1998; amended at 24 Ill. Reg. 73, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 6986, effective April 24, 2000, for a maximum of 150 days; emergency expired on September 20, 2000; amended at 24 Ill. Reg. 15026, effective September 26, 2000; emergency amendment at 24 Ill. Reg. 19331, effective December 15, 2000, for a maximum of 150 days; emergency amendment repealed at 25 Ill. Reg. 3698, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1858; amended at 25 Ill. Reg. 6197, effective May 17, 2001; amended at 26 Ill. Reg. 13483, effective September 13, 2002; emergency amendment at 27 Ill.

Reg. 16043, effective September 29, 2003, for a maximum of 150 days; emergency amendments suspended at 27 Ill. Reg. 18485, effective November 18, 2003; emergency suspension withdrawn at 28 Ill. Reg. 409, effective December 16, 2003; emergency repealed at 28 Ill. Reg. 427, effective December 16, 2003, in response to the objection and suspension of the Joint Committee on Administrative Rules; amended at 28 Ill. Reg. 807, effective December 29, 2003; amended at 28 Ill. Reg. 7285, effective May 7, 2004; amended at 30 Ill. Reg. 19068, effective December 1, 2006; amended at 41 Ill. Reg. 11336, effective August 28, 2017.

SUBPART A: FILINGS

Section 1075.140 Adjusted Supervisory Fees (Repealed)

~~a)~~ ~~There shall be paid to the Department an additional fee as an adjustment to the supervisory fee specified in Section 1075.130 of this Part, to be based upon the difference between the total assets of each savings bank and each service corporation as shown by its financial report filed with the Director for the reporting period of the calendar year ended December 31 on which the supervisory fee was based, and the total assets of each savings bank and each service corporation as shown by its financial report filed with the Director for the reporting period of the calendar year ended December 31 in which the quarterly payments referred to in Section 1075.130 of this Part are made according to the following schedule:~~

~~28.82¢ per $1,000 of the first $2,000,000 of total assets,~~

~~26.2¢ per $1,000 of the next $3,000,000 of total assets,~~

~~23.58¢ per $1,000 of the next $5,000,000 of total assets,~~

~~19.65¢ per $1,000 of the next $15,000,000 of total assets,~~

~~17.03¢ per $1,000 of the next $25,000,000 of total assets,~~

~~14.41¢ per $1,000 of the next $50,000,000 of total assets,~~

~~11.79¢ per $1,000 of the next $400,000,000 of total assets,~~

~~7.86¢ per $1,000 of the next $500,000,000 of total assets, and~~

~~5.24¢ per $1,000 of all total assets in excess of $1,000,000,000 of the savings bank or service corporation.~~

~~In the situation where service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Director shall waive that portion of the fee attributed to the finance subsidiary.~~

~~b)~~ ~~Adjusted supervisory fees shall be remitted as billed by the Director. In the event the total assets of each savings bank and each service corporation as reported on the earlier financial report are more than the total assets as reported on the later annual report, the Director shall credit the next quarterly remittance of the supervisory fee in the same proportion.~~

~~c)~~ ~~In the event the State charter is converted or otherwise surrendered during the year, the Director shall determine the supervisory fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the State charter, except that the measurement date may be another date at the discretion of the Director in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the Director shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations); or, the savings bank has transferred significant assets (more than .5% of the total assets at the previous measurement date).~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

SUBPART P: HIGH RISK HOME LOANS

Section 1075.3000 Definitions (Repealed)

~~"Approved Credit Counselor" means a credit counselor as approved by the Director of the Division of Financial Institutions of the Department of Financial and Professional Regulation.~~

~~"Good faith" means honesty in fact in the conduct of the transaction.~~

~~"High risk home loan" means a home equity loan on residential real property in~~

~~which:~~

~~at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the loan is received by the lender; or~~

~~the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.~~

~~However this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000), no subsequent amendments or editions are included).~~

~~"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not to be used as purchase money for the residence.~~

~~"Points and fees" means:~~

~~all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);~~

~~the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;~~

~~all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.~~

~~"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a~~

~~residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.~~

~~"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3100 Ability to Repay (Repealed)

~~A lender shall not make a high risk home loan if the lender does not believe at the time the loan is consummated that the borrower or borrowers will be able to make the scheduled payments to repay the obligation based upon a consideration of their current and expected income, current obligations, employment status and other financial resources (other than the borrower's equity in the dwelling that secures repayment of the loan). A borrower shall be presumed to be able to repay the loan if, at the time the loan is consummated, or at the time of the first rate adjustment in the case of a lower introductory interest rate, the borrower's scheduled monthly payments on the loan (including principal, interest, taxes, insurance and assessments), combined with the scheduled payments for all other disclosed debts, do not exceed 50% of the borrower's monthly gross income.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3150 Verification of Ability to Pay Loan (Repealed)

~~The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:~~

~~a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the Director who may permit the use of other forms such as the URLA (Fannie Mae Form 1003 (10/92), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 85 (10/92), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions) and Transmittal Summary (Fannie Mae Form 1077 (3/97), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington,~~

~~DC 20016-2892 and Freddie Mac Form 1008 (3/97), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions).~~

~~b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.~~

~~c) A credit report is obtained regarding the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3200 Fraudulent or Deceptive Practices (Repealed)

~~No lender shall employ fraudulent or deceptive acts or practices in the making of a high risk home loan, including deceptive marketing and sales efforts.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3225 Prepayment Penalty (Repealed)

~~No lender shall make a high risk home loan that includes a penalty provision for payment made:~~

~~a) after the expiration of the 36 month period following the date the loan was made; or~~

~~b) that is more than:~~

~~1) 3% of the total loan amount, if the prepayment is made within the first 12 month period following the date the loan was made; or~~

~~2) 2% of the total loan amount, if the prepayment is made within the second 12 month period after the date the loan was made; or~~

~~3) 1% of the total loan amount, if the prepayment is made within the third 12 month period following the date the loan was made.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3250 Pre-paid Insurance Products and Warranties (Repealed)

~~No lender shall make a high risk home loan that finances a single premium credit life, credit disability, credit unemployment, or any other life or health insurance, directly or indirectly. Insurance calculated and paid on a monthly basis shall not be considered to be financed by the lender.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3300 Refinancing Prohibited in Certain Cases (Repealed)

~~No lender shall refinance any high risk home loan whenever such refinancing charges additional points and fees, within a 12 month period after the original loan agreement was signed, unless the refinancing results in a financial benefit to the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3325 Balloon Payments (Repealed)

~~No lender shall make a high risk home loan that contains a scheduled final payment that is more than twice as large as the average of earlier scheduled monthly payments unless such balloon payment becomes due and payable at least 15 years after the loan's origination. This prohibition does not apply when the payment schedule is adjusted to account for the seasonal or irregular income of the borrower or if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3350 Financing of Certain Points and Fees (Repealed

~~No lender shall make a high risk home loan that finances points and fees in excess of 6% of the total loan amount.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3400 Payments to Contractors (Repealed)

~~No lender shall make a payment of any proceeds of a high risk home loan to a contractor under a home improvement contract other than:~~

~~a) by instrument payable to the borrower or jointly to the borrower and the contractor; or~~

~~b) at the election of the borrower, by a third party escrow agent in accordance with the terms established in a written agreement signed by the borrower, the lender, and the contractor before the date of payment.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3450 Negative Amortization (Repealed)

~~No lender shall make a high risk home loan, other than a loan secured only by a reverse mortgage, with terms under which the outstanding balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of the interest due, unless the negative amortization is the consequence of a temporary forbearance sought by the borrower.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3500 Negative Equity (Repealed)

~~No lender shall make a high risk home loan where the loan amount exceeds the value of the property securing the loan plus reasonable closing costs not to exceed 5% of the total loan amount.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3550 Counseling Prior to Perfecting Foreclosure Proceedings (Repealed)

~~a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.~~

~~b) The notice required in subsection (a) shall, at a minimum, include the following language:~~

~~"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER~~

~~CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DIVISION OF BANKS AND REAL ESTATE."~~

~~c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.~~

~~d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.~~

~~1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.~~

~~2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.~~

~~e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.~~

~~f) This Section applies only to high risk home loans as defined by Section 1075.3000.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3600 Mortgage Awareness Program (Repealed)

~~a) The Mortgage Awareness Program is a counseling and educational component~~

~~that is provided by the Director of the Division of Financial Institutions of the Department.~~

~~b) The core curriculum of the Mortgage Awareness Program shall include an explanation of:~~

~~1) The amount financed;~~

~~2) The finance charge;~~

~~3) The annual percentage rate;~~

~~4) The total payments;~~

~~5) The loan costs, including broker's fees, finance charges, points, origination fees;~~

~~6) The right of rescission;~~

~~7) The foreclosure procedures;~~

~~8) The significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;~~

~~9) The adjustable rate mortgage;~~

~~10) The balloon payments;~~

~~11) The credit options;~~

~~12) Each item that appears on a good faith estimate;~~

~~13) The pre-payment penalties.~~

~~c) Counseling session attendees must also complete a personal income and expense statement and a balance sheet, on forms provided by the Director.~~

~~d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as~~

~~well as the terms of any loan the attendee currently has or may be contemplating, and provide a Third Party Review to establish the affordability of the loan.~~

~~e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.~~

~~f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.~~

~~g) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in a Mortgage Awareness Program.~~

~~h) Except as prohibited elsewhere in this Subpart, the borrower may waive participation in the program, provided that the waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that the waiver is in writing in a form approved by the Director.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3650 Report of Default and Foreclosure Rates on Conventional Loans (Repealed)

~~a) On or before October 1 and April 1 of each year, each savings bank that is a servicer of Illinois residential mortgage loans shall report to the Commissioner the default and foreclosure data of conventional loans for the six-month periods ending June 30 and December 31, respectively.~~

~~b) Each savings bank shall report:~~

~~1) The average quarterly dollar amount of conventional 1-4 family mortgage loans secured by Illinois real estate.~~

~~2) The average quarterly number of conventional 1-4 family mortgage loans secured by Illinois real estate.~~

~~3) The average quarterly dollar amount of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.~~

~~4) The average quarterly number of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.~~

~~5) The dollar amount of foreclosures on 1-4 family conventional loans completed during the reporting period.~~

~~6) The number of foreclosures on 1-4 family conventional loans completed during the reporting period.~~

~~7) Whether any of the loans where a foreclosure was completed were originated less than 18 months before the completed foreclosure.~~

~~8) Whether any of the loans where a foreclosure was completed had a note rate greater than 10% for first lien mortgage loans or greater than 12% in the case of a junior lien.~~

~~c) An officer of the savings bank shall sign the form.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3700 The Director's Authority – Unusually High Rate on Conventional Loans (Repealed)

~~a) The Director shall review and analyze the default and foreclosure rate data reports submitted under Section 1075.3650.~~

~~b) The reports and their analyses may be used:~~

~~1) In setting the scope of a regularly scheduled examination.~~

~~2) In setting the scope of a special examination.~~

~~3) In comparing the reported information of a savings bank to other savings banks subject to this Act.~~

~~4) In comparing the reported information of a savings bank to the reports submitted by savings banks and charters under other Acts.~~

~~c) The Director may correspond with a savings bank to seek clarification of~~

~~information contained in its report and to gather additional data concerning loans in default or loans in foreclosure.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

Section 1075.3750 Third Party Review of High Risk Home Loans (Repealed)

~~In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review by the Division of Banks and Real Estate, of the loan terms, in order to determine affordability of the loan, when and if the General Assembly appropriates adequate funding to the Division of Banks and Real Estate specifically for this program.~~

~~a) Every borrower who chooses to participate in the independent review provided in this Section shall submit information requested on the worksheets outlined in Appendix A and B.~~

~~b) The Division of Banks and Real Estate shall provide the borrower with a review of the worksheets and shall also inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget.~~

~~c) In addition, the Division of Banks and Real Estate shall review loan information pertaining to balloon payments and adjustable interest rates and other items disclosed by the loan documents affecting amount of payment and shall inform the borrower of such items.~~

~~d) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.~~

~~e) If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.~~

(Source: Repealed at 41 Ill. Reg. 11336, effective August 28, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Funeral Directors and Embalmers Licensing Code

2) Code Citation: 68 Ill. Adm. Code 1250

3)

Section Numbers:	Adopted Actions:
1250.110	Amendment
1250.120	Amendment
1250.130	Amendment
1250.135	Amendment
1250.140	Amendment
1250.150	Amendment
1250.155	Amendment
1250.160	Amendment
1250.165	Amendment
1250.170	Amendment
1250.180	Amendment
1250.200	Amendment
1250.205	Amendment
1250.207	New Section
1250.210	Amendment
1250.220	Amendment
1250.230	New Section

4) Statutory Authority: Implementing the Funeral Directors and Embalmers Licensing Code [225 ILCS 41] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

5) Effective Date of Rules: September 8, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Professional Regulation and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 5114; May 19, 2017

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: No substantive differences.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This adopted rulemaking, which amended the rules for funeral directors and embalmers regarding internship requirements, is intended to better outline the process while maintaining consistency within current practice and procedure. Specifically, a provision that addressed late intern case reports was added as this is a current issue routinely faced by the Department. Additionally, the timing requirements for repeat intern applicants were clarified to prevent interns from circumventing the Funeral Directors and Embalmers Licensing Code ("Code") requirement that states "No license of a funeral director and embalmer intern shall be renewed more than twice." [225 ILCS 41/10-35]. Section 135 of the adopted rules regarding an application for a funeral director and embalmer license was amended to better explain the current application process and to require a statement of the place of practice, ownership, names and license numbers of all funeral directors and embalmers and funeral directors associated with the applicant as set forth in Section 15-80 of the Act.

Section 170 was amended to ensure that the preparation rooms include running water and electricity. The preparation room exemption for branch operations was clarified. The solicitation requirements currently in Section 205 of the rules were placed into a new Section 207 to highlight the significance of these rules and ease reader understanding.

The continuing education ("CE") sponsor and program requirements currently in Section 220 were placed into a new Section 230 to highlight the significance of these rules and ease reader understanding. Additionally, CE format requirements were set so that the Department could address technological developments with the transmission of CE. Also, a provision increasing the amount of categorized hours (but not the total number of hours) beginning in 2019 was removed as it was found to be overly burdensome and difficult for licensees to follow.

The adopted rule also eliminated the current $50 fee for issuing replacement licenses if they get lost or destroyed since we do not print those out anymore and therefore are no longer charging this fee. Technical changes, clean up, deletion of duplicative language, organizational changes and consistency changes pursuant to other IDFPR-Division of Professional Regulation administrative rules were made to ease in understanding for the public, licensees and applicants.

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

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

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1250
FUNERAL DIRECTORS AND EMBALMERS LICENSING CODE

Section
1250.110 Approved Programs of Mortuary Science
1250.120 Application for Internship
1250.130 ~~Requirements for~~ Internship Requirements
1250.135 Application for Funeral Director and Embalmer Licensure
1250.140 Examination
1250.150 Endorsement~~Reciprocity~~
1250.155 Inactive Status
1250.160 Restoration
1250.165 Fees
1250.170 Preparation Room Requirements ~~for a Preparation Room~~
1250.180 Representative of Licensee at Final Disposition at Cemetery
1250.190 Violations (Repealed)
1250.200 Renewals
1250.205 Advertising
1250.207 Solicitation
1250.210 Granting Variances
1250.220 Continuing Education
1250.230 Continuing Education Sponsors and Courses

AUTHORITY: Implementing the Funeral Directors and Embalmers Licensing Code [225 ILCS 41] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Rules and Regulations for the Administration of the Illinois Funeral Directors and Embalmers Act, effective March 19, 1975; amended at 4 Ill. Reg. 30, p. 1238, effective July 10, 1980; codified at 5 Ill. Reg. 11034; Part repealed and new Part adopted at 6 Ill. Reg. 4203, effective April 26, 1982; emergency amendment at 7 Ill. Reg. 7675, effective June 14, 1983, for a maximum of 150 days; emergency rule expired November 11, 1983; amended at 9 Ill. Reg. 4529, effective March 27, 1985; transferred from Chapter I, 68 Ill. Adm. Code 250 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1250 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2931;

amended at 13 Ill. Reg. 14061, effective August 29, 1989; amended at 15 Ill. Reg. 8238, effective May 16, 1991; amended at 17 Ill. Reg. 19132, effective October 22, 1993; amended at 23 Ill. Reg. 2296, effective January 22, 1999; amended at 24 Ill. Reg. 550, effective December 31, 1999; amended at 27 Ill. Reg. 7791, effective April 21, 2003; amended at 28 Ill. Reg. 4911, effective March 3, 2004; amended at 29 Ill. Reg. 13999, effective August 30, 2005; amended at 37 Ill. Reg. 4838, effective April 1, 2013; amended at 41 Ill. Reg. 11361, effective September 8, 2017.

Section 1250.110 Approved Programs of Mortuary Science

a) The Department of Financial and Professional Regulation-Division of Professional Regulation (Division) may~~shall~~ approve a program of mortuary science ~~as reputable and in good standing~~ if it meets the following ~~minimum criteria~~:

1) Is~~The educational institution is~~ legally recognized and authorized, by the jurisdiction in which it is located, to provide courses in mortuary science;~~.~~

2) Has a faculty with~~that comprises a~~ sufficient ~~number of full-time and part-time~~ instructors to ensure~~make certain~~ that the educational obligations to students~~the student~~ are fulfilled. The faculty must demonstrate~~have demonstrated~~ competence in their areas of teaching as evidenced by appropriate degrees from recognized professional colleges or institutions;~~.~~

3) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance; and

4)~~3)~~ Has one of the following courses of study:

A) A minimum of~~course of study of at least~~ 12 months with at least the following curriculum:

i) Anatomy;

ii) Restorative Art;

iii) Microbiology;

iv) Embalming;

v) Sociology;

vi) Psychology;

vii) Chemistry;

viii) Funeral Directing;

ix) Mortuary Law;

x) Clinical Embalming;

xi) Funeral Merchandising; and

xii) Pathology.

B) That results~~A course of study resulting~~ in an associate~~associate's~~ degree in mortuary science or an equivalent associate~~associate's~~ degree (i.e., applied science), consisting of courses in liberal arts and sciences and~~as well as~~ the curriculum set forth~~described~~ in subsection (a)(4)~~(3)~~(A); or~~.~~

C) That results~~A course of study resulting~~ in a baccalaureate degree in mortuary science.

~~4) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.~~

b) In determining whether a program of mortuary science should be approved, the Division may consider~~shall take into consideration but not be bound by~~ accreditation by the American Board of Funeral Service Education, Inc.

c) All~~The Division has determined that all mortuary science~~ programs of mortuary science accredited by the American Board of Funeral Service Education, Inc. as of January 1, 2003 are~~, meet the minimum criteria set forth in subsection (a), and are, therefore,~~ approved.

~~d) Program Evaluation~~

d)~~1)~~ An applicant from an unapproved~~a~~ program of mortuary science ~~that has not been evaluated~~ shall ~~be requested by the Division to~~ provide documentation concerning the criteria in this Section and thereafter the Division shall evaluate the program of mortuary science for approval.

~~2) Once the Division has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Division will evaluate the program based on all documentation received from the school and any additional information the Division has received that it deems to be reliable.~~

e) Withdrawal of Approval

1) The Director of the Department of Financial and Professional Regulation-Division of Professional Regulation (Director) may withdraw, suspend or place on probation the approval of a program of mortuary science when the program's quality is~~of the program has been~~ materially affected by any of the following~~ causes~~:

A) Gross or repeated violations of any provision of the Funeral Directors and Embalmers Licensing Code (the Code) [225 ILCS 41];

~~B) Gross or repeated violations of this Part;~~

B)~~C)~~ Fraud or dishonesty in providing information for~~furnishing documentation for evaluation of~~ the program of mortuary science's evaluation~~science~~; or

C)~~D)~~ Failure to ~~continue to~~ meet the requirements~~established criteria~~ for an approved program of mortuary science as set out in this Section.

2) A~~The officials in charge of a~~ program of mortuary science~~whose approval is being reconsidered by the Division~~ shall be given written notice prior to any action by the Division and those officials may either submit written comments or request a hearing before the Division as set forth in ~~accordance with~~ 68 Ill. Adm. Code 1110.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.120 Application for Internship

a) An applicant for a ~~license as a~~ funeral director and embalmer intern license shall submit the following~~file an application on forms supplied by the Division. The application shall include~~:

1) A signed and completed application on forms provided by the Division;

2) The required fee, as set forth in Section 1250.165;

3) A Certificate of Health attesting that the applicant has been immunized against diphtheria, hepatitis B and tetanus;

4) A completed and signed certification of acceptance for an internship in Illinois, by a licensed and active funeral director and embalmer in good standing, stating that the applicant will study and train under the funeral director and embalmer's supervision; and

5)~~1)~~ One of the following:

A) An official transcript showing proof of successful completion of at least 30 semester ~~(45 quarter)~~ hours or 45 quarter hours of college credit, not including remedial courses, from an accredited college or university that ~~shall~~ include at least 20 semester ~~(30 quarter)~~ hours or 30 quarter hours of ~~courses in~~ liberal arts, physical, biological, or applied sciences; and certification of graduation from a course of study of at least 12 months in an approved program of mortuary science;

B) Certification of ~~graduation with~~ an associate~~associate's~~ degree in mortuary science or an equivalent associate~~associate's~~ degree (i.e., applied science) from an approved program of mortuary science; or

C) Certification of a baccalaureate degree in mortuary science from an approved program of mortuary science;

~~2) Certificate of Health, attesting that the applicant has been immunized against diphtheria, hepatitis B and tetanus, signed by a physician currently licensed to practice medicine in all of its branches;~~

~~3) Certification of acceptance, completed and signed by a licensed funeral director and embalmer whose license is active and in good standing, stating that the applicant will be studying and training under his or her supervision; and~~

~~4) The required fee set forth in Section 1250.165.~~

b) The~~Upon receipt of the documents listed in subsection (a) and review of the application, the~~ Division shall issue a funeral director and embalmer intern license or notify the applicant, in writing, of the basis~~reason~~ for ~~the~~ denial~~ of the application~~.

~~c) The provisions of this Section shall apply to all applicants upon adoption without regard to where an applicant is in the application process.~~

~~d) All qualified applicants will be issued a funeral director and embalmer intern license.~~

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.130 ~~Requirements for~~ Internship Requirements

a) A licensed funeral director and embalmer who agrees to sponsor an intern shall be responsible for teaching the intern the practical aspects of the profession, for demonstrating actual procedures and for directing and supervising the procedures performed~~done~~ by the intern.

b) The intern shall be given primary responsibility for:

1) Assisting or participating in the arrangement of at least 24 funerals, including completing the necessary documentation~~paperwork~~;

2) Assisting in the arrangement of a selection room, including buying, pricing, providing a description of each casket and other pertinent information;

3) Assisting in the preparation and embalming of at least 24 deceased human bodies, including cosmetic application, dressing and casketing. If possible, at least one of the bodies should have been autopsied; and

4) Removals~~Making removals~~ of deceased human bodies.

c) The intern shall submit ~~to the Division, on forms provided by the Division,~~ a case report, on forms provided by the Division, for each of the required 24 funerals and 24 body preparations set forth in~~that are required in accordance with~~ subsection (b).

1) 12~~Twelve~~ case reports shall be submitted every 3 months during the 12-month internship~~year of the apprenticeship~~.

2) If the intern has not completed a total of 12 cases in the 3-month period or submitted case reports more than a quarter late, the intern~~, he or she~~ shall submit the case reports for the cases completed and state the reason why the intern~~he or she~~ was unable to complete all 12 cases or why case reports were late (e.g., lack of available cases, illness, change of ownership).

3) All case reports shall be signed by the intern and the licensed funeral director and embalmer sponsor.

d) The Division has~~shall have~~ the authority to investigate ~~to determine compliance with this Section~~ and ~~to~~ question the sponsor and the intern to determine compliance with this Section~~whether the intern has been properly instructed and has performed the required procedures~~.

e) An intern may complete the internship~~serve his or her training period~~ under more than one licensed funeral director and embalmer and must complete a~~in the State of Illinois. A~~ change of sponsor~~employment~~ application, on forms provided by the Division,~~ must be requested and properly executed, then returned to the Division~~ within one month after the~~following the date of~~ change~~ of sponsorship~~.

f) Upon completion of the 12 months~~required year~~ of internship, the sponsor shall complete an affidavit, on forms provided~~supplied~~ by the Division, stating that the intern has satisfactorily completed the appropriate procedures under the sponsor's~~his or her~~ direction and supervision.

~~g)~~ ~~Interns shall satisfactorily complete the prescribed one year of training as evidenced by the documentation required by subsection (c), and pass the National Board examination prior to licensure. For the purpose of determining completion of the prescribed one year of internship, the internship shall commence on the date of the issuance of the intern license.~~

g)~~h)~~ If ~~the license of~~ a funeral director and embalmer intern licensee~~cannot be renewed in accordance with Section 10-35 of the Code and the intern~~ has not yet completed the 12-month~~received a year of~~ internship or passed the examination within two sequential renewals, the intern shall~~, he or she may~~ reapply to the Division under the Code and this Part~~ in effect at the time of reapplication~~. No credit will be allowed for any examinations the intern~~he or she may have~~ previously passed or for any internship the intern~~he or she may have~~ previously earned. An intern who has renewed twice shall not reapply for an intern license until passing the examination set forth in Section 1250.140.

h)~~i)~~ If, at the time of application for a funeral director and embalmer license, more than 5 years have lapsed since the completion of the intern's 12-month internship, the applicant shall be required to complete additional education or case reports as determined by the Division~~The provisions of this Section shall apply to all applicants upon adoption without regard to where an applicant is in the application process~~.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.135 Application for Funeral Director and Embalmer Licensure

a) An applicant for a ~~license as a~~ funeral director and embalmer license~~, pursuant to Section 10-10 of the Code,~~ shall submit~~file an application on forms supplied by the Division. The application shall include~~ the following:

1) A signed and completed application on forms provided by the Division;

2) The required fee set forth in Section 1250.165;

3)~~1)~~ Certification of completion of a 12-month internship within the past 5 years, signed by the licensed funeral director and embalmer sponsor. For the purpose of determining completion, the internship shall commence on

the date of the issuance of the intern license;~~under whose supervision the internship was performed.~~

4)~~2)~~ A Certificate of Health, attesting that the applicant has been immunized against diphtheria, hepatitis B and tetanus;~~, signed by a physician currently licensed to practice medicine in all of its branches.~~

5)~~3)~~ Verification of successful completion of the International Conference of Funeral Service Examining Boards, Inc. (the Conference) National Board examination as set forth in~~, pursuant to~~ Section 1250.140, to be forwarded by the ~~National~~ Conference directly to the Division; and~~.~~

6) A statement of the place of practice, ownership, names and license numbers of all funeral directors and embalmers and funeral directors associated with the applicant as set forth in Section 15-80 of the Code, as applicable.

~~4) Applicants not having been issued Illinois funeral director and embalmer intern licenses or who have been issued one that has been expired for more than 5 years shall submit the following:~~

~~A) Official transcripts showing proof of successful completion of at least 30 semester (45 quarter) hours of college credit, not including remedial courses, that shall include at least 20 semester (30 quarter) hours of courses in liberal arts, physical, biological, and/or applied sciences; and certification of graduation from a course of study of at least 12 months in an approved program of mortuary science;~~

~~B) Certification of graduation with an associate's degree in mortuary science from an approved program of mortuary science or an equivalent associate's degree (i.e., applied science); or~~

~~C) Certification of a baccalaureate degree in mortuary science from an approved program of mortuary science.~~

~~6) The fee specified in Section 1250.165.~~

b) The~~Upon receipt of the documents listed in subsection (a) and review of the~~

~~application, the~~ Division shall issue a funeral director and embalmer license ~~authorizing the applicant to engage in the practice of funeral directing and embalming~~ or notify the applicant, in writing, of the basis~~reason~~ for ~~the~~ denial ~~of the application~~.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.140 Examination

a) The examination for a funeral director and embalmer license shall be the examination administered by the ~~International~~ Conference ~~of Funeral Service Examining Boards, Inc.~~ and shall cover:

1) Part I (Funeral Service Science):

A) Embalming;

B) Restorative Art;

C) Microbiology;

D) Pathology;

E) Chemistry; and

F) Anatomy.

2) Part II (Funeral Service Arts):

A) Sociology of Funeral Service;

B) Psychology and Counseling;

C) Funeral Directing and Professional Relationships;

D) Business Law;

E) Funeral Service Law;

F) Funeral Merchandising; and

G) Accounting.

3) ~~The Division shall receive verification of the successful completion of the International Conference of Funeral Service Examining Boards, Inc. examination.~~ The passing score shall be the passing score established by the Conference~~testing entity~~. Verification shall be received directly from the ~~International~~ Conference ~~of Funeral Service Examining Boards, Inc~~.

b) An examination fee shall be paid to the Conference~~designated testing service~~ for each examination ~~or any part retaken~~. Failure to appear for the examination on the scheduled date, at the time and place specified, shall result in forfeiture of the examination fee.

~~c) The provisions of this Section shall apply to all applicants upon adoption without regard to where an applicant is in the application process.~~

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.150 Endorsement~~Reciprocity~~

a) An applicant ~~who is~~ currently licensed as a funeral director and embalmer under the laws of another jurisdiction~~state or territory of the United States or of a foreign country or province~~ shall submit the following~~file an application with the Division together with~~:

1) A signed and completed application, on forms provided by the Division;

2) The required fee set forth in Section 1250.165;

3)~~1)~~ One of the following:

A) An official transcript showing proof of successful completion of at least 30 semester ~~(45 quarter)~~ hours or 45 quarter hours of college credit, not including remedial courses, from an accredited college or university which shall include at least 20 semester ~~(30 quarter)~~ hours or 30 quarter hours of ~~courses in~~ liberal arts, physical, biological and/or applied sciences; and certification of graduation

from a course of study of at least 12 months in an approved program of mortuary science;

B) Certification of ~~graduation with~~ an associate~~associate's~~ degree in mortuary science or an equivalent associate~~associate's~~ degree (i.e., applied science) from an approved program of mortuary science; or

C) Certification of a baccalaureate degree in mortuary science from an approved program of mortuary science;

4)~~2)~~ Affidavits stating that the applicant has been actively engaged in the practice of funeral directing and embalming for at least 12 months of the last 5 years prior to application in Illinois~~1 year~~, completed by two actively licensed funeral directors and embalmers~~2 persons~~ with personal knowledge of that~~such~~ experience; and

5)~~3)~~ A certification by the jurisdiction~~state or territory~~ of original ~~and current~~ licensure, stating:

A) The time during which the applicant was licensed in that jurisdiction;

B) Whether ~~the file on~~ the applicant has been the subject of any~~contains any record of~~ disciplinary actions ~~taken~~ or any disciplinary actions are pending; and

C) A brief description of the examination and~~, the applicant's~~ grades received.~~and a statement that the state grants reciprocity to funeral directors and embalmers licensed in Illinois; and~~

~~4) The fee set forth in Section 1250.165.~~

b) ~~The Division shall examine each reciprocity application to determine whether the requirements for licensure in the jurisdiction in which the applicant is licensed were at the date of application substantially equivalent to the requirements in force in this State.~~ The Division may~~shall either~~ issue a license by endorsement~~reciprocity to the applicant~~ or notify the applicant~~him or her~~, in writing, of the basis~~reasons~~ for the denial~~ of the application~~.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.155 Inactive Status

a) AAny licensed funeral director and embalmer or any licensed funeral director who notifies the Division in writing, on forms prescribed by the Division, may elect to place ahis or her license on inactive status and shall be excused from payingthe payment of renewal fees if the licensee notifies the Division in writing, on forms provided by the Division. The license shall remain on inactive status until the licenseehe or she notifies the Division in writing of the desire to resume active status.

b) Any licensee seeking restoration from inactive status shall do so in accordance with Section 1250.160.

b)c) Practice on a license that has lapsed or been placed in inactive status shall constitute unlicensed practice inis practicing without a license and a violation of the Code.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.160 Restoration

a) A licensed funeral director and embalmer seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall submitfile an application, on forms supplied by the Division, together with the following:

1) A signed and completed application, on forms provided by the Division;

2)1) The required fee set forthrestoration fees specified in Section 1250.165;. When restoring a license from inactive status, a person is required to pay the current renewal fee set forth in Section 1250.165.

3)2) Proof of completion of the required number of continuing education (CE) hours for the immediately precedingone prerenewal period as set forthspecified in Section 1250.220; however, the CE must include 3 hours of hands on embalming and 3 hours of Occupational Safety and Health

Administration compliance. Acceptable proof of completion shall be in the form of certificates of attendance provided by licensed CE~~approved~~ sponsors; and ~~of continuing education programs.~~

4)~~3)~~ One of the following:

A) Sworn evidence of active practice in another jurisdiction, including:~~. The evidence shall include~~

i) a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of the active practice or;~~,~~

ii) if the profession is not licensed in the other jurisdiction, a statement from the licensee's employer;

B) An affidavit attesting to military service as provided in Sections 5-15 and 10-35 of the Code. If application is made within 2 years after honorable discharge, and if all other provisions of Sections 5-15 and 10-35 of the Code are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees; or

C) Evidence of ~~other~~ education or experience acceptable to the Division, within the 5 years preceding restoration, of the licensee's fitness and competence in funeral directing and embalming, including~~. This evidence shall include~~, but not be limited to:

i) Verification of successful completion of the ~~International~~ Conference ~~of Funeral Service Examining Boards, Inc.~~ examination, as set forth in~~pursuant to~~ Section 1250.140, to be forwarded by the ~~International~~ Conference directly to the Division; or

ii) Proof of completion of 6 credit hours ~~of course work~~ at an approved program of mortuary science, ~~which shall be~~ in addition to any CE~~continuing education~~ hours. Funeral director and embalmers seeking restoration shall complete 3 hours related to funeral directing and 3 hours related to

embalming.

b) A licensee seeking restoration of a license that has expired or been on inactive status for less than 5 years, or has been placed in nonrenewed status for failure to comply with CE requirements, shall submit~~file an application on forms provided by the Division, together with~~ the following:

1) A signed and completed application on forms provided by the Division;

2)~~1)~~ The required~~restoration~~ fees set forth~~specified~~ in Section 1250.165;~~. When restoring a license from inactive status, a person is required to pay the current renewal fee set forth in Section 1250.165.~~

3)~~2)~~ Proof~~Any licensee restoring a license shall be required to submit proof~~ of completion of the required ~~number of~~ CE set forth~~hours for one prerenewal period as specified~~ in Section 1250.220. Acceptable proof of completion shall be in the form of certificates of attendance provided by licensed CE sponsors~~ of approved continuing education programs~~.

c) A~~Any~~ person seeking restoration of a license within 2 years after honorable discharge from military service pursuant to Section 5-15 of the Code will be required to pay only the current renewal fee and will not be required to submit proof of completing~~meeting~~ the CE~~continuing education~~ requirements.

d) When ~~the accuracy of~~ any submitted documentation~~, or the relevance or sufficiency of the course work or experience,~~ is questioned by the Division ~~because of lack of information, discrepancies or conflicts in information given, or a need for clarification~~, the licensee seeking restoration may be required~~of a license will be requested~~ to provide additional~~such~~ information~~ as may be necessary to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information~~.

e) Persons holding~~to whom~~ a funeral director license and an embalmer license ~~were~~ issued prior to June 1, 1991 shall ~~be required to~~ restore both the funeral director license and the embalmer license~~licenses~~. Persons holding~~to whom~~ a funeral director license ~~was~~ issued prior to June 1, 1991 may~~will be allowed to~~ restore that funeral director license.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.165 Fees

~~The following fees shall be paid to the Department and are not refundable:~~

a) All fees paid pursuant to the Code and this Section shall be made out to the Department of Financial and Professional Regulation and are nonrefundable.

b)~~a)~~ Application Fees

1) The application fee for ~~application for a license as~~ a funeral director and embalmer license is $100.~~ In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.~~

2) The application fee for a ~~license as a~~ funeral director and embalmer license by endorsement~~certified or licensed under the laws of another jurisdiction~~ is $200.

3) The application fee for a ~~license as a~~ funeral director and embalmer intern license is $50.

4) The application fee for a CE~~continuing education~~ sponsor license~~listed in Section 1250.220(c)(1)(L)~~ is $500.

c)~~b)~~ Renewal Fees

1) The renewal fee for ~~the renewal of a license as~~ a funeral director and embalmer license or a funeral director and embalmer intern license is~~shall be calculated at the rate of~~ $50 per year.

2) The renewal fee for ~~the renewal of a license as~~ a funeral director license is~~shall be calculated at the rate of~~ $25 per year.

3) The renewal fee for a CE~~the renewal of a continuing education~~ sponsor license is~~shall be calculated at the rate of~~ $125 per year. If a CE sponsor allows the license to lapse, the CE sponsor shall be required to submit $500 to restore the license.

d)~~e)~~ General Fees

1) The restoration fee for an expired~~the restoration of a~~ funeral director and embalmer~~embalmers~~ license ~~other than from inactive status~~ is $50 plus ~~payment of~~ all lapsed renewal fees, not to exceed $300.

2) The restoration fee for an expired~~the restoration of a~~ funeral director license ~~other than from inactive status~~ is $50 plus ~~payment of~~ all lapsed renewal fees, not to exceed $175.

3) ~~The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is $20.~~ No fee is required for name and address changes on Division records when no duplicate license is issued.

4) The fee for a certification of a licensee's record for any purpose is $20.

5) The fee to have the scoring of an examination administered by the Division reviewed and verified is $20 plus any fee charge by the Conference~~testing service~~.

6) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

7) The fee for a roster of licensees~~persons licensed as funeral directors, funeral directors and embalmers, or funeral director and embalmer interns in this State~~ shall be the actual cost of producing the roster.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.170 Preparation Room Requirements ~~for a Preparation Room~~

a) In accordance with Section 15-55 of the Code~~Act~~, each fixed place of practice or establishment devoted to the care and preparation for burial or for transportation of deceased human bodies shall maintain a preparation room properly equipped with necessary drainage, running water, electricity and ventilation facilities and containing instruments and supplies necessary for the preparation and embalming of deceased human bodies. Each branch operation of an Illinois funeral business need not have its own preparation room as long as the business has at least one preparation room at one of its Illinois locations, so long as each business is owned by the same entity.

b) The care and preparation for burial of all deceased bodies, regardless of cause of demise, shall be entirely private and no one shall be allowed in the ~~embalming or~~ preparation room until the body is fully prepared and dressed, except licensed funeral directors, licensed funeral directors and embalmers, licensed interns, their assistants, bona fide students of mortuary science, the medical examiner, the coroner, their representatives and representatives of the ~~Department of Financial and Professional Regulation-Division of Professional Regulation (~~Division~~)~~ or, except when it is determined to be necessary by the funeral director, ~~or the~~ medical examiner or ~~the~~ coroner.

c) A notice of privacy shall be affixed to or adjacent to the preparation room.

d) Preparation rooms shall be maintained in a sanitary condition with necessary drainage and proper ventilation as set forth in ~~accordance with the provisions of~~ the Code.

e) Preparation rooms shall be ~~made~~ available to ~~representatives of~~ the Division for inspection to determine compliance with the Code and this Part.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.180 Representative of Licensee at Final Disposition at Cemetery

a) As set forth~~used~~ in Section 15-75(b)(36)(D) of the Code, "representative" means a person:

1) employed or contracted by the licensed funeral director and embalmer or licensed funeral director who has been engaged to provide funeral or embalming services; or

2) employed by the same funeral establishment that employs the licensed funeral director and embalmer or licensed funeral director who has been engaged to provide funeral or embalming services.

b) "Representative" includes another licensed funeral director and embalmer, a licensed funeral director, a licensed funeral director and embalmer intern, or an unlicensed employee or contractor.

c) "Representative" does not include a person employed or contracted by the cemetery at which final disposition is made, except when the funeral establishment and the cemetery have the same owners.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.200 Renewals

a) Every license issued under the Code shall expire on May 31 of each odd-numbered year.~~ The holder of a license may renew it during the month preceding its expiration date by paying the required fee.~~

~~b) All funeral director licensees and funeral director and embalmer licensees shall be required to comply with the continuing education requirements set forth in Section 1250.220 of this Part.~~

b)~~c)~~ Each~~It is the responsibility of each~~ licensee must~~to~~ notify the Division of any change of address. Failure to be notified of~~receive a~~ renewal ~~form from the Division~~ shall not constitute an excuse for failure ~~to pay the renewal fee and~~ to renew one's license.

c)~~d)~~ *No license of a funeral director and embalmer intern shall be renewed more than twice* (Section 10-35 of the Code).

d)~~e)~~ Practicing or attempting to practice while a license is expired~~non-renewed~~ shall constitute~~be considered~~ unlicensed practice and shall be grounds for discipline as set forth in ~~accordance with~~ Section 15-75 of the Code.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.205 Advertising

a) Funeral director and funeral director and embalmer licensees~~Persons licensed to practice funeral directing and embalming in the State of Illinois~~ may advertise in any medium. All advertising shall be~~ or other form of public communication in a manner that is~~ truthful and ~~is~~ not be fraudulent, deceptive, inherently misleading or ~~proven to be~~ misleading in practice. Advertising~~Such advertising~~ shall contain all information necessary to communicate~~make the communication not misleading and shall not contain any false or misleading statement or otherwise operate to deceive. The form of such communication shall be designed to communicate~~ the information contained in that advertising~~therein~~ to the public in an accurate,~~a~~ direct, dignified and readily comprehensive manner.

b) A person may not, in any advertisement by newspaper, periodical, internet web page, telephone book listing, direct mail, or electronic mail advertisement, represent that the person conducts the business of a funeral director and embalmer or provides any funeral or embalmer service, unless the advertisement includes a name of at least one licensed individual and the address of one funeral establishment or place of business at which the advertising person or entity conducts business or provides services.

c)~~b)~~ Advertising~~Information that~~ may include, but is not limited to, the following information~~be contained in such advertising includes~~:

1) Licensee's ~~name, address,~~ business hours~~ and telephone number~~;

2) Schools attended;

3) Announcement of the opening of, change of, or return to practice;

4) Announcement of additions to or deletions from professional staff;

5) Availability of pre-need arrangements;

6) Professional society memberships;

7) Credit arrangements;

8) Foreign language ability;

9) Fees for professional services and merchandise that~~which~~ must include a statement that fees may be adjusted due to unforeseen circumstances;

10) Description of the establishment in which the licensee practices, e.g., accessibility to the handicapped, chapel facilities on the premises, convenience of parking; or~~and~~

11) Other information about the licensee, the licensee's practice, or the types of practice relevant to seeking~~in which the licensee will accept employment, which a reasonable person might regard as relevant in determining whether to seek~~ the licensee's services.

d)~~c)~~ Television or radio advertisements~~If an advertisement is communicated to the public over television or radio, it~~ shall be prerecorded and approved for broadcast by the licensee, and a recording and/or videotape of the advertisement~~actual transmission, including videotape,~~ shall be retained by the licensee for ~~a period of~~ at least 5 years.

e)~~d)~~ Untruthful~~Information that may be untruthful~~, fraudulent, deceptive, inherently misleading, or ~~has proven to be~~ misleading in practice advertising~~,~~ includes, but is not limited to, advertising ~~that which~~:

1) Containing~~Contains~~ a misrepresentation of fact or omitting~~omits~~ a material fact required to prevent deception;

2) Taking~~Takes~~ advantage of a prospective~~the potential~~ client's fears, anxieties, vanities or other emotions;

3) Containing~~Contains~~ testimonials and/or exaggerations pertaining to the quality of funeral services;

4) Describing~~Describes as available~~ products or services that are not permitted by State or federal~~the~~ laws ~~of this State and/or applicable Federal laws~~; and

5) Describing~~Advertises~~ professional services that the licensee is not licensed to provide~~render~~.

~~e) The solicitation of funeral services at the residence of a client or prospective client, or any health care institution in which the client or prospective client is confined, which is uninvited and which has not been previously agreed to by the client or prospective client, is prohibited. A licensee, or his or her representative, may initiate contact with a client, or prospective client, in the following manner:~~

~~1) Through general advertising;~~

~~2) By direct mail;~~

~~3) By telephone; or~~

~~4) As an invitee of a charitable, social, civic, religious, fraternal or employee or trade organization.~~

~~f) A licensee or his or her representative shall not initiate contact with a client or prospective client if:~~

~~1) The licensee, or his or her representative, reasonably should know that the physical, emotional or mental state of the person solicited is such that the person could not exercise reasonable judgment;~~

~~2) The person solicited has made known a desire not to receive the communication; or~~

~~3) The solicitation involves coercion, duress or harassment.~~

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.207 Solicitation

a) The solicitation of funeral services at the residence of a client or prospective client, or at any health care institution in which the client or prospective client is confined, that is uninvited and has not been previously agreed to by the client or prospective client is prohibited. A licensee, or a licensee's representative, may initiate contact with a client or prospective client, in the following manner:

1) General advertising;

2) Direct mail;

3) Telephone; or

4) As an invitee of a charitable, social, civic, religious, fraternal, employee or trade organization.

b) A licensee, or a licensee's representative, shall not initiate contact with a client or prospective client if:

1) The licensee, or licensee's representative, reasonably should know that the physical, emotional or mental state of the person solicited is such that the person could not exercise reasonable judgment;

2) The person solicited has made known a desire not to receive the communication; or

3) The solicitation involves coercion, duress or harassment.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.210 Granting Variances

a) The Director may grant variances from this Part in individual cases in which the Director~~where he or she~~ finds that:

1) The provision from which the variance is granted is not statutorily mandated;

2) No party will be injured by the granting of the variance;

3) The rules from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the Board of the granting of the variance, and the reasons for the variance, at the next meeting of the Board.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.220 Continuing Education

a) Continuing Education Hour Requirements

1) Every funeral director and embalmer renewal applicant shall complete 24 CE hours ~~of continuing education (CE)~~ relevant to the practice of funeral directing and embalming during each prerenewal period. The~~For the 2015 and 2017 renewals, the~~ 24 CE hours shall include a minimum of 6 interactive CE hours related to the practice of funeral directing and a minimum of 6 interactive CE hours related to the practice of embalming. ~~Beginning with the 2019 renewal, the 24 hours shall include a minimum of 9 hours related to the practice of funeral directing and a minimum of 9 hours related to the practice of embalming.~~ No more than 6 CE hours may consist of insurance courses.

2) Every funeral director renewal applicant shall complete 12 CE hours ~~of CE~~ relevant to the practice of funeral directing ~~or embalming~~ during each prerenewal period. No more than 3 CE hours may consist of insurance courses.

3) The Division shall conduct random audits to verify CE compliance ~~with this Section. The prerenewal period is the 24 months preceding the expiration date of the license~~.

4) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.

~~5) A licensee who has been actively licensed as a funeral director or embalmer for at least 40 years shall be exempt from the continuing education requirements of this Section.~~

5)~~6)~~ Funeral directors and embalmers licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.

b) Activities for which CE credit may be earned are as follows:

1) Verified attendance at a CE course or participation in a program given by a licensed CE~~by a~~ sponsor ~~as set forth in subsection (c)(1) of this Section~~.

2) A maximum of 6 CE hours for funeral directors or 12 CE hours for funeral directors and embalmers per prerenewal period for:

A) Personal preparation of an educational presentation pertaining to funeral directing and/or embalming that is orally delivered before recognized funeral directing and embalming organizations;

B) Writing and publishing~~of~~ articles regarding~~pertaining to~~ funeral directing or embalming ~~and having them published~~ in nationally recognized funeral directing and embalming journals;

C) Writing a chapter in a book pertaining to funeral directing or embalming; or~~and~~

D) Completing~~Completion of~~ self-study courses taken through an accredited college or university or an approved CE sponsor. The self-study courses shall include an examination that~~meet the following requirements~~:

i) Tests the licensee's~~Self-study courses designed for CE credit must include an examination that tests the~~ skills ~~of the licensee~~ and is of sufficient depth that answers are not readily apparent and have not been provided to the licensee by the CE sponsor or anyone else.

ii) Is crafted~~Sponsors have the obligation to craft examinations in ways~~ to prevent licensees~~candidates~~ from obtaining unearned credit.

3) A licensee who serves as an instructor, speaker or discussion leader of an approved CE course will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for repetitious presentations of the same course and will only be allowed for additional study or research. In no case shall credit for actual time of presentation and preparation be given for more than 6 CE hours for funeral directors or 12 CE hours for funeral directors and embalmers during any prerenewal~~renewal~~ period.

~~4)~~ ~~The CE hours used to satisfy the CE requirements for renewal of a funeral director or funeral director and embalmer license held in another jurisdiction shall be applied to fulfillment of the CE requirements for renewal of their Illinois funeral director or funeral director and embalmer license.~~

4)~~5)~~ A maximum of 24 CE hours ~~of CE credit~~ shall be accepted~~given~~ for CE courses completed at an accredited college or university. One semester hour shall equal 8 CE hours. One quarter hour shall equal 6 CE hours.

5)~~6)~~ A CE hour means a minimum of 50 minutes of ~~actual continuing education spent by a licensee in~~ actual attendance at, and completion of, an approved CE course~~activity~~. One-half CE credits (equal to 25 minutes) are permitted after the first credit has been earned.

6) A CE course~~program~~ shall not be presented during a dinner or social function. The dinner or social function must be concluded before the CE course~~program~~ commences or be held after the CE course~~program~~ is completed. If the CE course~~program~~ is held after the dinner or social function commences, no alcohol may be served. ~~If the program involves one or more hours of education, credit may be issued in one-half hour increments.~~

7) Credit will not be given for activities that are not included in this subsection (b).

c) CE Format

1) Interactive CE

A) Interactive CE means classroom courses or CE that uses interactive learning methodologies that simulate the classroom learning process by employing computer software, other technology or administrative systems that provide significant, ongoing, interactive feedback to the learner regarding his or her learning process.

B) A minimum of 12 CE hours per renewal period shall be interactive.

2) Non-Interactive CE
Non-interactive CE does not employ interactive features. Examples include videos, books and audiotapes.

d) Certification of Compliance with Continuing Education Requirements

1) Each licensee shall certify, on the renewal application, full compliance with the CE requirements set forth in this Section.

2) The Division may require additional evidence of compliance in the context of the Division's random audit.

e) Continuing Education Earned in Other Jurisdictions
If a licensee has earned CE hours in another jurisdiction not given by an approved CE sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the licensee shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the CE course or within 90 days prior to expiration of the license. The Division shall review and recommend approval or disapproval of the program using the criteria set forth in Section 1250.230(c).

f) Exemptions

1) Licensees who properly received the 40-year exemption by January 1, 2016, as set forth in Section 5-15 of the Code, are exempt from CE requirements.

2) A licensee may request an exemption from the CE requirements if:

A) The licensee is on full-time active duty in the military service of the United States, or is a licensee who is called to temporary active duty in the military service or state militia for a period of time exceeding 120 consecutive days during the prerenewal period, when that activity restricts participation in CE; or

B) The licensee demonstrates to the satisfaction of the Division that meeting these requirements would constitute undue hardship by reason of disability, illness or other clearly mitigating

circumstances. The supporting documentation shall include a sworn statement by the licensee, a statement from a physician, or medical records that show the disability, illness or circumstance prevented the licensee's participation in CE during a substantial part of the prerenewal period. If good cause has been shown, the Division shall waive disciplinary action and extend the time within which the licensee shall comply. In cases of noncompliance by reason of advanced age or serious health conditions lasting a substantial part of the prerenewal period, disciplinary action shall not be waived for more than one prerenewal period.

3) Any licensee who, prior to the expiration date of the license, submits a request for exemption under this Section shall be deemed to be in good standing until the Division's decision on the request has been made.

4) Any licensee who submits a request for exemption that is denied may then request the license be placed on inactive status. The licensee shall comply with CE requirements prior to restoration of the license from inactive status, in accordance with Section 1250.160.

~~e) CE Sponsors and Programs~~

~~1) Sponsor, as used in this Section, pursuant to Sections 5-15 and 10-35 of the Code, shall mean the following:~~

~~A) An accredited college or university, or State agency;~~

~~B) Illinois Funeral Directors Association;~~

~~C) Funeral Directors Services Association of Greater Chicago;~~

~~D) Cook County Association of Funeral Home Owners, Inc.;~~

~~E) Illinois Selected Morticians Association;~~

~~F) National Funeral Directors Association;~~

~~G) Illinois Cemetery and Funeral Home Association;~~

~~H) Selected Independent Funeral Homes;~~

~~I) An Illinois school of mortuary science;~~

~~J) International Order of the Golden Rule;~~

~~K) National Funeral Directors and Morticians Association; or~~

~~L) Any other person, firm, or association that has been approved and authorized by the Division to coordinate and present CE courses and programs in conjunction with this Section.~~

~~2) Application~~
~~A continuing education sponsor application shall be filed with the Division to be approved as a continuing education sponsor. The application shall include:~~

~~A) A copy of the Certificate of Attendance the sponsor will use, which shall contain the following information:~~

~~i) The CE sponsor license number, name and address;~~

~~ii) Name and license number of the participant;~~

~~iii) Number of hours awarded; and~~

~~B) The required fee set forth in Section 1250.165.~~

~~3) Requirements~~

~~A) A CE sponsor shall provide CE courses and programs that are organized programs of formal learning that contribute directly to a licensee's knowledge and ability to perform duties as a licensee. The CE course must meet the following minimum requirements:~~

~~i) Be developed and presented by persons with education, training and/or practical experience in the subject matter to be presented;~~

~~ii) Include a student evaluation of both instructor and the course;~~

~~iii) Specify the course objectives and content and the number of CE hours to be earned. The information shall be specified in all promotional materials; and~~

~~iv) All sponsors shall verify attendance at each CE course or program. A record of attendance shall be kept for no less than 5 years. Sponsors shall give each successful participant a record of completion at the end of the course or program. All records shall comply with the criteria set forth in subsection (c)(2)(A).~~

~~B) CE sponsors shall be required to renew their license May 31 of odd numbered years. The first renewal shall be May 31, 2015.~~

~~C) After September 30, 2013, CE programs must be given by a sponsor who has been approved by the Division to provide continuing education. CE sponsors must submit an application and the required fee and meet the current requirements set forth in this Part and the Act within six months after adoption of these amendments in order to continue providing continuing education.~~

~~C) If an approved CE sponsor does not renew the license at the time of renewal, the CE sponsor must reapply and submit the appropriate documents and pay the initial application fee.~~

~~4) All courses and programs shall:~~

~~A) Contain materials that contribute to the advancement, extension and enhancement of professional skills and knowledge in the practice of funeral directing or embalming. The course content shall be designed to focus on such advancement and enhancement of professional skills and knowledge;~~

~~B) Specify the course objectives, course content and teaching methods to be used;~~

~~C) Be developed and presented by persons with education and/or experience in the subject matter of the program;~~

~~D) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal; and~~

~~E) Include some mechanism whereby participants evaluate the overall quality and content of the program.~~

~~5) All programs given by sponsors should be open to all licensed funeral directors and funeral directors and embalmers and not be limited to the members of a single organization or group.~~

~~6) Certificate of Attendance or Participation. It shall be the responsibility of the sponsor to provide each participant in an approved program or course with a certificate of attendance or participation that shall contain the following information:~~

~~A) The name and address of the sponsor;~~

~~B) The name and license number of the participant;~~

~~C) A brief statement of the subject matter;~~

~~D) The number of CE hours awarded in each program;~~

~~E) The date and place of the program; and~~

~~F) The signature of the sponsor.~~

~~7) The certificate of attendance shall be distributed following the educational program or otherwise be provided to the attendee by the sponsor, by such means as mailing the certificate or summary of attendance.~~

~~8) The sponsor shall maintain course materials and attendance records containing all information in subsection (c)(6) for not less than 5 years, except for the signature of the sponsor.~~

~~9) The sponsor shall be responsible for assuring that no participant shall~~

~~receive CE credit for time not actually spent attending the program.~~

~~10) If it is determined after a hearing before the Board that a sponsor has failed to comply with the foregoing requirements, the Division shall thereafter refuse to accept for CE credit attendance at any of that sponsor's CE activities until the Division receives assurances of compliance with this Section.~~

~~11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any continuing education program at any time.~~

~~12) The Division shall maintain a list of all approved continuing education sponsors in addition to those identified under subsection (c)(1)(A) through (K).~~

~~d) Certification of Compliance with CE Requirements~~

~~1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsection (a).~~

~~2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. The additional evidence will be required in the context of the Division's random audit.~~

~~3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified, at which time the Division may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].~~

~~e) Exemptions~~

~~1) A licensee may be exempt from the continuing education requirements of this Section if one of the following situations occur. If an exemption is claimed, it is required that the renewal fee and any documentation needed to support the exemption be submitted for renewal of a license.~~

~~A)~~ ~~A licensee who is on full-time active duty in the military service of the United States, or is a licensee who is called to temporary active duty in the military service or Armed Forces of the United States for a period of time exceeding 120 consecutive days during the renewal period, when that activity restricts participation in a continuing education program.~~

~~B)~~ ~~A licensee who demonstrates to the satisfaction of the Division that meeting these requirements would work an undue hardship by reason of disability, illness or other clearly mitigating circumstances. The supporting documentation shall be in the form of a sworn statement by the licensee, a statement from a physician, or medical records that show the disability, illness or circumstance prevented the licensee's participation in the continuing education program during a substantial part of the renewal period. If the Division finds from the evidence that good cause has been shown for non-compliance, the Division shall waive enforcement, extend the time within which the licensee shall comply, or establish a particular program or schedule of continuing education, including home study, for the renewal period in which the undue hardship existed. In the cases of non-compliance by reason of advanced age or serious health conditions lasting a substantial part of the renewal period, enforcement shall not be waived for more than one renewal period.~~

~~2)~~ ~~Any licensee who, prior to the expiration date of the license, submits a request for an exemption under this Section shall be deemed to be in good standing until the Division's final decision on the request has been made.~~

~~3)~~ ~~Any licensee who submits a request for an exemption that is denied may then request his or her license be placed on inactive status. The licensee shall comply with the continuing education requirements prior to restoration of the license from inactive status in accordance with Section 1250.160.~~

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

Section 1250.230 Continuing Education Sponsors and Courses

a) CE sponsor, as set forth in Sections 5-15 and 10-35 of the Code, shall mean the following:

1) An accredited college or university or a State agency;

2) Illinois Funeral Directors Association;

3) Funeral Directors Services Association of Greater Chicago;

4) Cook County Association of Funeral Home Owners, Inc.;

5) Illinois Selected Morticians Association;

6) National Funeral Directors Association;

7) Illinois Cemetery and Funeral Home Association;

8) Selected Independent Funeral Homes;

9) An Illinois school of mortuary science;

10) International Order of the Golden Rule;

11) National Funeral Directors and Morticians Association; or

12) Any other person or entity licensed as a CE sponsor under subsection (b).

b) A person or entity seeking to provide CE shall submit:

1) A signed and completed application on forms provided by the Division;

2) The required fee set forth in Section 1250.165; and

3) A copy of the certificate of attendance the CE sponsor will issue, which shall contain the information set forth in subsection (d).

c) All CE courses shall:

1) Contain materials that contribute to the advancement, extension and enhancement of professional skills and knowledge in the practice of funeral directing or embalming. The course content shall be designed to focus on advancement and enhancement of professional skills and knowledge;

2) Be developed and presented by persons with education and/or practical experience in the presented subject matter;

3) Include a student evaluation of both instructor and the course;

4) Specify the course objectives and content, teaching method to be used, and number of Illinois CE hours earned in all relevant materials;

5) Verify attendance; and

6) Be open to all licensed funeral directors and funeral directors and embalmers and not be limited to the members of a single organization or group.

d) Certificate of Attendance

1) Each licensed CE sponsor shall provide each participant with a certificate of attendance containing the following:

A) The CE sponsor's license number, name, address and signature;

B) The participant's name and license number;

C) A brief statement of the subject matter;

D) The number of CE hours awarded and the CE topic (i.e., funeral directing, embalming, insurance, OSHA compliance, etc.);

E) The date and place of the course; and

F) The method of delivery of the course (i.e., classroom, webinar, video, book, audiotape, etc.).

2) CE sponsors shall provide all participants with a certificate of attendance upon the successful completion of a CE course.

e) The CE sponsor shall maintain course materials and attendance records containing all information in subsection (d)(1) for not less than 7 years, except for the signature of the sponsor.

f) The CE sponsor shall ensure that participants only receive CE credit for time actually spent attending the CE course.

g) The Division may evaluate a CE sponsor at any time. If the Division determines that a CE sponsor failed to comply with this Part, the Division shall thereafter refuse to accept that CE sponsor's CE for credit until the Division receives proof of compliance.

(Source: Amended at 41 Ill. Reg. 11361, effective September 8, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Optometric Practice Act of 1987

2) Code Citation: 68 Ill. Adm. Code 1320

3)

Section Numbers:	Adopted Actions:
1320.20	Amendment
1320.35	Repealed
1320.50	Amendment
1320.70	Amendment
1320.80	Amendment
1320.100	Amendment
1320.105	Amendment
1320.315	Amendment
1320.400	Amendment
1320.420	Amendment

4) Statutory Authority: Implementing the Illinois Optometric Practice Act of 1987 [225 ILCS 80] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

5) Effective Date of Rules: September 8, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Professional Regulation and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 5754; May 26, 2017

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

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

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: PA 98-1111 amended Section 15.1(a-15) of the Act to reflect recent changes in federal law by clarifying that optometrists' prescriptive authority of Schedule II controlled substances is prohibited except for a specific limited form of Dihydrocodeinone (Hydrocodone) only in a quantity sufficient to provide treatment for up to 72 hours. Accordingly, Section 1320.315 was amended to include this change regarding prescriptions for Schedule II controlled substances. PA 99-43 amended Section 12 of the Act to eliminate the one-year residency license. Accordingly, Section 1320.35 of the rules was repealed, and the application fee for that license was removed.

The requirement to attest to current certification in cardiopulmonary resuscitation was removed from Sections 1320.70 and 1320.420. The Endorsement Section (Section 1320.50) of the rules has also been amended to require applicants from other jurisdictions who graduated from an optometry program prior to January 1, 1994 to submit evidence of 5 years of practice and completion of a course in oral ocular pharmaceutical agents.

The Continuing Education (CE) Section (Section 1320.80) was amended to lower the maximum number of continuing education credits an optometrist may receive for publishing papers in nationally recognized optometry journals and books, as well as for courses in cardiopulmonary resuscitation. The rule was also amended to require optometrists to maintain continuing education certificates for 6 years and the requirement for optometry continuing education sponsors to maintain continuing education records has been changed from 5 years to 6 years. The adopted rulemaking removed the requirement for the Council on Optometric Practitioner Education (COPE) to include certification of compliance with the CE Section when conducting out-of-state continuing education courses and it clarified that an optometrist may be disciplined for failure to comply with that Section.

The rules' Section on Recordkeeping (Section 1320.105) was amended to require optometrists to keep records of patients examined in residential care facilities, such as nursing homes, at both the facility and at the optometrist's office.

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

Department of Financial and Professional Regulation

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1320
OPTOMETRIC PRACTICE ACT OF 1987

SUBPART A: OPTOMETRY

Section

1320.20 Approved Programs of Optometry
1320.30 Application for Licensure
1320.35 Application for a Limited Residency License (Repealed)
1320.40 Examinations
1320.45 Fees (Emergency Expired)
1320.50 Endorsement
1320.55 Renewals (Renumbered)
1320.60 Inactive Status
1320.70 Restoration
1320.80 Continuing Education
1320.90 Minimum Eye Examination
1320.95 Minimum Equipment List
1320.100 Practice of Optometry
1320.105 Recordkeeping
1320.110 Advertising
1320.120 Granting Variances (Renumbered)

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section

1320.200 Standards (Repealed)
1320.210 Application for Diagnostic Certification (Repealed)
1320.220 Approved Diagnostic Topical Ocular Pharmacological Training (Repealed)
1320.230 Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act (Repealed)
1320.240 Restoration of Diagnostic Certification (Repealed)
1320.250 Endorsement of Diagnostic Certification (Repealed)
1320.260 Renewal of Certification (Repealed)
1320.270 Display of Certification (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: DIAGNOSTIC AND THERAPEUTIC OCULAR PHARMACEUTICAL AGENTS

Section
1320.300 Definitions and Standards
1320.310 Application for Therapeutic Certification (Repealed)
1320.315 Controlled Substance License Requirement
1320.320 Approved Therapeutic Ocular Training (Repealed)
1320.330 Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act
1320.335 Oral Pharmaceutical Agents
1320.340 Restoration of Therapeutic Certification (Repealed)
1320.350 Endorsement of Therapeutic Certification (Repealed)

SUBPART D: GENERAL

Section
1320.400 Fees
1320.410 Ancillary Licenses (Repealed)
1320.411 Ancillary Registrations
1320.420 Renewals
1320.430 Granting Variances

AUTHORITY: Optometric Practice Act of 1987 [225 ILCS 80]; Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 5 Ill. Reg. 5869, effective June 1, 1981; codified at 5 Ill. Reg. 11046; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2273, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10032, effective August 1, 1982; amended at 9 Ill. Reg. 1092, effective January 11, 1985; amended at 10 Ill. Reg. 7340, effective April 16, 1986; transferred from Chapter I, 68 Ill. Adm. Code 320 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1320 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 1821; emergency amendment at 12 Ill. Reg. 1925, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11447, effective June 27, 1988; amended at 13 Ill. Reg. 6994, effective April 25, 1989; amended at 14 Ill. Reg. 14128, effective August 15, 1990; amended at 17 Ill. Reg. 18096, effective October 4, 1993; amended at

17 Ill. Reg. 21501, effective December 1, 1993; amended at 19 Ill. Reg. 17150, effective December 19, 1995; amended at 20 Ill. Reg. 9068, effective July 1, 1996; amended at 21 Ill. Reg. 16040, effective November 24, 1997; amended at 23 Ill. Reg. 5744, effective April 30, 1999; amended at 24 Ill. Reg. 3656, effective February 15, 2000; amended at 27 Ill. Reg. 2677, effective January 31, 2003; amended at 28 Ill. Reg. 4945, effective March 3, 2004; amended at 28 Ill. Reg. 16247, effective December 2, 2004; amended at 29 Ill. Reg. 20616, effective December 6, 2005; amended at 31 Ill. Reg. 4339, effective March 5, 2007; amended at 32 Ill. Reg. 3243, effective February 21, 2008; amended at 34 Ill. Reg. 2883, effective February 18, 2010; amended at 36 Ill. Reg. 10006, effective June 29, 2012; amended at 41 Ill. Reg. 11400, effective September 8, 2017.

SUBPART A: OPTOMETRY

Section 1320.20 Approved Programs of Optometry

a) The Department of Financial and Professional Regulation-Division of Professional Regulation (Division) shall, upon the recommendation of the Illinois Optometric Licensing and Disciplinary Board (the Board), approve an optometry program if it meets the following minimum criteria:

1) The educational institution is legally recognized and authorized by the jurisdiction in which it is located to confer the Doctor of Optometry degree.

2) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the students are fulfilled. The faculty must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions.

3) Has a curriculum of at least the following subject areas:

Basic Science, including Anatomy, Physiology and Biochemistry

Practical Optics

Anatomy and Physiology of the Eye

Pathology of the Eye

Physiological Optics

Theoretical Optometry

Practical Optometry

Clinical Optometry

Theory and Practice of Contact Lens

Fitting

Pharmacology

Diagnosis, treatment and management of ocular disease and recognition of systemic diseases with ocular symptoms

4) Has a course of study of 4 academic years above the undergraduate level.

5) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

b) In determining whether a school or college should be approved, the Division shall take into consideration but not be bound by accreditation by the Accreditation Council on Optometric Education (ACOE).

c) Procedures taught in schools and colleges of optometry approved by the Division that are considered for approval in the practice of optometry shall be adopted pursuant to rule or regulation by the Division upon recommendation of the Board. Before adoption of such rules or regulations, the Board shall first evaluate the procedure in accordance with criteria it has previously adopted. Furthermore, the Board shall specify training and demonstration of competency required before an optometrist may perform such procedures. In any event, the Division, upon recommendation of the Board, has determined that surgery, including surgery performed with a laser, is not an optometric procedure.

d) Program Evaluation

1) An applicant from an optometry program that has not been evaluated will be requested by the Division to provide documentation concerning the criteria in this Section.

2) Once the Division has received the documentation or after 6 months have elapsed from the date of application, whichever comes first, the Board will evaluate the program based on all documentation received from the school and any additional information the Division has received which it deems to be reliable.

e) Withdrawal of Approval

1) The Director of the Department of Financial and Professional Regulation-Division of Professional Regulation (Director) may, upon a written recommendation submitted by the Board, withdraw, suspend or place on probation the approval of an optometry program when the quality of the program has been materially affected by any of the following causes:

A) Gross or repeated violations of any provision of the Illinois Optometric Practice Act of 1987 [225 ILCS 80] (the Act);

B) Gross or repeated violations of any of this Part;

C) Fraud or dishonesty in furnishing documentation for evaluation of the optometry program; or

D) Failure to continue to meet the established criteria of an approved optometry program as set forth~~out~~ in this Section.

2) An optometry program whose approval is being reconsidered by the Division shall be given written notice prior to any recommendation by the Board and the officials in charge may either submit written comments or request a hearing before the Board in accordance with 68 Ill. Adm. Code 1110.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

Section 1320.35 Application for a Limited Residency License (Repealed)

~~Pursuant to Section 12 of the Act, an individual may apply for a one-year limited residency license to practice optometry in a residency program approved by the Board. The application shall include:~~

~~a) Certification of graduation from a 4-year optometry graduate level program approved by the Division in accordance with Section 1320.20;~~

~~b) Certification of final passage of the National Board of Examiners in Optometry (NBEO) examinations as set forth in Section 1320.40 within three years prior to application. The applicant shall have the examination scores submitted to the Division directly from NBEO;~~

~~c) Proof that the applicant will be accepted or appointed to a position in a residency program that is approved by the Board and the dates during which the applicant will be in the program;~~

~~d) Certification from the jurisdiction of original licensure and current licensure, if applicable, stating:~~

~~1) The period of time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license;~~

~~2) A description of the licensure examination in that jurisdiction;~~

~~3) Whether the file on the applicant contains any record of disciplinary actions taken or pending; and~~

~~e) The required fee set forth in Section 1320.400 of this Part.~~

(Source: Repealed at 41 Ill. Reg. 11400, effective September 8, 2017)

Section 1320.50 Endorsement

a) An applicant who is licensed under the laws of another jurisdiction shall submit~~file~~ an application to~~with~~ the Division, together with:

1) Certification of Graduation

A) Certification of graduation after January 1, 2008 from an

optometry program approved by the Division in accordance with Section 1320.20; or

B) Certification of graduation between January 1, 1994 and December 31, 2007 from an optometry program approved by the Division in accordance with Section 1320.20~~;~~ and:

i) Evidence~~The submission of evidence~~ that the applicant has practiced optometry for a minimum of 5 years utilizing ocular pharmaceutical agents including oral agents under the laws of another jurisdiction that are deemed by the Board, pursuant to subsection (b), to be substantially equivalent to those of Illinois; or

ii) Evidence~~The submission of evidence~~ of completion of a course or its equivalent as determined by the Board, pursuant to subsection (b), in oral ocular pharmaceutical agents as designated in Section 1320.335(b); or~~.~~

C) Certification of graduation prior to January 1, 1994 from an optometry program approved by the Division in accordance with Section 1320.20~~;~~ and:

i) Evidence~~The submission of evidence~~ that the applicant has practiced optometry for a minimum of 10 years utilizing ocular pharmaceutical agents under the laws of another jurisdiction that are deemed by the Board to be substantially equivalent to those of Illinois; or

ii) Evidence~~The submission of evidence~~ of completion of:

- a course or its equivalent as determined by the Board in diagnostic pharmaceutical agents. The course shall be approved by the Division upon the recommendation of the Board and shall include a curriculum of at least 55 hours of lecture in the diagnosis of eye disease, including the use of diagnostic pharmaceutical agents. The course shall be conducted by an approved school of optometry

and shall include a comprehensive examination. Documentation of the content of the course shall be provided to the Division by the applicant; and

- a 120 hour course in ocular pharmaceutical agents or its equivalent, as determined by the Board, within 3~~three~~ years prior to application. The course shall be approved by the Division upon the recommendation of the Board and shall include a curriculum of at least 90 hours of lecture and at least 30 hours of practical laboratory in the treatment of the eye using ocular pharmaceutical agents that includes foreign body removal and clinical patient care. The program shall be conducted at an approved school of optometry and shall include the passage of a comprehensive examination designed to test the student's knowledge, competence and ability. Applicants will be required to submit documentation of the course to the Division when applying under this subsection (a)(2); or

iii) Evidence of completion of the requirements set forth in subsection (a)(1)(B)(i) or (ii);

2) Certification from the jurisdiction of original licensure and current licensure stating:

A) The period of time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;

B) A description of the licensure examination in that jurisdiction;

C) Whether the records of the licensing entity contains any record of disciplinary actions taken or pending against the applicant;

3) Certification of passage of Part I and Part II, including passage of the Treatment and Management of Ocular Disease (TMOD) section of the

National Board of Examiners in Optometry (NBEO) examination, by NBEO standards, or an equivalent comprehensive examination administered in another jurisdiction;

4) Certification of passage of Part III of the examination administered by NBEO, by NBEO standards, or an equivalent comprehensive practical examination administered in another jurisdiction; and

5) The required fee as set forth in Section 1320.400.

b) The Division shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensure were substantially equivalent to the requirements then in force in this State. The applicant may be required to submit a copy of the Act and rules in effect at the time of original licensure. If an applicant has taken a licensure examination other than Part I and Part II of the National Board prior to 1970, the examination and results will be required by the Board to determine that substantially equivalent requirements have been met. The Division may,~~shall~~ within a reasonable time, either issue a license by endorsement to the applicant or notify the applicant~~him/her~~ of the reasons for the denial of the application.

c) The Division may, in individual cases, upon recommendation of the Board, in accordance with Section 12 of the Act, waive the comprehensive practical examination for an applicant for endorsement, after full consideration of the applicant's~~his/her~~ optometric education, training and experience, including, but not limited to, whether the applicant~~he/she~~ has achieved special honors or awards, has had articles published in professional journals, has participated in writing textbooks relating to optometry, and any other attribute which the Board accepts as evidence that such applicant has outstanding and proven ability in optometry.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

Section 1320.70 Restoration

a) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 3 years shall submit~~file~~ an application, on forms supplied by the Division, together with:

1) Proof of current certification in cardiopulmonary resuscitation and

completion of the continuing education requirements during the 2 years prior to restoration in accordance with Section 1320.80~~ of this Part~~. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs;

2) Either:

A) Evidence of an existing therapeutic pharmaceutical agent certification at the time the license was placed in inactive or expired status; or

B) Proof of completion of the requirements of Section 1320.50(a)(1)(A), (B) or (C); and

3) The proper fees, either:

A) The restoration fees, when restoring an expired license, specified in Section 1320.400(c)(1); or

B) The renewal fees, when restoring an inactive license, specified in Section 1320.400(b)(1).

b) In addition to satisfying the requirements of subsection (a), the licensee shall also submit:

1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice;

2) An affidavit attesting to military service as provided in Section 16 of the Act. If application is made within 2 years of discharge, and if all other provisions of Section 16 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees;

3) Evidence of other education or experience acceptable to the Division of the licensee's fitness to have the certificate restored. The~~Such~~ evidence shall be reviewed on a case by case basis by the Board; or

4) Certification of passage of Part III of the examination administered by NBEO, by NBEO standards. The Board may, in its discretion and in individual cases, make a recommendation to the Director for the waiver of the clinical skills examination or Part III of the examination in accordance with Section 11 of the Act based on quality of education, training and experience including, but not limited to, special honors and awards, articles published in optometry journals, writing or participation in the writing of textbooks in optometry or any other circumstances or attribute which the Board accepts as evidence that such applicant has outstanding and proven ability in optometry.

c) A licensee seeking restoration of a license that has expired or been on inactive status for less than 3 years, or has been placed in non-renewed status for failure to comply with continuing education (CE) requirements shall submit~~file~~ an application on forms provided by the Division, together with:

1) Proof of ~~current certification in cardiopulmonary resuscitation and~~ completion of CE~~continuing education (CE)~~ requirements during the 2 years prior to restoration in accordance with Section 1320.80. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs;

2) Either:

A) Evidence of an existing therapeutic pharmaceutical agent certification at the time the license was placed in inactive or expired status; or

B) Proof of completion of the requirements of Section 1320.50(a)(1)(A), (B) or (C); and

3) The restoration fees specified in Section 1320.400. For the purpose of restoring from inactive status the Division shall consider that no renewal fees have lapsed during the period of inactive status.

d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 12 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the

continuing education requirements.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is reasonably questioned by the Division because of a lack of information, discrepancies or conflicts in information given, or there is a need for clarification, the licensee seeking restoration of the license will be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for interviews before the Board when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Upon the recommendation of the Board, and approval by the Division, an applicant shall have the license restored.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

Section 1320.80 Continuing Education

a) Continuing Education (CE) Hour Requirements

1) Every renewal applicant shall complete 30 hours of ~~Continuing Education (~~CE~~)~~ relevant to the practice of optometry required during each pre-renewal period. A pre-renewal period is the 24 months preceding March 31 in the year of the renewal.

2) A CE hour equals 50 minutes. CE credit may be given only in one hour increments.

3) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.

4) Optometrists licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.

b) Approved CE~~Continuing Education~~

1) All CE~~continuing education~~ hours must be earned by verified attendance at or participation in a program that is offered by an approved

CE~~continuing education~~ sponsor who meets the requirements set forth in subsection (c).

2) As part of the 30 hours of required CE~~continuing education~~, each licensee shall complete during each pre-renewal period at least 12 hours of credit that is certified by an approved optometry college in accordance with Section 1320.20~~ of this Part~~, osteopathic or medical college or university pursuant to the Medical Practice Act of 1987 [225 ILCS 60], or a pharmacy college pursuant to the Pharmacy Practice Act [225 ILCS 85].

A) Each certified course shall include at least 2 hours of actual course presentation and shall include the successful completion of a post-course evaluation of the attendee's understanding of the course material. No additional credit may be given for the required post-course evaluation.

i) The post-course evaluation may be taken on-site immediately following the course presentation. An examination distributed on-site shall not be removed from the site.

ii) The post-course evaluation may be a correspondence evaluation mailed to the attendee and returned to the provider. The sponsor shall not distribute a post-course evaluation at the site.

iii) The post-course evaluation must consist of a minimum of 5 questions per course hour.

iv) At the sponsor's discretion, the attendee may be allowed one retake of a failed post-course evaluation in order to receive credit for~~as~~ certified CE~~ continuing education~~.

B) Licensees who attend a certified education course without completion or passage of a post-course evaluation may apply the actual course hours toward fulfillment of the non-certified CE~~continuing education~~ requirements ~~as~~ set forth in subsection (a)(1).

C) Any approved CE~~continuing education~~ sponsor may offer, in conjunction with the above-referenced college or university, a certified course. However, certified CE~~continuing education~~ shall not be provided, sponsored, co-sponsored or in any way supported or financially underwritten by a CE sponsor or others who may receive patient referrals from optometrists licensed under the Act. Approved optometry programs in subsection (b)(2) are not deemed in violation of this Section. Faculty of an adjunct institution to an approved optometry program may present certified CE on the primary campus of the approved optometry program under this exception. Nothing in this Section shall prohibit the listing of courses in a professional journal or newsletter or prevent an approved school, college or university from certifying a course.

D) Transcript quality CE~~continuing education~~ courses shall be deemed equivalent to the certified courses if they meet the requirements set forth in subsection (b)(2)(A).

E) CE~~Continuing education~~ sponsors shall state in their course materials the type of post-course evaluation which will be given and whether the applicant will be allowed to retake the evaluation.

F) Certified CE~~continuing education~~ courses shall be courses in which the attendees are in actual attendance in the same room as the presenter. No online, self-instruction or correspondence courses shall be considered certified CE~~continuing education~~ courses.

3) Eighteen hours of CE credit may be earned as follows (not accepted for certified CE):

~~A) A maximum of 12 hours per pre-renewal period for papers prepared and delivered before recognized optometric organizations, papers published in nationally recognized optometric journals, or a chapter in a book of optometry, each appropriately verified.~~

A)~~B)~~ A maximum of 12 hours per pre-renewal period for verified teaching of students at an optometry school approved by the

Division~~, or practicing optometrists in approved CE programs~~. One hour of teaching at an optometry school approved by the Division is equal to one hour of CE~~continuing education~~.

B)~~C)~~ A maximum of 4 hours per pre-renewal period for verified self-instruction or self-instruction by electronic means~~video teleconferencing~~ that is sponsored or co-sponsored by any approved optometry college, institution or national or State optometry association.

C)~~D)~~ A maximum of 4 hours per pre-renewal period for courses in practice management that includes business management.

D)~~E)~~ A maximum of 1 hour~~2 hours~~ of CE~~continuing education~~ in cardiopulmonary resuscitation (CPR) certified by the American Red Cross, American Heart Association, an Illinois licensed hospital, ~~or~~ an approved medical or optometric institution, or a licensed CE sponsor may be earned per pre-renewal period. Credit shall only be given for CPR courses in which the attendees are in actual attendance in the same room as the presenters. No credit shall be given for online, self-instruction, or correspondence courses.

4) CE~~Continuing education~~ credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.

5) Credit shall not be given for courses taken in Illinois from unapproved sponsors except for a CPR course in accordance with subsection (b)(3)(D~~E~~).

6) The licensee shall maintain proof of completion of the CE requirements, in the form of CE certificates, for 3 license renewal cycles (6 years) from the end of the licensing period in which the CE course was taken.

c) CE~~Continuing Education~~ Sponsors and Programs

1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation, or any other group that has been approved and authorized by

the Division upon the recommendation of the Optometric Licensing and Disciplinary Board to coordinate and present CE~~continuing education~~ courses or programs.

2) A sponsor shall submit~~file~~ a sponsor application, along with the required fee set forth in Section 1320.400(a)(4~~5~~), that includes:

A) Certification

i) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in this Section;

ii) That the sponsor will be responsible for verifying attendance at each course or program or session thereof utilizing signature sheets or other means of attendance verification and for providing a certificate of completion as set forth in subsection (b);

iii) That, upon request by the Division, the sponsor will submit such evidence as is necessary to establish compliance with this Section;

iv) That each sponsor shall submit to the Division a written notice of a course offering 30 days prior to the course date. The notice shall include the description, location, date and time of the course to be offered;

B) A history and the experience of the sponsor as an educational provider;

C) A copy of a sample program with faculty, course materials and syllabi;

D) The name and address of the contact person responsible for all recordkeeping; and

E) A list of all principals of the organization applying for a sponsor license.

3) Each sponsor shall submit by March 31 of each even-numbered year a sponsor application along with the required fee set forth in Section 1320.400(b)(2)~~ of this Part~~. With the application, the sponsor shall be required to submit to the Division a list of all courses and programs offered in the pre-renewal period, which includes a description, location, date and time the course was offered.

4) All courses and programs shall:

A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of optometry;

B) Provide experiences that contain scientific integrity, relevant subject matter and course materials; and

C) Be developed and presented by persons with education and/or experience in subject matter of the program.

5) The tuition fees charged for programs conducted by approved sponsors shall be reasonable and directly related to the sponsor's actual expense in conducting the programs.

6) All programs given by approved sponsors shall be open to all licensed optometrists and not be limited to the members of a single organization or group and shall specify the number of CE hours and categories that may be applied toward Illinois CE requirements for licensure renewal.

7) Certificate of Attendance

A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:

i) The name, sponsor number and address of the sponsor;

ii) The participant's name ~~of the participant~~ and ~~his/her~~ optometry license number;

iii) A detailed statement of the subject matter;

iv) The number of hours actually attended in each topic;

v) The date of the program;

vi) Whether the course qualifies for certified continuing education.

B) A separate certification of passage or failure of the post-course evaluation shall be issued by the approved certifying institution when the course is for certified CE credit.

C) The sponsor shall maintain these records for 3 license renewal cycles (6 years) from the end of the licensing period in which the CE course was presented~~not less than 5 years~~. These records shall include all test materials utilized for certified courses.

8) The sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive CE credit for time not actually spent attending the program.

9) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board in accordance with~~(see~~ 68 Ill. Adm. Code 1110 (Rules of Practice in Administrative Hearings), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Division receives reasonably satisfactory assurances of compliance with this Section.

d) CE~~Continuing Education~~ Earned in Other States

1) A~~If a~~ licensee who requests credit toward CE compliance in Illinois for ~~has earned~~ CE hours earned in another jurisdiction ~~for which he/she will be requesting credit toward full compliance in Illinois, the applicant~~ shall submit an out-of-state CE approval form along with a $25~~20~~ processing fee within 90 days prior to or after the course. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

2) If a licensee fails to submit an out-of-state CE approval form within the required 90 days, late approval may be obtained by submitting the application along with the $25~~20~~ processing fee plus a $50 per hour late fee not to exceed $300. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.

3) The Board has determined that the Council on Optometric Practitioner Education (C.O.P.E.) approved courses are acceptable for out-of-state CE~~continuing education~~. If a licensee attends an out-of-state C.O.P.E. approved course, the licensee will not be required to submit the out-of-state CE approval form and the $25~~20~~ processing fee. ~~All C.O.P.E. approved certified (tested) courses must contain certification by C.O.P.E. that the course was conducted in compliance with Section 1320.80(b)(2)(C) in order for certified credit to be granted under this Subpart.~~

e) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a).

2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance for a period of 5 years.

3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65]. These proceedings may result in fines and/or disciplinary action.

f) Waiver of CE Requirements~~/Certification in Cardiopulmonary Resuscitation~~

1) Any renewal applicant seeking renewal of a~~his/her~~ license under Section 1320.420 who has not~~without having~~ fully complied with the CE requirements of~~or the certification in Cardiopulmonary Resuscitation~~

~~(CPR) as required in~~ Section 1320.180~~1320.420~~ shall submit to~~file with~~ the Division a renewal application, the renewal fee set forth in Section 1320.400(b)(1), a statement setting forth the facts (including time frames) concerning the~~such~~ non-compliance, and a request for waiver of the CE~~/CPR requirements~~ on the basis of the facts. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that good cause has been shown for granting a waiver, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.

2) Good cause is~~shall be~~ defined as an inability to devote sufficient hours to fulfilling the CE~~/CPR~~ requirements during the applicable pre-renewal period because of:

A) Full time service in the armed forces of the United States of America during a substantial part of such period; or

B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:

i) An incapacitating illness documented by a currently licensed physician;~~,~~

ii) A physical inability to travel to the sites of approved programs;~~,~~ or

iii) Any other similar extenuating circumstances.

3) If an interview with the Board is requested at the time the request for the waiver is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.

4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) ~~of this Section~~ shall be deemed to be in good standing until the Division's final decision on the application has been made.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1320.100 Practice of Optometry

a) The practice of optometry, as defined in Section 3 of the Act, shall include, but not be limited to, the following functions:

1) Prescribing and fitting of any ophthalmic lenses including contact lenses.

2) Retinoscopy.

3) Tonometry.

4) Keratometry.

5) Subjective lens testing.

6) Phoria testing.

7) Biomicroscopy.

8) Ophthalmoscopy.

9) Electronic or computerized examination techniques that utilize devices that perform any of the above functions.

10) Visual screening.

11) Diagnosis and treatment of any ocular abnormality, disease or visual or muscular anomaly of the human eye or visual system.

b) Visual Screening

1) Nothing in this Section shall prohibit visual screening conducted without a fee other than a voluntary donation by a charitable organization or governmental agency, acting in the public welfare under the supervision of a committee composed of persons licensed by the State to practice optometry or medicine in all of its branches.

2) Visual screening is defined as a limited series of ocular observations, measurements or tests provided without a fee to determine if a complete

eye examination, as described in Section 1320.90, by a licensed optometrist or a physician licensed to practice medicine in all of its branches, is recommended.

3) When a visual screening is performed, the recipient of the screening shall be clearly informed in writing and shall receive a copy of the following:

A) Results and limitations of the screening;

B) That the screening is not representative of or a substitute for an eye exam;

C) That the screening will not result in a prescription for visual correction;

D) That visual screening referral criteria for a complete eye examination must meet accepted optometric professional standards criteria; and

E) The name and address of the charitable organization sponsoring the screening and the chairperson of the supervisory committee.

4) A copy of the screening results shall be maintained for 6 years by the chairperson of the supervisory committee or the optometrist performing the screening.

5) Visual screening includes ocular disease specific screenings that may be conducted for charitable purposes in accordance with this Section.

c) No ophthalmic lenses, prisms, or contact lenses may be sold or delivered to an individual without a prescription signed by a licensed optometrist or a physician licensed to practice medicine in all of its branches.

d) The following acts shall not be performed by an individual not licensed in this State as an optometrist or to practice medicine in all of its branches except while acting under the direct supervision of a person so licensed:

1) Conducting or performing examinations of the human eye or its appendages employing either objective or subjective means, or both for

the purpose of adapting lenses to the eyes of any person;

2) Using instruments or appliances of any type to determine the curvatures of the eye or of the cornea of any person for the purpose of ordering or supplying contact lenses for the person;

3) Determining, selecting or specifying the lens characteristics or the lens curvatures of contact lenses to be supplied to any person;

4) Converting, altering, or varying in any manner a prescription for contact lenses prepared by an optometrist or a person licensed to practice medicine in all its branches in this State;

5) Converting, altering, or varying in any manner a prescription for spectacles prepared by an optometrist or a person licensed to practice medicine in all of its branches in this State, including converting a spectacle prescription into a prescription for contact lenses;

6) Inserting, removing, adjusting or adapting contact lenses for the purpose of selecting, specifying or furnishing contact lenses for use by any person;

7) Conducting or performing any examination of the human eye or its appendages employing either objective or subjective means or both for the purpose of determining the effects that may have resulted from wearing contact lenses by any person;

8) When~~Where~~ a person has been provided with contact lenses pursuant to a prescription by an optometrist or a person licensed to practice medicine in all of its branches in this State, adjusting, adapting or changing the lens characteristics or the lens curvatures of the contact lens in any manner whatsoever;

9) Advertising, representing or informing the general public by any means, including, but not limited to, display advertising in newspapers and telephone directories within the State of Illinois, that the individual~~he/she~~ will fit or adapt contact lenses for the use of any person.

e) Direct supervision of any person assisting an optometrist means:

1) The optometrist personally performs those procedures requiring professional judgment. Professional judgment requires that the optometrist shall perform those procedures for the diagnosis and treatment of anomalies of the eye, adnexa, and the visual system, including for example, but not limited to, biomicroscopy, ophthalmoscopy, all therapeutic procedures and the prescribing of any ophthalmic lenses, including contact lenses.

2) The optometrist shall specify all procedures to be performed by the assistant.

3) The optometrist is present in the facility while the assistant performs the procedure (does not mean that the optometrist must be present with the patient while the specified procedures are being performed).

4) The optometrist approves the results of the procedures performed by the assistant before dismissal of the patient.

f) Requirements for the minimum eye exam as outlined in Section 1320.90 are still applicable and are not changed or altered by the provisions of this Section.

g) When the practice of optometry is conducted at a mobile or non-permanent location, the following shall apply:

1) Notice shall be given to the Division of the locations of the~~such~~ mobile examinations and the times they will be given. Notices shall be postmarked no later than 15 days prior to the examination.

2) Notice shall be given to the Division and the patient of the location where examination records are to be maintained in accordance with Section 1320.90 and the name and address of the individual or office where the patient can access and obtain copies of his or her records.

3) Notice shall be given to the Division and the patient of the name and address of the examining optometrists and the location where follow-up services will be provided. A protocol shall be established for each mobile location to provide for the follow-up and referral of the patient to appropriate permanent optometric or healthcare locations when needed.

4) If the patient is a minor child, parental approval shall be obtained prior to any examination and the case history as required by Section 1320.90 shall be obtained from the parent or guardian.

5) All equipment~~, as~~ required by Section 1320.95~~,~~ shall be present, operable and available for use.

6) All ancillary registrations (see Section 1320.411)~~licenses~~ shall be displayed in plain view of the patient. An optometrist shall obtain an ancillary registration~~license~~ prior to providing services at the mobile location.

7) Vision screenings conducted in conjunction with a mobile location shall be done in accordance with subsection (b).

8) Mobile locations must meet all other requirements of the Act and this Part and any other State or federal requirements.

9) Mobile locations do not include homes, hospitals or institutions at which a licensee is entitled to practice under Section 1320.411(d)~~1320.410(d)~~ or Section 7 of the Act.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

Section 1320.105 Recordkeeping

Every licensed optometrist shall keep a record of examinations made and prescriptions issued, which record shall include the names of persons examined and for whom prescriptions were prepared, and that *shall be signed by the licensed optometrist and retained by him* or her *in the office in which* the *professional service was rendered.* [225 ILCS 80/6]

a) Ownership of Records

1) Independent Optometric Practice
A licensed optometrist shall maintain full and independent responsibility and control over all records, including any prescriptions, relating to the patients. All such records shall remain confidential, except as otherwise provided by law, and shall be maintained by the licensed optometrist in compliance with this Section, Section 6 of the Act, HIPAA and Section

1320.90~~ of this Part~~. For purposes of this subsection (a)(1), "maintain full and independent responsibility and control" means that the records shall be maintained by the licensed optometrist and that the optometrist shall not share, delegate or relinquish either possession of the records, including any prescriptions, or his or her responsibility or control over those records with or to any entity that is not itself licensed by the Division unless the entity is a "covered entity" under HIPAA~~HIPPA~~. The optometrist may transfer custody of his or her records including prescriptions to a covered entity under HIPAA~~HIPPA~~ so long as the covered entity has designated an Illinois licensed optometrist or ophthalmologist as the custodian of the records. In this case, the optometrist shall receive copies of any records of his or her patients upon request as needed for continued patient care. The original records shall be available to the optometrist for compliance with statutory and regulatory requirements or for use in other legal proceedings. In no case may records remain in the custody of a non-licensed individual. A custodian named under this Section shall be reported to the Department and shall be responsible for compliance with all laws regarding the maintenance of records.

2) Optometric Practice of an Employee of a Non-Medical Entity Not Licensed by the Division or the Department of Public Health

A) A licensed optometrist shall maintain responsibility and control over all records, including any prescriptions, relating to the patients examined while they are employed. All such patient records shall remain confidential, except as otherwise provided by law, and shall be kept under the supervision of the licensed optometrist in compliance with this Section, Section 6 of the Act, HIPAA and Section 1320.90~~ of this Part~~. However, a person, firm or corporation who is a covered entity under HIPAA~~HIPPA~~ may maintain patient records under the supervision of the optometrists employed by the covered entity pursuant to Section 8 of the Act.

B) If the optometrist leaves the employ of the non-medical entity, the patient records, including any prescriptions, shall remain with the employer on the condition that an Illinois licensed optometrist or ophthalmologist~~opthalmologist~~ is named by the employer as the custodian for the purpose of keeping the records in compliance with HIPAA and the Act. All such records shall maintain patient

confidentiality pursuant to HIPAA. The previously employed optometrist shall receive copies of any records of his or her patients upon request as needed for continued patient care. The original records shall be available to the optometrist for compliance with statutory and regulatory requirements or for use in other legal proceedings. In no case may records remain in the custody of a non-licensed individual. A custodian named under this Section shall be reported to the Department and shall be responsible for compliance with all laws regarding the maintenance of records.

3) Optometrists Employed by Other Division Licensees
Patient records, including any prescriptions, are the property and responsibility of the examining optometrist, except when the examining optometrist is employed by an optometrist or ophthalmologist. In this circumstance, the patient records are the property and responsibility of the optometrist or ophthalmologist who employs the optometrist, or remain the property and responsibility of the examining optometrist if agreed to by both parties under contract or other written agreement. In all circumstances, records must be available to the original optometrist for continued patient care and for compliance with statutory and regulatory recordkeeping requirements.

4) Multidiscipline Group Practice
The records including prescriptions relating to the patients of a multidisciplinary group of licensed optometry care professionals, or relating to the patients of a partnership or professional association, may be maintained by the group practice, partnership or professional association on behalf of all licensed optometrists employed by the group practice, partnership or professional association. The optometrist may transfer ownership of his or her records, including any prescriptions, to another licensed optometrist or group of optometrists provided that the records are available to the original optometrist for continued patient care and for compliance with statutory and regulatory recordkeeping requirements.

5) Hospital, Clinic or Nursing Home Facility Practice
If an optometrist examines or writes a prescription for a patient in a hospital, clinic or nursing home, he or she may elect to utilize the recordkeeping system of the facility, if he or she determines that the

system is accurate and secure and the records are available to the optometrist for compliance with statutory and regulatory recordkeeping requirements.

b) Transfer of Ownership of Records
Upon the sale of a practice or the disability or death of an optometrist, the records must be transferred to a licensed optometrist or ophthalmologist or a health care facility licensed by the Department of Public Health for compliance with this Section, Section 6 of the Act, HIPAA and Section 1320.90~~ of this Part~~. Patients are to be informed of the location of their records unless they are to be maintained at their original location. Copies of records must be made available, within 10 days after the death of an optometrist, to patients upon their request. Another optometrist or ophthalmologist may use these records to meet the patient's needs until their next regularly scheduled eye exam. Failure to provide records under this Section by a non-licensed individual shall be considered to be a violation under Section 4.5 of the Act and may result in fines or civil penalties provided for in the Act.

c) Necessity for Having Contract Provisions that Preserve the Optometrist's Statutory Recordkeeping Requirement
No agreement, lease or other contract entered into, renewed or extended between an optometrist and any entity that itself is not licensed by the Division as an optometrist or ophthalmologist or by the Department of Public Health as a health care facility shall contain any provision that:

1) Impedes an optometrist's ability to gain access to his or her professional office or patient records, including any prescriptions, provided any such agreement, lease or other contract shall contain a provision that establishes reasonable protocol for the optometrist to gain access to the premises during non-business hours for medical emergencies; or

2) Limits, inhibits or prevents an optometrist's ability to communicate with his or her patients at any time.

d) Record Retention

1) All patient records including prescriptions shall be maintained by the examining optometrist at the location of the examination or shall be available at that location for inspection upon reasonable request if stored

in a secure off-site location for 6~~six~~ years pursuant to Section 1320.90. Records may be maintained on paper or in electronic format, as follows:

A) If records are maintained electronically, an optometrist shall keep either a duplicate hard-copy record or a back-up unalterable electronic record off-site. If a record request is made, and the off-site location is out-of-state, the optometrist is required to obtain the records in order to comply with the request. Electronic records must be keyed to record the time and date of any patient record transactions or alterations.

B) Any patient record that is created or maintained in an electronic format must have the capability of printing a paper record.

2) Failure to keep patient records for the statutory minimum of 6~~six~~ years shall constitute "dishonorable or unprofessional conduct" as that phrase is used in Section 24 of the Act, and any such action may subject the licensee to disciplinary action by the Division.

3) Records of patients examined in nursing homes and other residential care facilities shall be maintained, in accordance with this Section, at both the facility and the licensed location of the optometrist responsible for the record.

e) Patient Record Requests, Charges and Fees
A copy of patient records shall be provided, upon written request of the patient or any person, entity or organization presenting a valid authorization for release of records signed by that patient or the patient's legally authorized representative~~presentative~~ and payment of appropriate fees, to the person examined or his or her designee, in compliance with federal law.

f) Other Authorized Record Requests
Releasing records under a lawful subpoena in a criminal or civil proceeding, or pursuant to a subpoena issued by the Division or the Illinois Optometric Licensing and Disciplinary Board, is permissible in accordance with federal law. Document production compliance under a lawful subpoena is mandated by law. If the records sought are maintained at a location other than the optometrist's office where the subpoena was served, the optometrist is responsible for obtaining and producing the records to comply with the subpoena.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

SUBPART C: DIAGNOSTIC AND THERAPEUTIC OCULAR PHARMACEUTICAL AGENTS

Section 1320.315 Controlled Substance License Requirement

Licensed optometrists, in order to prescribe controlled substance oral analgesic therapeutic ocular pharmaceutical agents as set forth in Section 1320.330(a)(7), shall apply for a controlled substance license pursuant to 77 Ill. Adm. Code 3100. The licensee is limited to prescribing Schedule III, IV and V agents in a quantity sufficient to provide treatment for up to 72 hours and in accordance with the Illinois Controlled Substances Act [720 ILCS 570]. No prescriptions for a Schedule II controlled substance are permitted, with the exception of Dihydrocodeinone (Hydrocodone) with one or more active, non-narcotic ingredients only in a quantity sufficient to provide treatment for up to 72 hours.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

SUBPART D: GENERAL

Section 1320.400 Fees

a) Application Fees~~fees~~

1) The fee for application for an original license as an optometrist is $500.

2) Applicants for any examination shall be required to pay, either to the Division or its designated testing service, a fee covering the cost of determining the applicant's eligibility and providing the examination.

3) The fee for application for licensure of a person licensed as an optometrist in another jurisdiction is $500.

4) The fee for a sponsor of continuing education is $500.

~~5) The fee for an optometry residency one year license shall be $100.~~

b) Renewal Fees

1) The fee for renewal of an optometrist license is $200 per year.

2) The fee for renewal as a sponsor of continuing education is $250 per year.

c) General Fees

1) The fee for restoration of a license other than from inactive status is $50 plus payment of all lapsed renewal fees. For the purposes of restoring from inactive status, the Division shall consider that no renewal fees have lapsed during the period of inactive status.

2) The fee for issuance of a duplicate license or for the issuance of a replacement license for a license that~~which~~ has been lost or destroyed is $20.

3) The fee for the issuance of a license with a change of name or address other than during the renewal period is $20.

4) The fee for the certification of a license for any purpose is $20.

5) The fee for a wall certificate showing licensure is the actual cost of producing the license.

6) The fee for a roster of persons licensed under the Act is the actual cost of producing the roster.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

Section 1320.420 Renewals

a) Every license issued under the Act shall expire on March 31 of each even-numbered year. The holder of a license may renew that~~such~~ license during the 60 days preceding the expiration date of the license by paying the required fee and~~,~~ completing the CE~~continuing education~~ requirements set forth in Section 1320.80 ~~and attesting to current certification in cardiopulmonary resuscitation (CPR)~~.

b) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute

an excuse for failure to pay the renewal fee and to renew the license in a timely manner.

c) Practicing after a license has expired shall be considered the unlicensed practice of optometry and subject to discipline pursuant to Section 24 of the Act.

(Source: Amended at 41 Ill. Reg. 11400, effective September 8, 2017)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Reinsurance Ceded Contracts

2) Code Citation: 50 Ill. Adm. Code 1101

3)

Section Numbers:	Adopted Actions:
1101.5	Repealed
1101.10	Repealed
1101.20	Repealed

4) Statutory Authority: Implementing Article XI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XI and 401].

5) Effective Date of Repealer: August 25, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4925; May 12, 2017

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

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

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 1101 requires all insurance companies to submit a certified copy of a reinsurance ceded contract upon written request of the Director. If a company document needs to be reviewed, 215 ILCS 5/132.4(b), as well as

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

215 ILCS 5/131.21(1.5), requires companies to provide records as requested by the Director. This is a duplicative and unnecessary rule and was repealed in its entirety.

16) Information and questions regarding this adopted repealer shall be directed to:

Sara Ross, Supervisor
Financial Regulation Section
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-9760

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Security Valuation Reserve

2) Code Citation: 50 Ill. Adm. Code 1401

3) Section Number: 1401.10 — Adopted Action: Repealed

4) Statutory Authority: Implementing and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) Effective Date of Repealer: August 25, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4928; May 12, 2017

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

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

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 1401 requires certain companies to include a Security Valuation Reserve on the annual statement. This rule was effective in 1952. In 1992, the Security Valuation Reserve was replaced as an industry standard by the Asset Valuation Reserve and the Interest Maintenance Reserve; the annual statement required by 215 ILCS 5/136 changed to accommodate the AVR and IMR. Therefore, this rule is unnecessary and was repealed in its entirety.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

16) Information and questions regarding this adopted repealer shall be directed to:

Sara Ross, Supervisor
Financial Regulation Section
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-9760

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Actuarial Opinion and Memorandum

2) Code Citation: 50 Ill. Adm. Code 1408

3)

Section Numbers:	Adopted Actions:
1408.10	Repealed
1408.20	Repealed
1408.30	Repealed
1408.40	Repealed
1408.70	Repealed
1408.80	Repealed
1408.ILLUSTRATION A	Repealed

4) Statutory Authority: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].

5) Effective Date of Repealer: August 25, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Adm. Code 4931; May 12, 2017

10) Has JCAR issued a Statement of Objections to this Rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

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

14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

15) Summary and Purpose of Rulemaking: 215 ILCS 5/223 was recently amended to establish the Valuation Manual as the source for actuarial opinion and memorandum standards. Part 1408 was repealed because the Valuation Manual, which became operative January 1, 2017, has been established as the as the source for the actuarial opinion and memorandum requirements rather than Part 1408.

16) Information and questions regarding this adopted repealer shall be directed to:

Sara Ross, Supervisor
Financial Regulation Section
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-9760

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Explanation of Special and Contingency Reserves

2) Code Citation: 50 Ill. Adm. Code 1701

3) Section Number: 1701.10 — Adopted Action: Repealed

4) Statutory Authority: Implementing Article XI and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XI and 401].

5) Effective Date of Repealer: August 25, 2017

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 4957; May 12, 2017

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: None

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: Part 1701 was originally promulgated to implement Sections 295 and 297 of the Illinois Insurance Code; both Sections were repealed in 1986. The rule required a statement of purpose and certification of Board approval when fraternal benefit societies list special and contingency reserves on their annual statement, but with Sections 295 and 297 repealed, no statute currently applicable

to fraternal benefit societies even addresses such reserves. Lacking any remaining statutory impetus, this rule had nothing to implement and was repealed.

16) Information and questions regarding this adopted repealer shall be directed to:

Sara Ross, Supervisor
Financial Regulation Section
Illinois Department of Insurance
320 West Washington
Springfield IL 62767

217/782-9760

DEPARTMENT ON AGING

NOTICE OF WITHDRAWAL OF PROPOSED RULES

1) Heading of the Part: Community Reinvestment Program

2) Code Citation: 89 Ill. Adm. Code 237

3)

Section Numbers:	Proposed Actions:
237.10	New Section
237.20	New Section
237.30	New Section
237.40	New Section
237.50	New Section
237.60	New Section
237.70	New Section
237.100	New Section
237.110	New Section
237.120	New Section
237.200	New Section
237.210	New Section
237.220	New Section
237.230	New Section
237.240	New Section
237.250	New Section
237.260	New Section
237.300	New Section
237.310	New Section
237.320	New Section
237.330	New Section
237.340	New Section
237.350	New Section
237.400	New Section
237.410	New Section
237.420	New Section
237.430	New Section
237.440	New Section
237.450	New Section
237.460	New Section
237.500	New Section
237.510	New Section
237.520	New Section
237.530	New Section

DEPARTMENT ON AGING

NOTICE OF WITHDRAWAL OF PROPOSED RULES

237.540	New Section
237.550	New Section
237.600	New Section
237.610	New Section
237.620	New Section
237.630	New Section
237.640	New Section
237.650	New Section
237.660	New Section
237.670	New Section
237.700	New Section
237.710	New Section
237.720	New Section
237.730	New Section
237.740	New Section
237.800	New Section
237.810	New Section
237.820	New Section
237.830	New Section
237.840	New Section
237.900	New Section
237.910	New Section
237.920	New Section
237.930	New Section
237.940	New Section
237.950	New Section
237.1000	New Section

4) Date Notice of Proposed published in the *Illinois Register*: 41 Ill. Reg. 3503; March 31, 2017

5) Reason for Withdrawal: PA 100-023 did not appropriate funding for the Department on Aging to establish this new program.

DEPARTMENT ON AGING

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Community Care Program

2) Code Citation: 89 Ill. Adm. Code 240

3)

Section Numbers:	Proposed Actions:
240.100	Amendment
240.310	Amendment
240.330	Amendment
240.400	Amendment
240.410	Amendment
240.600	Amendment
240.650	Amendment
240.655	Amendment
240.750	Amendment
240.800	Amendment
240.810	Repealed
240.815	Repealed
240.820	Repealed
240.825	Repealed
240.830	Repealed
240.835	Repealed
240.845	Amendment
240.850	Repealed
240.855	Repealed
240.865	Amendment
240.870	Repealed
240.875	Amendment
240.920	Amendment
240.945	Amendment
240.950	Amendment
240.1020	Amendment

4) Date Notice of Proposed published in the *Illinois Register*: 41 Ill. Reg. 3584; March 31, 2017

5) Reason for Withdrawal: The proposed amendments cannot be implemented because PA 100-023 did not appropriate funding for the Department on Aging to establish the new Community Reinvestment Program that was proposed in a companion rulemaking project.

DEPARTMENT OF INSURANCE

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: Insurance Department Consumer Complaints

2) Code Citation: 50 Ill. Adm. Code 926

3)

Section Numbers:	Proposed Actions:
926.20	Amendment
926.40	Amendment

4) Date Notice of Proposed published in the *Illinois Register*: 40 Ill. Reg. 16499; December 30, 2016

5) Reason for the Withdrawal: The Department is considering statutory changes to clarify its authority to keep certain documents and information confidential. Such changes will render much of the proposed amendment redundant.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

1) Heading of the Part: Pay Plan

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

3) Section Number: 310.210 — Peremptory Action: Amendment

4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Department of Central Management Services (CMS) is amending the Pay Plan (80 Ill. Adm. Code 310) Section 310.210 to reflect thirteen Memoranda of Agreements (MOAs). The thirteen MOAs set forth the terms of the FY2018 Merit Incentive Program. The first is between the State of Illinois (Department of Central Management Services) and the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers, and Helpers signed June 30, 2017. The classes affected by the agreement are the Boiler Safety Audit Specialist (title code 04900) and Boiler Safety Specialist (title code 04910). The second is between the State of Illinois (Department of Central Management Services) and the Illinois State Bricklayers and Allied Craft Workers signed June 30, 2017. The prevailing rate classes affected by the agreement are Brickmason (title code 05200), Cement Finisher (title code 06860) and Plasterer (title code 32800). The third is between the State of Illinois (Department of Central Management Services) and the Illinois Union of Operating Engineers signed June 30, 2017. The prevailing rate classes affected by the agreement are Sewage Plant Operator (title code 40500), Stationary Engineer (title code 42600), Stationary Engineer-Assistant Chief (title code 42605), Stationary Engineer-Chief (title code 42610) and Water Plant Operator (title code 49050). The fourth is between the State of Illinois (Department of Central Management Services) and the Service Employee International Union, Local 1, Fireman and Oilers Division signed July 5, 2017. The prevailing rate classes affected by the agreement are Stationary Fireman (title code 42650) and Maintenance Worker (Power Plant) (title code 25510). The fifth is between the State of Illinois (Department of Central Management Services) and the Illinois Union of Bakery, Confectionary and Tobacco Workers signed July 28, 2017. The prevailing rate class affected by the agreement is Baker (title code 04100). The sixth is between the State of Illinois (Department of Central Management Services) and the International Union of United Food and Commercial Workers signed July 27, 2017. The prevailing rate classes affected by the agreement are Barber (title code 04250), Beautician (title code 04350), Teacher of Barbering (title code 45000) and Teacher of Beauty Culture (title code 45050). The seventh is between the State of Illinois (Department of Central Management Services) and the United Brotherhood of Carpenters and Joiners of America on behalf of Chicago Regional Council of Carpenters, Mid-Central Illinois Regional

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Council and St. Louis-Kansas City Carpenter's Regional Council signed July 27, 2017. The prevailing rate classes affected by the agreement are Carpenter (title code 06650) and Carpenter Foreman (title code 06660). The eighth is between the State of Illinois (Department of Central Management Services) and the International Brotherhood of Electrical Workers signed July 27, 2017. The prevailing rate class affected by the agreement is Electrician (title code 13200). The ninth is between the State of Illinois (Department of Central Management Services) and the Laborer's International Union of North America signed July 27, 2017. The prevailing rate classes affected by the agreement are Laborer (title code 23050), Laborer (Building) (title code 23060), Laborer Foreman (title code 23085) and Trades Tender (title code 45700). The tenth is between the State of Illinois (Department of Central Management Services) and the International Association of Machinist and Aerospace Workers signed July 27, 2017. The prevailing rate class affected by the agreement is Machinist (title code 24750). The eleventh is between the State of Illinois (Department of Central Management Services) and the International Union of Painters and Allied Trades signed July 27, 2017. The prevailing rate classes affected by the agreement are Painter (title code 30800), Painter Foreman (title code 30801), Sign Painter (title code 40960) and Sign Painter Helper (title code 40970). The twelfth is between the State of Illinois (Department of Central Management Services) and the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of U.S.A. and Canada signed July 27, 2017. The prevailing rate classes affected by the agreement are Plumber (title code 32900) and Steamfitter (title code 42800). The thirteenth is between the State of Illinois (Department of Central Management Services) and the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART) signed July 27, 2017. The prevailing rate class affected by the agreement is Tinsmith (title code 45550).

5) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a and 20 ILCS 415/9(7)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21].

6) Effective Date: August 25, 2017

7) A Complete Description of the Subjects and Issues Involved: In Section 310.210, the FY2016 Merit Pay and FY2017 Merit Incentive Program are removed as they are no longer in effect, and the subsections are renumbered. The FY2018 Merit Incentive Program is added. The FY2018 and FY2017 Merit Incentive Programs are virtually the same except that the performance bonus pool date is changed, and the significant issues

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

for which solutions are identified for additional time off are now significant operational issues.

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

9) Date Filed with the Index Department: August 25, 20017

10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.

11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes

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

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

14) Information and questions regarding the peremptory amendment shall be directed to:

Mr. Jason Doggett
Manager
Compensation Section
Division of Technical Services
Bureau of Personnel
Department of Central Management Services
503 William G. Stratton Building
Springfield IL 62706

217/524-1055
fax: 217/558-4497
CMS.PayPlan@Illinois.gov

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

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

SUBPART B: SCHEDULE OF RATES

Section
310.205 Introduction
310.210 Prevailing Rate
310.220 Negotiated Rate
310.230 Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240 Daily or Hourly Rate Conversion
310.250 Member, Patient and Inmate Rate
310.260 Trainee Rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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310.270 Legislated Rate (Repealed)
310.280 Designated Rate
310.290 Out-of-State Rate (Repealed)
310.295 Foreign Service Rate (Repealed)
310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

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

SUBPART D: FROZEN NEGOTIATED-RATES-OF-PAY DUE TO FISCAL YEAR APPROPRIATIONS AND EXPIRED SALARY SCHEDULES IN COLLECTIVE BARGAINING UNIT AGREEMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Section
310.600 Jurisdiction (Repealed)
310.610 Pay Schedules (Repealed)
310.620 In-Hiring Rate (Repealed)
310.630 Definitions (Repealed)
310.640 Increases in Pay (Repealed)
310.650 Other Pay Provisions (Repealed)
310.660 Effective Date (Repealed)
310.670 Negotiated Rate (Repealed)
310.680 Trainee Rate (Repealed)
310.690 Educator Schedule for Frozen RC-063 and Frozen HR-010 (Repealed)

310.APPENDIX A Negotiated Rates of Pay
310.TABLE A RC-104 (Conservation Police Supervisors, Illinois Fraternal Order of Police Labor Council)
310.TABLE B VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' − ISEA Local #2002)
310.TABLE C RC-056 (Site Superintendents and Departments of Veterans' Affairs, Natural Resources, Human Services and Agriculture and Historic Preservation Agency Managers, IFPE)
310.TABLE D HR-001 (Teamsters Local #700)
310.TABLE E RC-020 (Teamsters Locals #330 and #705)
310.TABLE F RC-019 (Teamsters Local #25)
310.TABLE G RC-045 (Automotive Mechanics, IFPE)
310.TABLE H RC-006 (Corrections Employees, AFSCME)
310.TABLE I RC-009 (Institutional Employees, AFSCME)
310.TABLE J RC-014 (Clerical Employees, AFSCME)
310.TABLE K RC-023 (Registered Nurses, INA)
310.TABLE L RC-008 (Boilermakers)
310.TABLE M RC-110 (Conservation Police Lodge)
310.TABLE N RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, Meat and Poultry Inspectors and Meat and Poultry Inspector Trainees, IFPE)
310.TABLE Q RC-033 (Meat Inspectors, IFPE) (Repealed)
310.TABLE R RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S VR-704 (Departments of Corrections, Financial and Professional

	Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, Educator Trainees, Juvenile Justice School Counselors and Special Education Resources Coordinators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Departments of Central Management Services, Natural Resources and Transportation, Teamsters)
310.TABLE AB	RC-150 (Public Service Administrators Option 6, AFSCME) (Repealed)
310.TABLE AC	RC-036 (Public Service Administrators Option 8L Department of Healthcare and Family Services, INA)
310.TABLE AD	RC-184 (Blasting Experts, Blasting Specialists and Blasting Supervisors Department of Natural Resources, SEIU Local 73)
310.TABLE AE	RC-090 (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294)

310.APPENDIX B Frozen Negotiated-Rates-of-Pay (Repealed)

310.TABLE A	Frozen RC-104-Rates-of-Pay (Conservation Police Supervisors, Laborers' – ISEA Local #2002) (Repealed)
310.TABLE C	Frozen RC-056-Rates-of-Pay (Site Superintendents and Departments of Veterans' Affairs, Natural Resources, Human Services and Agriculture and Historic Preservation Agency Managers, IFPE) (Repealed)
310.TABLE H	Frozen RC-006-Rates-of-Pay (Corrections Employees, AFSCME) (Repealed)
310.TABLE I	Frozen RC-009-Rates-of-Pay (Institutional Employees, AFSCME) (Repealed)
310.TABLE J	Frozen RC-014-Rates-of-Pay (Clerical Employees, AFSCME) (Repealed)
310.TABLE K	Frozen RC-023-Rates-of-Pay (Registered Nurses, INA) (Repealed)
310.TABLE M	Frozen RC-110-Rates-of-Pay (Conservation Police Lodge) (Repealed)
310.TABLE N	Frozen RC-010 (Professional Legal Unit, AFSCME) (Repealed)
310.TABLE O	Frozen RC-028-Rates-of-Pay (Paraprofessional Human Services Employees, AFSCME) (Repealed)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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310.TABLE P	Frozen RC-029-Rates-of-Pay (Paraprofessional Investigatory and Law Enforcement Employees, IFPE) (Repealed)
310.TABLE R	Frozen RC-042-Rates-of-Pay (Residual Maintenance Workers, AFSCME) (Repealed)
310.TABLE S	Frozen VR-704-Rates-of-Pay (Departments of Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002) (Repealed)
310.TABLE T	Frozen HR-010-Rates-of-Pay (Teachers of Deaf, IFT) (Repealed)
310.TABLE V	Frozen CU-500-Rates-of-Pay (Corrections Meet and Confer Employees) (Repealed)
310.TABLE W	Frozen RC-062-Rates-of-Pay (Technical Employees, AFSCME) (Repealed)
310.TABLE X	Frozen RC-063-Rates-of-Pay (Professional Employees, AFSCME) (Repealed)
310.TABLE Y	Frozen RC-063-Rates-of-Pay (Educators and Educator Trainees, AFSCME) (Repealed)
310.TABLE Z	Frozen RC-063-Rates-of-Pay (Physicians, AFSCME) (Repealed)
310.TABLE AB	Frozen RC-150-Rates-of-Pay (Public Service Administrators Option 6, AFSCME) (Repealed)
310.TABLE AD	Frozen RC-184-Rates-of-Pay (Public Service Administrators Option 8X Department of Natural Resources, SEIU Local 73) (Repealed)
310.TABLE AE	Frozen RC-090-Rates-of-Pay (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294) (Repealed)

310.APPENDIX C	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.ILLUSTRATION A	Classification Comparison Flow Chart: Both Classes are Whole
310.ILLUSTRATION B	Classification Comparison Flow Chart: One Class is Whole and One is Divided
310.ILLUSTRATION C	Classification Comparison Flow Chart: Both Classes are Divided
310.APPENDIX D	Merit Compensation System Salary Schedule
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 3230, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory

amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239,

effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20

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Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000;

peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; peremptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; peremptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; peremptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; peremptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; peremptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; peremptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; peremptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; peremptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; peremptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; peremptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; peremptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; peremptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; peremptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; peremptory amendment at 28 Ill. Reg. 15336, effective

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November 15, 2004; peremptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; peremptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; peremptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; peremptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; peremptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; peremptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; peremptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; peremptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; peremptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; peremptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; peremptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; peremptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; peremptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; peremptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; peremptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; peremptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; peremptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; peremptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; peremptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; peremptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; peremptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; peremptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; peremptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; peremptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; peremptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; peremptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; peremptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; peremptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; peremptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; peremptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days;

peremptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; peremptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; peremptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; peremptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; peremptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; peremptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; peremptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; peremptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; peremptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; peremptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; peremptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; peremptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; peremptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; peremptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; peremptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; peremptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; peremptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; peremptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; peremptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10211, effective July 1, 2009; peremptory amendment at 33 Ill. Reg. 10823, effective July 2, 2009; peremptory amendment at 33 Ill. Reg. 11082, effective July 10, 2009; peremptory amendment at 33 Ill. Reg. 11698, effective July 23, 2009; peremptory amendment at 33 Ill. Reg. 11895, effective July 31, 2009; peremptory amendment at 33 Ill. Reg. 12872, effective September 3, 2009; amended at 33 Ill. Reg. 14944, effective October 26, 2009; peremptory amendment at 33 Ill. Reg. 16598, effective November 13, 2009; peremptory amendment at 34 Ill. Reg. 305, effective December 18, 2009; emergency amendment at 34 Ill. Reg. 957, effective January 1, 2010, for a maximum of 150 days; peremptory amendment at 34 Ill. Reg. 1425, effective January 5, 2010; peremptory amendment at 34 Ill. Reg. 3684, effective March 5, 2010; peremptory amendment at 34 Ill. Reg. 5776, effective April 2, 2010; peremptory amendment at 34 Ill. Reg. 6214, effective April 16, 2010; amended at 34 Ill. Reg. 6583, effective April 30, 2010; peremptory amendment at 34 Ill. Reg. 7528, effective May 14, 2010; amended at 34 Ill. Reg. 7645, effective May 24, 2010; peremptory amendment at 34 Ill. Reg. 7947, effective May 26, 2010; peremptory amendment at 34 Ill. Reg. 8633, effective June 18, 2010; amended at 34 Ill. Reg. 9759, effective July 1, 2010; peremptory amendment at 34 Ill. Reg. 10536, effective

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NOTICE OF PEREMPTORY AMENDMENT

July 9, 2010; peremptory amendment at 34 Ill. Reg. 11864, effective July 30, 2010; emergency amendment at 34 Ill. Reg. 12240, effective August 9, 2010, for a maximum of 150 days; peremptory amendment at 34 Ill. Reg. 13204, effective August 26, 2010; peremptory amendment at 34 Ill. Reg. 13657, effective September 8, 2010; peremptory amendment at 34 Ill. Reg. 15897, effective September 30, 2010; peremptory amendment at 34 Ill. Reg. 18912, effective November 15, 2010; peremptory amendment at 34 Ill. Reg. 19582, effective December 3, 2010; amended at 35 Ill. Reg. 765, effective December 30, 2010; emergency amendment at 35 Ill. Reg. 1092, effective January 1, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 2465, effective January 19, 2011; peremptory amendment at 35 Ill. Reg. 3577, effective February 10, 2011; emergency amendment at 35 Ill. Reg. 4412, effective February 23, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 4803, effective March 11, 2011; emergency amendment at 35 Ill. Reg. 5633, effective March 15, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 5677, effective March 18, 2011; amended at 35 Ill. Reg. 8419, effective May 23, 2011; amended at 35 Ill. Reg. 11245, effective June 28, 2011; emergency amendment at 35 Ill. Reg. 11657, effective July 1, 2011, for a maximum of 150 days; emergency expired November 27, 2011; peremptory amendment at 35 Ill. Reg. 12119, effective June 29, 2011; peremptory amendment at 35 Ill. Reg. 13966, effective July 29, 2011; peremptory amendment at 35 Ill. Reg. 15178, effective August 29, 2011; emergency amendment at 35 Ill. Reg. 15605, effective September 16, 2011, for a maximum of 150 days; peremptory amendment at 35 Ill. Reg. 15640, effective September 15, 2011; peremptory amendment at 35 Ill. Reg. 19707, effective November 23, 2011; amended at 35 Ill. Reg. 20144, effective December 6, 2011; amended at 36 Ill. Reg. 153, effective December 22, 2011; peremptory amendment at 36 Ill. Reg. 564, effective December 29, 2011; peremptory amendment at 36 Ill. Reg. 3957, effective February 24, 2012; peremptory amendment at 36 Ill. Reg. 4158, effective March 5, 2012; peremptory amendment at 36 Ill. Reg. 4437, effective March 9, 2012; amended at 36 Ill. Reg. 4707, effective March 19, 2012; amended at 36 Ill. Reg. 8460, effective May 24, 2012; peremptory amendment at 36 Ill. Reg. 10518, effective June 27, 2012; emergency amendment at 36 Ill. Reg. 11222, effective July 1, 2012, for a maximum of 150 days; peremptory amendment at 36 Ill. Reg. 13680, effective August 15, 2012; peremptory amendment at 36 Ill. Reg. 13973, effective August 22, 2012; peremptory amendment at 36 Ill. Reg. 15498, effective October 16, 2012; amended at 36 Ill. Reg. 16213, effective November 1, 2012; peremptory amendment at 36 Ill. Reg. 17138, effective November 20, 2012; peremptory amendment at 37 Ill. Reg. 3408, effective March 7, 2013; amended at 37 Ill. Reg. 4750, effective April 1, 2013; peremptory amendment at 37 Ill. Reg. 5925, effective April 18, 2013; peremptory amendment at 37 Ill. Reg. 9563, effective June 19, 2013; amended at 37 Ill. Reg. 9939, effective July 1, 2013; emergency amendment at 37 Ill. Reg. 11395, effective July 1, 2013, for a maximum of 150 days; peremptory amendment at 37 Ill. Reg. 11524, effective July 3, 2013; peremptory amendment at 37 Ill. Reg. 12588, effective July 19, 2013; peremptory amendment at 37 Ill. Reg. 13762, effective August 8, 2013; peremptory amendment at 37 Ill. Reg. 14219, effective August 23,

2013; amended at 37 Ill. Reg. 16925, effective October 8, 2013; peremptory amendment at 37 Ill. Reg. 17164, effective October 18, 2013; peremptory amendment at 37 Ill. Reg. 20410, effective December 6, 2013; peremptory amendment at 38 Ill. Reg. 2974, effective January 9, 2014; amended at 38 Ill. Reg. 5250, effective February 4, 2014; peremptory amendment at 38 Ill. Reg. 6725, effective March 6, 2014; emergency amendment at 38 Ill. Reg. 9080, effective April 11, 2014, for a maximum of 150 days; peremptory amendment at 38 Ill. Reg. 9136, effective April 11, 2014; amended at 38 Ill. Reg. 9207, effective April 21, 2014; peremptory amendment at 38 Ill. Reg. 13416, effective June 11, 2014; amended at 38 Ill. Reg. 14818, effective July 1, 2014; peremptory amendment at 38 Ill. Reg. 15739, effective July 2, 2014; peremptory amendment at 38 Ill. Reg. 17481, effective July 29, 2014; amended at 38 Ill. Reg. 17556, effective August 6, 2014; peremptory amendment at 38 Ill. Reg. 18791, effective August 26, 2014; peremptory amendment at 38 Ill. Reg. 19806, effective September 26, 2014; amended at 38 Ill. Reg. 20695, effective October 14, 2014; amended at 38 Ill. Reg. 24005, effective December 9, 2014; peremptory amendment at 39 Ill. Reg. 728, effective December 23, 2014; emergency amendment at 39 Ill. Reg. 708, effective December 26, 2014, for a maximum of 150 days; peremptory amendment at 39 Ill. Reg. 6964, effective April 29, 2015; amended at 39 Ill. Reg. 7878, effective May 22, 2015; amended at 39 Ill. Reg. 11220, effective July 28, 2015; peremptory amendment at 39 Ill. Reg. 12004, effective August 13, 2015; peremptory amendment at 39 Ill. Reg. 15807, effective November 25, 2015; amended at 40 Ill. Reg. 5893, effective March 28, 2016; peremptory amendment at 40 Ill. Reg. 8462, effective June 1, 2016; peremptory amendment at 40 Ill. Reg. 9658, effective June 30, 2016; amended at 40 Ill. Reg. 9356, effective July 1, 2016; peremptory amendment at 40 Ill. Reg. 11207, effective August 5, 2016; peremptory amendment at 41 Ill. Reg. 1210, effective January 19, 2017; amended at 41 Ill. Reg. 1695, effective January 25, 2017; peremptory amendment at 41 Ill. Reg. 2078, effective February 2, 2017; amended at 41 Ill. Reg. 3191, effective March 6, 2017; amended at 41 Ill. Reg. 4615, effective April 24, 2017; peremptory amendment at 41 Ill. Reg. 5822, effective May 15, 2017; peremptory amendment at 41 Ill. Reg. 6695, effective May 24, 2017; peremptory amendment at 41 Ill. Reg. 7227, effective June 9, 2017; amended at 41 Ill. Reg. 8314, effective July 1, 2017; peremptory amendment at 41 Ill. Reg. 10974, effective August 10, 2017; peremptory amendment at 41 Ill. Reg. 11447, effective August 25, 2017.

SUBPART B: SCHEDULE OF RATES

Section 310.210 Prevailing Rate

a) Classes − The following are prevailing rate classes:

Baker	Plasterer
Barber	Plumber

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

Beautician	Roofer
Brickmason	Sewage Plant Operator
Carpenter	Sign Painter
Carpenter Foreman	Sign Painter Helper
Cement Finisher	Stationary Engineer
Electrician	Stationary Engineer – Assistant Chief
Highway Construction Equipment Operator	Stationary Engineer – Chief
Laborer	Stationary Fireman
Laborer (Building)	Steamfitter
Laborer Foreman	Teacher of Barbering
Machinist	Teacher of Beauty Culture
Maintenance Worker (Power Plant)	Tinsmith
Painter	Trades Tender
Painter Foreman	Water Plant Operator

b) Boiler Safety Specialist – This section shall apply to employees occupying positions in the Boiler Safety Specialist class that are represented by the RC-008 bargaining unit (see Appendix A, Table L).

c) Rate Certification Process and Effective Date – Prevailing rate means the rate of pay for each class and locality certified as being correct by the designated representative of the respective bargaining unit or representative and approved by the Director of Central Management Services or as established under the Prevailing Wage Act [820 ILCS 130]. Copies of signed agreements between contractors or other employers and the respective bargaining unit or representative shall be certified to the Department of Central Management Services (CMS) for each fiscal year of the State by the following process: The designated representative of the respective bargaining unit or representative shall certify to CMS or its designee copies of signed agreements between contractors or other employers and the respective bargaining unit or representative. These certified agreements and accompanying CMS Prevailing Wage Certification Form shall be considered adequate proof of the prevailing rate of wages to be paid, minus the per hour costs of fringe benefits so designated by the 2015-2019 Collective Bargaining Agreement (CBA), if any, in keeping with past practice. CMS adjusts the wages, retroactive to the effective date reflected in the certified agreements. Certifications from the bargaining unit or representative include a copy of the signed agreements and the CMS Prevailing Wage Certification Form. The effective dates of wage changes are the effective dates reflected in the certified agreements.

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d) Pension Formula Adjustment − Effective January 1, 2006, employees shall be paid an additional 4.00% above the prevailing rate of wages for employees on the standard pension formula and 5.5% above the prevailing rate of wages for employees on the alternative pension formula, minus the per hour costs of fringe benefits. Employees newly hired into a prevailing rate class on or after December 1, 2013 shall be paid the appropriate prevailing rate and shall not be eligible for this pension formula adjustment unless otherwise agreed to by the union representative and the Director of Central Management Services.

e) Maximum Security Rates – Positions in maximum security institutions shall receive a $50 a month adjustment to the employee's monthly wages for all employees with seven or more years of continuous service with the Department of Corrections. Employees shall receive the adjustment as long as they remain employees at a maximum security facility.

f) Merit Incentive (including Time-Off Awards) and Gain Sharing Programs – The bargaining unit or representative and State agree to develop and implement a merit incentive program to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of these efforts, the State shall allocate funds for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from the allocated funds is based on the satisfaction of performance standards to be developed by the State in consultation with the bargaining unit or representative. This compensation, either for a group/unit or an individual, shall be considered a onetime bonus and offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation is not included in any pension calculations and does not affect any future calculations regarding the prevailing wage rate. As a part of these efforts, the State may reward individual high-performing employees with time-off awards. High-performing employees may earn up to five days of additional time-off in a calendar year, above and beyond the employee's accrued vacation time. Issuance of a time-off award is based on the satisfaction of performance standards to be developed by the State in consultation with the bargaining unit or representative. Scheduling the time-off requires supervisory approval. Only a non-bargaining-unit supervisor can reward an employee with a time-off award. Time off awards can be issued by any non-bargaining-unit supervisor in the employee's evaluation chain. Time-off awards, when taken by the employee, do not count against the employee's leave bank.

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NOTICE OF PEREMPTORY AMENDMENT

Unused time-off awards shall not convert to a cash payout. The hourly value of the time-off awards shall not be used in any calculation for future wages under the provisions of the Prevailing Wage Act. Additionally, as a part of overall efforts to improve efficiency of State operations and align the incentives of the State with its employees, the State may develop gain sharing programs. Under these programs, employees or departments may propose initiatives that would achieve substantial savings for the State. Upon realization of these savings, the State may elect to return a portion of these savings to the employees who participated in the identified initiative. This compensation, either for a group/unit or an individual, shall be considered a one-time bonus and offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation is not included in any pension calculations. The State develops specific policies for both of these programs and gives the bargaining unit or representative an opportunity to review and comment on these policies prior to their implementation. The State's intent is to develop policies that reward employees or units of employees based on specific achievements and to prevent rewards that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure. Rights exercised by the State under Section 4 of the Illinois Public Labor Relations Act [5 ILCS 315], 80 Ill. Adm. Code 301 through 331, and the 2015-2019 CBA are subject to all the terms of that CBA. However, it is understood that compensation payable pursuant to merit incentive and gain sharing programs shall be performance-based only. Moreover, an employee's failure or refusal to participate in these programs may not be grounds for any form of discipline. The bargaining unit or representative and State understand that the Merit Incentive Program is effective after the Department of Central Management Services and the bargaining unit or representative mutually agree to its process and procedures.

1) ~~FY2016 Merit Pay – The Employer and Union have agreed to the terms of a Collective Bargaining Agreement. The Agreement states that public employees represented by the Union will earn merit pay. For the Fiscal Year 2016, all bargaining unit employees who are in active employment status on June 30, 2016 and who have missed fewer than five (5) percent of their assigned work days between the effective date of this Agreement and June 30, 2016 and have committed no work policy violations during that period shall receive equal shares of the performance bonus. The performance bonus shall be paid based on 2% of the annual (fiscal year)~~

~~base salary payroll costs for the bargaining unit. The effective date of this Agreement is April 1, 2016 through June 30, 2016.~~

~~2)~~ FY2018~~FY2017~~ Merit Incentive Program – The State and bargaining unit or representative have agreed to the terms of a 2015-2019 CBA. The CBA states that public employees represented by the bargaining unit or representative shall participate in a merit incentive program which includes earning merit pay and additional time off. Employees shall be active on payroll for at least 3 months of the evaluation period to be eligible for merit pay and additional time off. To identify high performers in the bargaining unit or representative, each employee shall be rated annually on criteria specific to the classification to which the position the employee is appointed is allocated. Employees active on payroll more than 3 months of the evaluation period but less than the entire evaluation period shall have any merit pay and additional time off rewards pro-rated to the ration of time worked during the evaluation period.

A) Merit Pay – The performance bonus pool shall be 2% of the annual (fiscal year) base payroll costs for the bargaining unit or representative effective July 1, 2017~~2016~~. All monies paid out as merit pay shall be considered a one-time and non-pensionable bonus. Employees who have retired or terminated service with the State prior to payout of the merit pay for a fiscal year shall not receive a payout for that fiscal year. The bargaining unit or representative shall be furnished with a list of employees receiving merit pay each year detailing the employing agency and amounts paid.

i) For Limited Undocumented Use of Sick Leave and No Work Violation – Employees who do not utilize more than 56 hours, 28 hours per 6 month period, of undocumented use of sick leave and commit no work policy violation during the evaluation period shall be eligible for 50% of the performance bonus pool.

ii) For Satisfactory Rating – Employees who receive a satisfactory rating, defined by a score of 3 in the evaluation, in all categories within the job knowledge and productivity section shall be eligible for the remaining 50% of the

performance bonus pool.

B) Additional Time Off – The additional time off shall be scheduled and used in the calendar year it is received with the following exception. If an employee has made at least 3 requests each for different time periods to use the additional time off and each request is denied, the employee may carry over the additional time off to the next calendar year. Additional time off rewarded under the merit incentive program shall not be subject to liquidation for any reason.

i) For Limited Undocumented Use of Sick Leave and No Work Violation – Employees who do not utilize more than 56 hours, 28 hours per 6 month period, of undocumented use of sick leave and commit no work policy violation during the review period shall be rewarded with 12 hours additional time off with pay.

ii) For Satisfactory Rating – Employees who receive a satisfactory rating, defined by a score of 3 in the evaluation, in all categories within the job knowledge and productivity section shall be rewarded with 8 hours additional time off with pay.

iii) For Other Reasons – Additional time off rewards may be granted to employees for reasons including: exceptional performance producing a distinct positive outcome; identifying solutions to significant operational issues; or providing exceptional customer service. The rewards shall be approved by a non-bargaining-unit or non-bargaining-representative supervisor in the employee's evaluation chain. The bargaining unit or representative shall receive notice of all recipients of additional time off as well as the reason for the reward and the amount of time rewarded. The same information shall be posted in the workplace.

2)~~3)~~ ~~FY2018 and~~ FY2019 Merit Incentive Program – The parameters of the merit incentive program for ~~FY2018 and~~ FY2019 will be further refined by mutual agreement of the State and bargaining unit or representative.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENT

(Source: Amended by peremptory rulemaking at 41 Ill. Reg. 11447, effective August 25, 2017)

DEPARTMENT OF TRANSPORTATION

NOTICE OF RECODIFICATION

1) Heading of the Part: Procedures

2) Code Citation: 92 Ill. Adm. Code 107

3) Date of Index Department Review: August 23, 2017

4) Reason for Recodification: The Department is recodifying this Part to reorganize sections and remove unnecessary subparts in preparation for future rulemakings. In addition, the Department is removing sections which were repealed in 2004 and renumbering the sections that remain.

5) Headings and Section Numbers of the Part Being Recodified:

Section Numbers:	Headings:
SUBPART A: GENERAL PROVISIONS	
107.1	Purpose and Scope
107.3	Definitions
107.5	Request for Confidential Treatment
107.11	Service
107.13	Subpoenas
SUBPART B: EXEMPTIONS	
107.101	Purpose and Scope (Repealed)
107.102	Persons Holding Federal Exemptions
107.103	Applications for Exemptions for Persons Transporting Hazardous Materials Regulations (Repealed)
107.105	Application for Renewal (Repealed)
107.107	Initial Application for Renewal (Repealed)
107.109	Processing of Application (Repealed)
107.111	Party to an Exemption (Repealed)
107.117	Withdrawal (Repealed)
107.119	Termination (Repealed)
107.121	Appeal (Repealed)
107.123	Availability for Public Inspection (Repealed)
SUBPART D: ENFORCEMENT	

DEPARTMENT OF TRANSPORTATION

NOTICE OF RECODIFICATION

107.301	Responsibility for Enforcement
107.303	Purpose and Scope
107.305	Investigations
107.307	Inspection and Examination of Records and Properties
107.308	Notice of Apparent Violation
107.309	Stopping of Vehicles
107.310	Department Review of Notice of Apparent Violation
107.311	Warning Letter
107.313	Civil Penalties Generally
107.314	Maximum Penalties
107.315	Commencement of Civil Penalty Proceeding
107.316	Reply
107.317	Payment of Penalty
107.318	Request for Hearing
107.319	Hearing
107.320	Presiding Officer's Decision
107.321	Assessment Considerations
107.323	Appeal
107.324	Failure to Pay Civil Penalty
107.331	Compliance Orders Generally
107.333	Notice of Probable Violation
107.334	Reply
107.335	Consent Order
107.336	Hearing
107.337	Presiding Officer’s Decision
107.338	Compliance Order For Immediate Compliance
107.339	Appeal
107.341	Injunctions and Other Equitable Relief
107.343	Imminent Hazards
107.371	Criminal Penalties Generally
107.373	Referral for Prosecution

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

107.601	Incorporation by Reference of 49 CFR 107, subpart G

DEPARTMENT OF TRANSPORTATION

NOTICE OF RECODIFICATION

107.APPENDIX A	Standard Conditions Applicable to Exemptions, Packages, Containers, Shipments

6) Outline of the Section Numbers and Headings of the Part as Recodified:

Section Numbers:	Headings:
SUBPART A: GENERAL PROVISIONS	
107.1000	Purpose and Scope
107.1010	Definitions
107.1020	Incorporation by Reference of 49 CFR 107, subpart G
107.1030	Request for Confidential Treatment
107.1040	Persons Holding Federal Exemptions
107.1050	Service
107.1060	Subpoenas
SUBPART B: ENFORCEMENT	
107.1100	Responsibility for Enforcement
107.1110	Purpose and Scope
107.1120	Investigations
107.1130	Inspection and Examination of Records and Properties
107.1140	Notice of Apparent Violation
107.1150	Stopping of Vehicles
107.1160	Department Review of Notice of Apparent Violation
107.1170	Warning Letter
107.1180	Civil Penalties Generally
107.1190	Maximum Penalties
107.1200	Commencement of Civil Penalty Proceeding
107.1210	Reply
107.1220	Payment of Penalty
107.1230	Request for Hearing
107.1240	Hearing
107.1250	Presiding Officer’s Decision
107.1260	Assessment Considerations
107.1270	Appeal
107.1280	Failure to Pay Civil Penalty
107.1290	Compliance Orders Generally

DEPARTMENT OF TRANSPORTATION

NOTICE OF RECODIFICATION

107.1300	Notice of Probable Violation
107.1310	Reply
107.1320	Consent Order
107.1330	Hearing
107.1340	Presiding Officer's Decision
107.1350	Compliance Order For Immediate Compliance
107.1360	Appeal
107.1370	Injunctions and Other Equitable Relief
107.1380	Imminent Hazards
107.1390	Criminal Penalties Generally
107.1400	Referral for Prosecution

107.APPENDIX A Standard Conditions Applicable to Exemptions, Packages, Containers, Shipments

7) Conversion Table of Present and Recodified Parts:

Present Part:	Recodified Part:
107.1	107.1000
107.3	107.1010
107.5	107.1030
107.11	107.1050
107.13	107.1060
107.101	None
107.102	107.1040
107.103	None
107.105	None
107.107	None
107.109	None
107.111	None
107.117	None
107.119	None
107.121	None
107.123	None
107.301	107.1100
107.303	107.1110
107.305	107.1120
107.307	107.1130
107.308	107.1140

DEPARTMENT OF TRANSPORTATION

NOTICE OF RECODIFICATION

107.309	107.1150
107.310	107.1160
107.311	107.1170
107.313	107.1180
107.314	107.1190
107.315	107.1200
107.316	107.1210
107.317	107.1220
107.318	107.1230
107.319	107.1240
107.320	107.1250
107.321	107.1260
107.323	107.1270
107.324	107.1280
107.331	107.1290
107.333	107.1300
107.334	107.1310
107.335	107.1320
107.336	107.1330
107.337	107.1340
107.338	107.1350
107.339	107.1360
107.341	107.1370
107.343	107.1380
107.371	107.1390
107.373	107.1400
107.601	107.1020
107.APPENDIX A	107.APPENDIX A

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of August 22, 2017 through August 28, 2017. These rulemakings are scheduled for review at the Committee's September 12, 2017 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
10/5/17	Department of Financial and Professional Regulation, Illinois Architecture Practice Act of 1989 (68 Ill. Adm. Code 1150)	6/30/17 41 Ill. Reg. 7402	9/12/17
10/7/17	Illinois Racing Board, Race Track Security (11 Ill. Adm. Code 425)	6/30/17 41 Ill. Reg. 7422	9/12/17
10/7/17	Illinois Racing Board, Race Track Leases (Repealer)(11 Ill. Adm. Code 431)	6/30/17 41 Ill. Reg. 7427	9/12/17
10/7/17	Illinois Racing Board, Licensing (11 Ill. Adm. Code 502)	6/30/17 41 Ill. Reg. 7431	9/12/17
10/7/17	Illinois Racing Board, Medication (11 Ill. Adm. Code 603)	6/30/17 41 Ill. Reg. 7438	9/12/17

PROCLAMATIONS

2017-179
State Of Illinois - 100th General Assembly
Joint Proclamation – August 28, 2017

WHEREAS, Article IV, Section 5(b) of the Illinois Constitution empowers the President of the Senate and the Speaker of the House to convene special sessions of the General Assembly;

WHEREAS, Public Act 100-0021 provides for the Illinois State Board of Education to issue payments to school districts across Illinois pursuant to an evidence-based funding formula;

WHEREAS, the Governor vetoed Senate Bill 1 which provided for an evidence-based funding formula;

WHEREAS, the State has failed to issue two payments to school districts due to the veto of Senate Bill 1 and the absence of a law providing for an evidence-based funding formula;

WHEREAS, the continued absence of a law providing for an evidence-based funding formula threatens public education for millions of students across Illinois;

WHEREAS, a demonstrable emergency exists which requires immediate action by the General Assembly;

NOW, THEREFORE, pursuant to Article IV, Section 5(b) of the Illinois Constitution, and in conformity with the Special Session Act, 25 ILCS 15, A SPECIAL SESSION OF THE 100th GENERAL ASSEMBLY IS HEREBY PROCLAIMED AND CALLED AS FOLLOWS:

1. The Special Session shall convene at 11:00 a.m. on August 28, 2017, at the State Capitol in Springfield, Illinois.

2. The purpose of the Special Session shall be to consider legislation and legislative actions that would establish, by law, an evidenced-based funding formula to provide State funding to school districts.

3. The Secretary of State, the Secretary of the Senate, and the Clerk of the House shall take whatever reasonable steps necessary to notify the members of the purpose and the date and time set for convening this emergency Special Session.

ISSUED August 26, 2017
FILED August 28, 2017

PROCLAMATIONS

2017-180
Special Session – August 29, 2017

WHEREAS, the Article IV, Section 6, Subsection (c) of the Illinois Constitution provides for a Minority Leader of the Senate; and

WHEREAS, Minority Leader Radogno resigned effective July 1, 2017; and

WHEREAS, Article IV, Section 5(b) of the Illinois Constitution empowers the Governor to convene a special session of the Senate alone;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution, I, Governor Bruce Rauner, hereby call and convene the Senate of the 100th General Assembly in a special session to commence at 12:00 noon on August 29, 2017, for the purpose of electing a Senate Minority Leader.

The Secretary of State shall take whatever reasonable steps are necessary to notify the members of the General Assembly of the purpose, date, and time set for convening this Special Session pursuant to 25 ILCS 15/3.

ISSUED August 28, 2017
FILED August 28, 2017

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 41, Issue 36 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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