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Illinois register

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JIM EDGAR
Secretary of State

REGISTER

Rules of Governmental Agencies

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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity 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, including those by emergency or peremptory action.

The Register also contains 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. In addition, the Register contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred the current Register volume and a Sections Affected Index listing, by Title of the *Illinois Administrative Code*, each Section (including supplementary material) of a Part on which rulemaking activity has occurred in current volume. Both indices are action coded and are designed to aid the public in monitoring rules.

The Register will serve as the update to the *Illinois Administrative Code*, a compilation of the rules of State agencies. The most recent edition of the Code along with the Register comprise the most current accounts of the State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1985, ch. 127, pars. 1001 et seq., as amended).

REGISTER PUBLICATION SCHEDULE 1990

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Dec. 19, 1989	Dec. 26, 1989	1	Jan. 5, 1990	June 26, 1990	July 3, 1990	28	July 13
Dec. 26, 1990	Jan. 2, 1990	2	Jan. 12, 1990	July 3, 1990	July 10, 1990	29	July 20
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Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of Part: Animal Diagnostic Laboratory Act
2) Code Citation: 8 Ill. Adm. Code 110
3) Section Numbers: Section 110.40 Amend
Section 110.90 Amend
Section 110.110 Amend
4) Steeratory Authority: AN ACT authorizing the Department of Agriculture to establish animal disease laboratories (Ill. Rev. Stat. 1987, ch. 8, par. 105.11).
5) A Complete Description of the Subjects and Issues Involved:
We are exempting the fee for testing for Salmonella enteritidis including the required testing for U.S. Sanitation Monitored Flocks which involves quarterly testing of the environment. This change compliments the changes occurring in the Diseased Animals proposed rulemaking where Salmonella enteritidis serotype enteritidis has been declared a communicable disease. We are deleting the differential pseudorabies test as this test is now the only test we will be doing for herds using vaccine. Thus, such test is the mandatory test under Section 110.30(a) for pseudorabies. We eliminated using the SN test as a preliminary screen for all vaccinated animals as the SN tests were positive, but the animals negative under the differential test for vaccine titers.
We have added two tests which are being requested on water. The charge for such tests will be the same charge we currently charge for any of the other water tests.

6) Will this proposed rule replace an emergency rule currently in effect? No
7) Does this rulemaking contain an automatic repeal date? No
8) Does this proposed amendment contain incorporations by reference? No
9) Are there any other amendments pending on this Part? No
10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.
11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 25, 1990
- B) Types of small businesses affected: Swine Producers, veterinarians, any one desiring water tests, and poultry producers.
- C) Reporting, bookkeeping or other procedures required for compliance: Payment for services requested.
- D) Types of professional skills necessary for compliance: Basic management.

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

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

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7) Does this rulemaking contain an automatic repeal date? No
8) Does this proposed amendment contain incorporations by reference? No
9) Are there any other amendments pending on this Part? No
10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.
11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF AGRICULTURE
NOTICE OF PROPOSED AMENDMENTS

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

PART 110
ANIMAL DIAGNOSTIC LABORATORY ACT

- Section 110.10 Definitions
110.20 Submitting Specimens
110.30 Payment For Laboratory Services
110.40 Tests Not Covered By Fee Schedule
110.50 Minimum Fees
110.60 Euthanasia Fees
110.70 Clinical Pathology Fees
110.80 Histopathology Fees
110.90 Microbiology Fees
110.100 Parasitology Fees
110.110 Toxicology Fees
110.120 Miscellaneous Fees
110.130 Meats Chemistry Fees

AUTHORITY: Implementing and authorized by "AN ACT authorizing the Department of Agriculture to establish animal disease laboratories" (Ill. Rev. Stat. 1987, ch. 8., par. 105.11).

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10163, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March 1, 1990; amended at 14 Ill. Reg. _____, effective _____.

Section 110.40 Tests Not Covered By Fee Schedule

- a) No fee shall be charged for diagnostic tests required by Illinois law or programs herein listed (i.e., testing for bovine brucellosis, swine brucellosis, pullorum-typhoid, U.S. Sanitation Monitored Flocks and pseudorabies). However, a charge shall be made for requested end titers on pseudorabies, unless the testing is approved for diagnostic purposes by the United States Department of Agriculture or by the Division. A fee as

DEPARTMENT OF AGRICULTURE
NOTICE OF PROPOSED AMENDMENTS

set forth in Section 110.90 shall be charged on screening samples at the dilution of 1:2 for pseudorabies.

- b) The Division will approve testing for end titers on pseudorabies without charge when the herd is in a special state supervised testing program.
c) See 8 Ill. Adm. Code 110.90 for information on specialty testing situations.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 110.90 Microbiology Fees

The following are the fees for microbiology:

- a) Bacteriology, Mycoplasma and Fungi
1) Aerobic or anaerobic culture without sensitivity testing... 10.00 C, G
2) Aerobic culture with sensitivity testing... 15.00 C, G
3) Anaerobic culture (includes sensitivity test)... 15.00 C, G
4) Milk samples for mastitis evaluation
1-4 specimens... 15.00 C, G
(additional specimens, each at)... 2.00 C, G
Wisconsin mastitis test
1-10 specimens, each... 2.00 C
(additional specimens, each at)... 1.00 C
5) Leptospirosis - 6 serotypes
Microtiter test - per specimen 2.00 C, G
6) Canine brucellosis - per specimen... 5.00 C,G,S
7) Fluorescent Antibody Test (FA)... 10.00 C, G
8) Escherichia coli serotyping... 3.00 G
9) Campylobacter (culture)... 4.00 C, G
10) Salmonella Serotyping... 1.00 C, G
Salmonella isolation using enrichment media... 6.00 C, G
11) Hemophilus (culture)... 3.00 C, G
12) Nasal Swabs--Bordetella... 2.00 C, G
13) Listeria (culture)... 4.00 C, G
14) Haemophilus equigenitalis (CEM)... 4.00 C, G
15) Spirochetes (swine dysentery--Treponema sp.)... 3.00 C, G

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16)	John's Bacillus (first specimen).....	5.00 C, G
	(each additional specimen).....	2.00 C, G
17)	Prepare and Supply Transport Media (per tube).....	1.00 C, G
18)	Return culture for bacterin production per organism.....	2.00 C, G
19)	Microbiology Testing.....	6.00 C, G
20)	Microscopic examination.....	3.00 C
21)	Mycoplasma Testing.....	6.00 C, G
22)	Somatic Cell Count (1-10 specimens, each).....	2.00 C
	(Each additional specimen).....	1.00 C
23)	E. Coli or Metritis (1-4 specimens). (each additional specimen).....	15.00 C, G
	2.00 C, G
1)	Electron Microscopy - fecal.....	10.00 G
2)	Pseudorabies Serology (positive or negative)..... no charge	C, G
	Pseudorabies Serology Out-of-State.....	3.00 C, G
	Pseudorabies Serology (positive or negative) and end titer.....	3.00 C, G
	Additional serology test to determine pseudorabies vaccine usage (1-10 specimens).....	1.00 C, G
	(Each additional specimen).....	1.00 C, G
	Pseudorabies Serology (request for screen at dilution of 1:2).....	3.00 C, G
3)	Fluorescent Antibody Test (each disease).....	10.00 C, G
	Rabies.....	5.00 C, G
4)	Virus Isolation in Cell Culture.....	15.00 C, G
5)	Viral Serology (each disease).....	3.00 C, G
	(1-5 specimens, each).....	3.00 C, G
	(Each additional specimen).....	1.00 C, G
7)	Feline Leukemia.....	10.00 C, G
8)	Feline Infectious Peritonitis (F.I.P.).....	5.00 C
9)	Canine parvo-virus (ELISA) fecal.....	5.00 C, G
10)	Canine parvo-virus serum.....	5.00 C
11)	Canine distemper on serum.....	5.00 C

Virology b)

12)	Rota-virus on fecal.....	10.00 C
13)	Semen testing (export).....	10.00 C
14)	Swine enterovirus (8 serotypes).....	12.00 C
15)	FELV-FELT.....	15.00 C
16)	Porcine fetal fluid IgG.....	3.00 G
17)	Feline lentivirus (FELT).....	10.00 G
c)	Chlamydia Isolation in Cell Culture.....	15.00 C, G
d)	Miscellaneous serology	
1)	Toxoplasmosis.....	5.00 C
2)	Vibrio Agglutination Test (Campylobacter) EIA-AGID.....	2.00 S
3)	EIA-AGID.....	5.00 S
4)	Mare Immunological Pregnancy Test (35-60 days post-service).....	15.00 C
5)	Alutian Disease-Mink (immunoelectrophoresis).....	.20 S
6)	Out-of-State brucellosis serology.....	.50 C, G, S
7)	Brucellosis testing other than bovine, porcine and canine.....	.50 C, G, S
8)	Bluetongue (1-5 specimens, each).....	3.00 C, S
	(Each additional specimen).....	2.00 C, S
9)	Bovine leukosis (1-5 specimens, each).....	3.00 C, S
	(Each additional specimen).....	1.00 C, S
10)	Vesicular stomatitis.....	3.00 C
11)	Complement Fixation Serology (1-5 specimens, each).....	3.00 C
	(Each additional specimen).....	1.00 C
	Note: The Complement Fixation Serology tests include testing for anaplasmosis, and chlamydia.	

Section 110.110 Toxicology Fees

- a) A maximum charge of \$100 shall be assessed Illinois residents. There is no maximum charge for out-of-state residents.
- b) Toxicology Work-up:

Maximum \$50 per animal or \$100 per herd (Illinois animals)

c) Metals

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- 1) Arsenic or Selenium
1-3 specimens, each..... 20.00 C
each additional specimen..... 10.00 C
 - 2) Lead, Copper, Zinc, Thallium,
Calcium, Sodium, Manganese,
Potassium, Iron, Chromium, Cobalt,
Nickel, or Manganese
1-3 specimens, each..... 5.00 C
each additional specimen..... 3.00 C
 - 3) Cadmium, Molybdenum and Mercury
1-3 specimens, each..... 10.00 C
(each additional specimen)..... 6.00 C
- d) Insecticide Screen
- 1) Organochlorines, organophosphates..... 40.00 C
 - 2) Carbamates..... 30.00 C
 - 3) Individual insecticide..... 20.00 C
- e) Herbicides
- 1) Phenoxy compounds..... 40.00 C
 - 2) Individual analysis of any
herbicide from screen..... 20.00 C
 - 3) Herbicide screen (heterocyclic
nitrogen derivatives, dintroanilines,
urea, carbamate and anilide
compounds)..... 50.00 C
 - 4) Imidazole compounds..... 50.00 C
- f) Rodenticides
- 1) Anticoagulant screen..... 25.00 C
 - 2) Zinc Phosphide..... 10.00 C
 - 3) Strychnine and other alkaloids..... 10.00 C
 - 4) Yellow Phosphorus..... 5.00 C
 - 5) Individual anticoagulant..... 10.00 C
 - 6) Fluoracetate (1080)..... 20.00 C
- g) Mycotoxins
- 1) Screen (aflatoxins, T-2, DAS, Vomitoxin,
Zearalenone)..... 50.00 C
 - 2) Milk or urine aflatoxin..... 20.00 C

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- 3) Ochratoxin..... 30.00 C
 - 4) Citrinin..... 30.00 C
 - 5) Individual analysis of any
mycotoxin from screen..... 20.00 C
 - 6) Cyclopiazonic acid (CPA)..... 30.00 C
 - 7) Blacklight for Aspergillus flavus..... 2.00 C
 - 8) Endophyte testing
Staining..... 12.50 C
Grow-out..... 15.00 C
- h) Miscellaneous Analysis
- 1) Feed microscopy..... 10.00 C
 - 2) Nitrate:
Ground Materials (first specimen)..... 8.00 C
(each additional specimen).... 4.00 C
Forages (first specimen)..... 12.00 C
(each additional specimen).... 9.00 C
On Vitreous humor..... 5.00 C
 - 3) Cyanide..... 10.00 C
Cyanide (screen-picric acid)..... 5.00 C
 - 4) Ammonia (Urea Toxicosis)
first specimen..... 10.00 C
(each additional specimen)..... 5.00 C
 - 5) Carboxyhemoglobin, Methemoglobin,
Sulfahemoglobin
(first specimen)..... 15.00 C
(each additional specimen)..... 5.00 C
 - 6) Sulfate..... 5.00 C
 - 7) Creosote, Petroleum Products..... 15.00 C
 - 8) pH..... 1.00 C
 - 9) Urea..... 10.00 C
 - 10) Total chlorides, feeds or water..... 5.00 C
 - 11) Monensin or other ionophore (each).... 25.00 C
 - 12) Water chlorine..... 5.00 C
 - 13) Water nitrate, nitrite (each)..... 5.00 C
 - 14) Water hydrogen sulfide..... 5.00 C
 - 15) Water hardness..... 5.00 C
 - 16) Pentachlorophenol (PCP or Penta)..... 15.00 C
 - 17) Bone--Percent Ash, Ca, P₂O₄..... 12.00 C
 - 18) Ca, P₂O₄ (in feed)..... 10.00 C
 - 19) Ergot alkaloids..... 15.00 C
 - 20) Antibiotics in feed (each)..... 15.00 C

NOTICE OF PROPOSED AMENDMENTS

21)	Vitamin Analysis (each).....	10.00 C
22)	Feed Quality Analysis.....	30.00 C
23)	Protein and moisture analysis.....	7.50 C
24)	Gas chromatographic/mass spectrophotometric analysis (each sample).....	50.00 C
25)	Cholinesterase: Blood (first specimen).....	7.50 C
	(Each additional specimen).....	4.00 C
	Brain (first specimen).....	12.50 C
	(Each additional specimen).....	8.00 C
26)	Drug screen.....	25.00 C
27)	Sulfur residue (each sulfur drug).....	5.00 C
28)	Water quality screen (CH, OP, Carbamates, Herbicides, Lead).....	100.00 C
29)	Total dissolved solvents (Water).....	5.00 C
30)	Specific Gravity (Water).....	5.00 C

(Source: Amended at 14 Ill. Reg. _____, effective

NOTICE OF PROPOSED AMENDMENTS

1) Heading of Part: Diseased Animals

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

3) Section Number: Proposed Action:

Section 85.115

New Section

4) Statutory Authority: Illinois Diseased Animals Act (Ill. Rev. Stat. 1987, ch. 8, pars. 169, 170, 171, 178 and 180).

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

The United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry and has adopted rules pertaining to this disease.

The Illinois Salmonella enteritidis Task Force has approved the proposed rules set forth in this rulemaking. The rules require infected flocks to be quarantined until the flock has been depopulated and the premises disinfected or the entire flock tests negative. The rules also regulate the movement of poultry, eggs, equipment and manure from infected or test flocks.

If funds are available, indemnity will be paid on an infected flock that is implicated in a human disease outbreak, provided the conditions set forth in the rules are followed. The criteria that will be taken into consideration when determining the amount of indemnity is also set forth.

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

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

8) Does this proposed amendment contain incorporations by reference? None requiring approval under Section 6.02(b) of the Illinois Administrative Procedure Act.

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

10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.

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

A public hearing on the proposed amendments will be held on July 20, 1990, at 1:30 p.m., Department of Agriculture, State Fairgrounds, Springfield, Illinois. Persons unable to attend the hearing may present their comments

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on the proposed rulemaking in writing to the Director, Department of Agriculture, State Fairgrounds, Springfield, Illinois 62794-9281. Mailed comments must be postmarked no later than July 15 so they will be available for consideration at the public hearing. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrent with a public meeting of the Advisory Board of Livestock Commissioners.

The proposed rulemaking may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, small businesses may present their comments to the Director as outlined above.

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 25, 1990

B) Types of small businesses affected: Poultry producers (grandparent primary stock producers through commercial egg layer producers).

C) Reporting, bookkeeping or other procedures required for compliance: Flocks infected with Salmonella enteritidis serotype enteritidis must be quarantined until the flock has been depopulated and premises disinfected or the infected flock is tested negative. The federal requirements for disinfecting and prohibitions on movement are adopted. Indemnity will be paid on the flock provided all of the conditions set forth in the rule is met and state funds are available.

D) Types of professional skills necessary for compliance: Basic management and recordkeeping.

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

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

PART 85
DISEASED ANIMALS

Section	
85.5	Definitions
85.7	Incorporation by Reference
85.10	Reportable Diseases
85.15	Truck Cleaning and Disinfection
85.20	Disposal of Sick, Diseased, or Crippled Animals at Stockyards
85.25	Sale of Livestock Quarantined Because of Disease
85.30	Identification Ear Tags for Livestock
85.35	Identification Tags Not to be Removed
85.40	Livestock for Immediate Slaughter Not to be Diverted En Route
85.45	Anthrax
85.50	Goats
85.55	Scrapie in Sheep
85.60	Bluetongue
85.65	Sheep Foot Rot (Repealed)
85.70	Cattle Scabies
85.75	Cattle Scabies -- Additional Requirements on Cattle from Certain Designated Areas
85.80	Sheep
85.85	Diseased Animals
85.90	Copy of Health Certificate Shall be Furnished
85.95	Requests for Permits
85.100	Consignments to Stockyards, Recognized Slaughtering Centers, or Marketing Centers
85.105	Obligation of Transportation Company and Truck Operators
85.110	Additional Requirements on Cattle From Designated States
85.115	Salmonella enteritidis serotype enteritidis

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act (Ill. Rev. Stat. 1987, ch. 8, par. 168 et seq.) and Section 6 of the Illinois Bovine Brucellosis Eradication Act (Ill. Rev. Stat. 1987, ch. 8, par. 139).

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective August 17,

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3) The entire flock which is to be depopulated must have originated from a flock that is classified "U.S. Sanitation Monitored" under the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145 and 147, 1989).

4) The flock owner must have been feeding the infected flock in accordance with the provisions of the National Poultry Improvement Plan and Auxiliary Provisions (9 CFR 145.23(d), 1989).

5) The infected flock shall be slaughtered in accordance with 9 CFR 82.33(b). Ploof of kill will be reported to the Department by the meat and poultry inspector of the slaughtering establishment where the infected poultry is slaughtered.

6) The premises has been disinfected in accordance with 9 CFR 82.32(c); and
7) Replacement poultry shall be from flocks that are classified "U.S. Sanitation Monitored" under the National Poultry Improvement Plan and Auxiliary Provisions.

e) The amount of indemnity paid, based on the availability of state funds, shall be 75 percent of the fair market value and the health thereof at the time of slaughter, minus the salvage value. The following conditions shall be considered when determining the fair market value and health of the infected flock:

1) Initial purchase price of each bird;
2) Age of the bird and its egg production capabilities or value for producing progeny; and
3) Feed and veterinary medical production costs as justified by documentation by the flock owner in the form of sales receipts and veterinary bills.

f) The Department and the infected flock owner must agree upon the value of the poultry destroyed, and in the case as agreement cannot be made, indemnity will not be paid for the flock.

(Source: Added at 14 Ill. Reg. effective

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1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5825, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 1841, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. , effective

NOTE: Capitalization denotes statutory language.

Section 85.115 Salmonella enteritidis serotype enteritidis

a) The United States Department of Agriculture has declared Salmonella enteritidis serotype enteritidis as a communicable disease in poultry. The rules pertaining to Salmonella enteritidis serotype enteritidis located at 9 CFR 82.30-82.36 (55 FR 5576, February 16, 1990; amended at 55 FR 11888, effective February 16, 1990) are hereby adopted for the State of Illinois. The flocks affected by these regulations are those identified in 9 CFR 82.31.

b) All flocks found to be infected with Salmonella enteritidis serotype enteritidis shall be quarantined. The quarantine will remain in effect until the flock has been depopulated and premises disinfected as prescribed in 9 CFR 82.32(c) or the entire flock is tested negative for Salmonella enteritidis serotype enteritidis in accordance with the provisions of 9 CFR 82.32(e).

c) Interstate movement of poultry, eggs, equipment and manure from infected or test flocks shall be as specified in 9 CFR 82.33. Interstate movement requirements shall be the same as interstate movement requirements.

d) If a flock is determined to be an infected flock as defined in 9 CFR 82.32(c), the Department shall pay indemnity if state funds are available and all of the following conditions are met:

1) The infected flock is implicated through epidemiological evidence in a human disease outbreak;
2) The flock owner voluntarily agrees to depopulate with appropriate State indemnity;

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1) Heading of Part: Illinois Pseudorabies Control Act

2) Code Citation: 8 Ill. Adm. Code 115

3) Section Number: Proposed Action:
Section 115.80 Amended

4) Statutory Authority: Illinois Pseudorabies Control Act (Ill. Rev. Stat. 1987, ch. 8, pars. 805, 807 and 811, as amended by P.A. 86-231, effective August 15, 1989).

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

We are proposing to delete references to Class A and Class B classifications under the Criteria for Recognizing PRV Low-Prevalence Areas as exemptions from the pseudorabies testing requirements for feeder swine. The National Pseudorabies Control Board and the Class A-C system of rating states has been eliminated and only the classifications under the Pseudorabies Eradication State-Federal-Industry Program Standards exist.

We are adding Stage III under the Pseudorabies Control Regulations for entry of feeder pigs, as Stage III corresponds with the old Class B. Further, we have deleted the requirement that Class B feeder pigs must have been in compliance with Class B standards for at least one year as the requirements for Stage III status eliminate the need for this waiting period.

Currently there are three states recognized as Stage III. They are Ohio, Wisconsin and Alabama.

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

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

8) Does this proposed amendment contain incorporations by reference? None requiring approval under Section 6.02(b) of the Illinois Administrative Procedure Act.

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

10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.

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

A public hearing on the proposed amendments will be held on July 20, 1990, at 1:30 p.m., Department of Agriculture, State Fairgrounds, Springfield,

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Illinois. Persons unable to attend the hearing may present their comments on the proposed rulemaking in writing to the Director, Department of Agriculture, State Fairgrounds, Springfield, Illinois 62794-9281. Mailed comments must be postmarked no later than July 15 so they will be available for consideration at the public hearing. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrent with a public meeting of the Advisory Board of Livestock Commissioners.

The proposed rulemaking may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, small businesses may present their comments to the Director as outlined above.

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 25, 1990

B) Types of small businesses affected: Feeder Pig Producers

C) Reporting, bookkeeping or other procedures required for compliance:

Feeder swine are exempt from further testing requirements for pseudorabies if they originate from a state or a portion of a state that has been classified Stage III under the Pseudorabies Eradication State-Federal-Industry Program Standards.

D) Types of professional skills necessary for compliance:
Basic management.

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

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2) The swine are from a herd in which a representative sample of animals 6 months of age and over have been tested and are negative to an official serological test for pseudorabies within the preceding 12 months. In herds of 35 animals or less, a representative sample is all swine 6 months of age and over or at least 10 animals, whichever is less. In herds of 36 animals or more, a representative sample is a minimum of 30 percent or 30 animals that are 6 months of age and over, whichever is less; or

3) The swine originate from a state or a portion of a state that has been classified as class A or class B in accordance with criteria for recognizing PRRV low prevalence areas (1986; National Pseudorabies Control Board 644 Goppa Avenue, Nor. 116; Madison, Wisconsin 53716) or classified as Stage III, IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards (April, 1989) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176). However, in the case of a class B classification, the pseudorabies program in the state or portion of the state must have been in compliance with class B standards for at least one year.

b) Swine tested for pseudorabies under a market swine testing program (Section 115.100) will be included in the representative sample required in subsection (a)(2).

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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PART 115
 ILLINOIS PSEUDORABIES CONTROL ACT

115.10	Definitions
115.15	Incorporation by Reference
115.20	Pseudorabies Quarantines
115.30	General Requirements for Qualified Pseudorabies Negative, Controlled Vaccinated and Feeder Swine Pseudorabies Monitored Herds
115.40	Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds
115.50	Requirements for Establishing and Maintaining Pseudorabies Controlled Vaccinated Swine Herds
115.60	Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds
115.70	Pseudorabies Test Requirements for Intrastate Movement
115.80	Pseudorabies Testing of Feeder Swine
115.90	Feeder Swine
115.100	Breeding Animals Consigned to Slaughter

AUTHORITY: Implementing and authorized by the Illinois Pseudorabies Control Act (111. Rev. Stat. 1987, ch. 8, par. 801 et seq., as amended by P.A. 86-231, effective August 15, 1989).

SOURCE: Adopted at 12 Ill. Reg. 3394, effective January 22, 1988; amended at 13 Ill. Reg. 3685, effective March 13, 1989; amended at 14 Ill. Reg. 1935, effective January 19, 1990; amended at 14 Ill. Reg. 5065, effective March 21, 1990; amended at 14 Ill. Reg. _____, effective _____.

Section 115.80 Pseudorabies Testing of Feeder Swine

a) Swine for feeding purposes shall, in addition to complying with the other requirements of this Part and 8 Ill. Adm. Code 105.10, enter or move within Illinois without further testing requirements for pseudorabies if:

1) The swine are from a qualified pseudorabies negative herd, a pseudorabies controlled vaccinated herd, or a feeder swine pseudorabies monitored herd; or

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Heading of Part: Swine Disease Control and Eradication Act

Code Citation: 8 Ill. Adm. Code 105

Section Number: Proposed Action:

Section 105.30 Amend

4) Statutory Authority: Illinois Swine Disease Control and Eradication Act (Ill. Rev. Stat. 1987, ch. 8, pars. 504, 511 and 515, as amended by P.A. 86-231, effective August 15, 1989); the Illinois Pseudorabies Control Act (Ill. Rev. Stat. 1987, ch. 8, pars. 805, 807 and 811, as amended by P.A. 86-231, effective August 15, 1989).

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

We are proposing to delete references to Class A and Class B classifications under the Criteria for Recognizing PRV Low-Prevalence Areas as exemptions from the pseudorabies testing requirements for breeding swine. The National Pseudorabies Control Board and the Class A-C system of rating states has been eliminated and only the classifications under the Pseudorabies Eradication State-Federal-Industry Program Standards exist.

Further, we have deleted the requirement that Class B breeding swine must have been in compliance with Class B standards for at least one year as the requirements for Stage IV status eliminate the need for this waiting period.

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

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

8) Does this proposed amendment contain incorporations by reference? None requiring approval under Section 6.02(b) of the Illinois Administrative Procedure Act.

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

10) Statement of Statewide Policy Objectives: Rule does not affect units of local governments.

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

A public hearing on the proposed amendments will be held on July 20, 1990, at 1:30 p.m., Department of Agriculture, State Fairgrounds, Springfield, Illinois. Persons unable to attend the hearing may present their comments on the proposed rulemaking in writing to the Director, Department of Agriculture, State Fairgrounds, Springfield, Illinois 62794-9281. Mailed

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comments must be postmarked no later than July 15 so they will be available for consideration at the public hearing. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners.

The public hearing on the proposed rulemaking will run concurrent with a public meeting of the Advisory Board of Livestock Commissioners.

The proposed rulemaking may have an impact on small businesses. In accordance with Sections 3.01 and 4.03 of the Illinois Administrative Procedure Act, small businesses may present their comments to the Director as outlined above.

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 25, 1990

B) Types of small businesses affected: Feeder Pig Producers

C) Reporting, bookkeeping or other procedures required for compliance: Feeder swine are exempt from further testing requirements for pseudorabies if they originate from a state or a portion of a state that has been classified Stage III under the Pseudorabies Eradication State-Federal-Industry Program Standards.

D) Types of professional skills necessary for compliance: Basic management.

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

TITLE 8: AGRICULTURE AND ANIMALS
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SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
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PART 105
SWINE DISEASE CONTROL AND ERADICATION ACT

105.5 Definitions

105.10 Swine Entering Illinois for Feeding Purposes Only

105.20 Quarantine of Imported Feeder Swine

105.30 Swine Entering Illinois for Breeding Purposes

105.40 Pseudorabies (Aujeszky's Disease) in Swine (Repealed)

105.41 General Requirements for Qualified Pseudorabies

Negative, Controlled Vaccinated and Feeder Swine

Pseudorabies Monitored Herds (Repealed)

105.42 Requirements for Establishing and Maintaining

Qualified Pseudorabies Negative Herds (Repealed)

105.44 Requirements for Establishing and Maintaining Pseudo-

rabies Controlled Vaccinated Swine Herds (Repealed)

105.46 Requirements for Establishing and Maintaining

Feeder Swine Pseudorabies Monitored Herds (Repealed)

105.50 Official Pseudorabies Test (Repealed)

105.60 Pseudorabies Test Requirements for Intrastate Movement

(Repealed)

105.70 Pseudorabies Testing of Feeder Swine (Repealed)

105.80 Feeder Swine (Repealed)

AUTHORITY: Implementing and authorized by the Illinois Swine Dis-
ease Control and Eradication Act (Ill. Rev. Stat., 1987, ch. 8,
par. 501 et seq., as amended by P.A. 86-231, effective August 15,
1989), the Illinois Pseudorabies Control Act (Ill. Rev. Stat.,
1987, ch. 8, par. 801 et seq., as amended by P.A. 86-231, effec-
tive August 15, 1989), and the Illinois Swine Pseudorabies Eradi-
cation Act (Ill. Rev. Stat., 1987, ch. 8, par. 1481 et seq., as
amended by P.A. 86-231, effective August 15, 1989).

SOURCE: Rules and Regulations Relating to the Illinois Swine Dis-
ease Control and Eradication Act, filed February 24, 1975, effec-
tive March 6, 1975; 2 Ill. Reg. 24, p. 31, effective June 15,
1978; 2 Ill. Reg. 46, p. 10, effective November 11, 1978; 3 Ill.
Reg. 33, p. 341, effective January 1, 1980; 5 Ill. Reg. 3, p.
745, effective January 2, 1981; 5 Ill. Reg. 45, p. 12100, effec-
tive October 27, 1981; codified at 5 Ill. Reg. 10461; 5 Ill. Reg.
13619, effective December 4, 1981; amended at 8 Ill. Reg. 5998,
effective April 23, 1984; amended at 9 Ill. Reg. 2236, effective
February 15, 1985; amended at 9 Ill. Reg. 18435, effective Novem-

per 19, 1985; amended at 10 Ill. Reg. 9758, effective May 21,
1986; amended at 11 Ill. Reg. 10187, effective May 15, 1987;
amended at 11 Ill. Reg. 10538, effective May 21, 1987; amended at
12 Ill. Reg. 3440, effective January 22, 1988; amended at 13 Ill.
Reg. 3715, effective March 13, 1989; amended at 14 Ill. Reg.
1961, effective January 19, 1990; amended at 14 Ill. Reg.
effective

Section 105.30 Swine Entering Illinois for Breeding Purposes

- a) Swine for breeding purposes may enter Illinois provided they are accompanied by an official health certificate.
- b) Official health certificate shall:

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

2) Be approved by the Animal Health Official of the state of origin;

3) Identify each animal by registration number, ear tag, tattoo, or ear notch approved by the respective breed registry;

4) Show the swine are free from visible evidence of contagious, infectious, or communicable diseases;

5) Show that the swine are not from a quarantined herd and/or area;

6) Show any swine more than 4 months of age to be negative to an official test for pseudorabies, conducted by an approved laboratory within 30 days prior to entry, OR that the swine originate from a validated pseudorabies-free herd, with validated herd number and validation date listed on the health certificate, OR that the swine originate from a validated pseudorabies-free area (Pseudorabies Eradication Unit-Form Methods and Rules (July 1, 1986; as approved by the United States Animal Health Association, P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176)). Incorporation by reference does not include any amendments or editions beyond the date specified;

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- 7) Show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry OR that the swine originated from a qualified pseudorabies negative herd, with the qualified herd number and qualification date listed on the health certificate, OR that the swine originated from a state that has been classified as Class A or Class B in accordance with the Criteria for Low-Prevalence Pseudorabies Areas (1986, National Pseudorabies Control Board, 6414 Gopps Avenue, #116, Madison, Wisconsin 53716) or classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards (April 1989) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176). Incorporation by reference does not include any amendments or editions beyond the date specified. However, in the case of Class B classification, the pseudorabies program in the state shall have been in compliance with Class B standards for at least one year in order for the import testing requirement to be waived.

- c) A percentage of the breeding swine shall be retested and negative to an official test for pseudorabies conducted not less than 30 days nor more than 90 days after entering Illinois. If the number of breeding animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 35 breeding animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Local Tourism and Convention Bureau Program
- 2) Code Citation: 14 Ill. Adm. Code 550
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
550.20	Amendment
550.30	Amendment
550.35	Amendment
550.40	Amendment
550.50	Amendment
- 4) Statutory Authority: Implementing Section 46.6a of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.6a) and Section 8.25 of "AN ACT in relation to State finance" (Ill. Rev. Stat. 1987, ch. 127, par. 144.25, as amended by P.A. 86-44, effective July 13, 1989) and authorized by Section 46.20 of the Civil Administrative Code of Illinois (Ill. Rev. Stat. 1987, ch. 127, par. 46.20).
- 5) A Complete Description of the Subjects and Issues Involved: Amendments to the "Local Tourism and Convention Bureau Program" rules serve to add and clarify definitions found in Section 550.20, particularly regarding the issue of match. The rulemaking also limits travel under grant funding to trade/travel shows (see Section 550.20). The formula for allocating funds, found in Section 550.30 has been revised. Revisions to Section 550.35 limit the number of counties a bureau may be affiliated with to three. Program requirements in Section 550.40 have been updated. Various administrative requirements in Section 550.50 have been updated for the new program year. Changes include raising the funding ceiling from \$275,000 to \$350,000 and limiting salaries paid from grants to not more than one-half of the grant.
- 6) Will these proposed amendments replace an emergency amendment currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? Yes, under Section 6.02(a) of the Illinois Administrative Procedure Act.
- 9) Are there any proposed amendments pending on this Part? Yes.

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
550.60	Amendment	April 13, 1990 14 Ill. Reg. 5565
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat. 1987, ch. 85, par. 2203).

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which has been designated by the Department as a grantee entitled to receive funds under the Act in accordance with Section 550.60.

"Contractual Cooperative Project Agreement" - A contract to provide funds from a local entity to a bureau to cover a portion of the costs for a cooperative promotional project. Such funds must be deposited in the bureau's local account and expended solely on the project. Funds should not be refunded to a local entity unless the bureau is unable to comply with the contractual agreement.

"Department" - Department means the Department of Commerce and Community Affairs.

"Department Logo" - Form of recognition as stipulated and supplied by the Department to identify promotional project/product as being produced in whole or in part through grant funds from the Department.

"Director" - Director means the Director of the Department of Commerce and Community Affairs.

"Fiscal Year" - Fiscal Year means July 1 through June 30, the fiscal year of the State of Illinois.

"Grant Document" - Grant document means a written and signed contractual document between a local tourism and convention bureau and the Department of Commerce and Community Affairs which includes a description of the activities to be performed, budget, and all terms and conditions of the contract.

"Grantee" - Grantee means a local tourism and convention bureau receiving Local Tourism and Convention Program funds from the Department.

"In-Kind Contributions" - ~~Volunteer -time; -donated -space; -etc. (non-monetary-donations)~~ Donated services, donated space, donated equipment, services of volunteers, services in lieu of cash or any non-monetary item.

"Local Tourism and Convention Bureau (LTCB)" - Local tourism and convention bureau means a not-for-profit organization or public agency which represents and serves up to three counties or one or more municipalities or -counties located in one of those three counties, or both, and whose purpose-is activities are consistent with the purpose of the Act; -i-e-; The LTCB shall to promote tourism and increase hotel-motel revenues; and which employs a full-time paid professional executive director/chief executive officer that devotes all-time at least 35 hours per week to the

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development and growth of tourism within the Bureau's region. The LTCB shall be located within any one of the municipalities or counties served.

~~"Local --Government" --- --Local --Government --means --county(ies); municipality(ies); -townships(s); -and -city(ies) -having -authority to -enact -laws -and -ordinances; -administer -laws -and -ordinances; raise-taxes-or-expend-funds;~~

"Match" - Match means bureaus' local funds that do not include in-kind contributions (see Section 550.50(d)).

"Municipality" - Municipality means a city, village or incorporated town.

"Population Served" - Population served means the population of the cities; -towns; -or -counties units of local government which the local tourism and convention bureau serves according to the latest certified census figures.

"Program" - Program means the Local Tourism and Convention Bureau Program.

"Project" - Project means promotional activities which are described by the applicant in the application and are approved and funded by the Department.

"Promotional Activities" - Promotional activities means activities which are designed to encourage overnight visits or visitors to and through Illinois or attendance at local events in accordance with Section 550.40.

"Travel/Trade Show" - An exhibit/market place of travel related products and/or services.

"Unit of Local Government" - Unit of Local Government means county(ies), municipality(ies), and townships(s); -and -city(ies) having authority to enact laws and ordinances, administer laws and ordinances, raise taxes or expend funds.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 550.30 Formula for Allocation of Appropriations to Grantees

In accordance with the Act, annual appropriations made by the General Assembly to the Department for the purpose of this program are allocated as follows:

- a) 1/3 of such monies shall be used for grants to local convention

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F) project title/description (e.g., number to be printed, location of ad placements, dates and locations of conferences/events);

G) amount of state funds and local funds which comprise estimated project cost;

H) vendor name(s), description of services to be provided by vendor(s), and itemized cost;

I) anticipated initiation and completion dates;

J) evidence of bid solicitation (where applicable);

K) mock-ups or samples of project;

L) whether project was outlined in initial marketing plan;

M) whether project duplicates an existing project in bureau's service area;

N) targeted audience for project;

O) radius of targeted audience for project;

P) method of distributing project, and signature, title, and date.

2) If the project review request form is complete and is accompanied by the required supporting documentation, and if the project is an eligible promotional activity and includes the current department logo, the project will be approved, subject to fund availability.

3) Promotional Activities:

1) Examples of eligible promotional activities include, but are not limited to:

A) Brochures/posters;

B) Travel-expenses-transportation-todging-per-diem;

B(e) Travel/trade show booth space rental, purchase of booth, and/or registration fees, and/or travel expenses (maximum of 2 staff) to attend travel/trade show;

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and tourism bureaus located within the corporate boundaries of cities with a population greater than 500,000; and

2/3 of the annual appropriation shall be used for grants to bureaus located in the remainder of the state. Those funds will be distributed based on the following formula: Bureau's Share = Total Dollars to be Dispersed x 1/4 (Bureau's Population/Total Population of All Bureaus + Bureau's Rating and Drinking Place Sales Tax/Total Rating and Drinking Place Sales Tax + Bureau's Number of Hotel-Motel Rooms/Total Hotel-Motel Rooms of All Bureaus + Bureau's State Hotel/Motel Tax/Total State Hotel/Motel Tax of All Bureaus).

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 550.35 Eligible Applicants

BUREAUS ELIGIBLE TO RECEIVE FUNDS ARE DEFINED AS THOSE BUREAUS IN LEGAL EXISTENCE AS OF JANUARY 1, 1985, WHICH ARE EITHER A UNIT OF LOCAL GOVERNMENT OR INCORPORATED AS A NOT-FOR-PROFIT ORGANIZATION, ARE AFFILIATED WITH ONE OR MORE MUNICIPALITY OR COUNTY, BUT NOT MORE THAN 3 COUNTIES, AND EMPLOY ONE FULL TIME (Section 46.6a(1) of the Act) paid, professional executive director/chief executive officer that devotes full-time at least 35 hours per week to the development and growth of tourism within a bureau's region.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 550.40 Program Requirements

a) Prior Approval

1) Project costs shall be deducted from future grant payments when bureaus repeatedly fail to submit project review requests for prior approval.

2) All projects/expenditures utilizing ITCB grant funds must be submitted to the ITCB grant manager for review and approval prior to project initiation. Bureaus must allow a minimum of 30 days prior to initiation of a project, for review and notification. The project review request must include the following information:

A) grant number;

B) date submitted;

C) fiscal year;

D) bureau name;

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- C)B) Sponsorship of travel writers and familiarization tours;
- D)E) Advertising through newspaper, magazine, radio, or television;
- E)F) Membership dues for tourism related associations or organizations;
- F) Registration fees for tourism-related conferences/seminars;
- G) Billboards;
- H) Bumper stickers, placements, or any type of specialty items with Department recognition (see subsection (c)); and
- I) Production of videos for use in familiarization or travel/trade industry; and
- J) Sales/promotional staff person - not to be over 1/2 grant funds.
- 2) Examples of projects ineligible for grant promotional funding include, but are not limited to:
- A) Any type of photocopied materials;
- B) Projects containing paid advertising;
- C) Any administrative expenses (stationery, envelopes, phone, rent, supplies, personnel or equipment);
- D) Purchase of any alcoholic beverage;
- E) Feasibility studies.

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(i.e., copies of vendor invoices; tear sheets; and cancelled checks, both front and back) must be submitted to the Department's LTCB grant manager along with 10% of all printed material produced with grant funds.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 550.50 Administrative Requirements

- a) Grant Limitation: No bureau shall receive a grant for funds allocated in accordance with Section 550.30(b) in excess of ~~\$275,000~~ \$350,000 per fiscal year. A bureau may contact the Department for information regarding the amount of funds it is eligible to receive in accordance with Section 550.30.
- b) Administrative Costs: Administrative costs shall be limited to not more than 10% of the grant funds. Administrative costs shall include general overhead costs such as office space, utilities, office supplies, equipment lease/rental, and salaries of administrative or support staff.
- c) Promotional Costs: Promotional costs shall be limited to not less than 90% of the grant funds (see Section 550.40(b)).
- d)e) Matching Funds: Each bureau shall provide a dollar-for-dollar match for funds received under this program. Bureaus must receive prior Department approval (see Section 550.40(a)) on contractual cooperative project agreements used to satisfy match requirements. In-kind contributions will not be used to satisfy match requirements.
- 1) Local match must:
- A) be under the control of the bureau,
- B) be identified in the bureau's grant application for the applicable fiscal year,

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still qualify as match.

2) Sources of Eligible Match: The following monies, when received through a bureau's budget, may be used as match for state grant funds:

A) Local hotel/motel taxes,

B) membership dues,

C) interest on local monies, and

D) private-funds cash contributions.

3) Ineligible Match:

A) In-kind contributions such as donated services, donated space, donated equipment, services of volunteers, services in lieu of cash, or any non-monetary item?

B) State or federal funds?

C) Match Monies used as match for other state or federal grants funds?

D) Penalties, fines, service charges, late payment fees, or interest charges.

e) Method of Compensation: Payments pursuant to a grant shall be subject to the availability of funds appropriated by the General Assembly.

1) The bureau shall receive grant funds, as stipulated in the grant document, upon approval of its application by the Department and signature of the grant document by the Executive Director of the bureau and by the Department.

2) A full-time paid, professional Executive Director, devoting at least 35 hours per week at-time to the development and growth of tourism within a bureau's region must be in place prior to funds being awarded.

3) All grant funds shall be obligated, (with respective vendor), prior to June 30 of the current fiscal year. An overpayment of grant funds (unobligated funds) shall be refunded to the Department, by August 15. In addition, the bureau shall repay the Department for any funds that are determined by the Department through monitoring (subsection

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f) (1) below) and audit (subsection f) (k) below) to have been spent in violation of the grant document.

4) All obligations shall be expended prior to September 30.

Reporting Requirements: The penalty for failure to comply with the timely submission of financial, programmatic, and personnel activity reports (described in subsections f) (1) through f) (3)) shall be the withholding of subsequent monthly grant checks until all required reports are filed. The Department reserves the right to request additional information to clarify or document information on financial, programmatic, or personnel activities outlined in the reports.

1) Financial Reporting - Quarterly financial status reports shall be due no later than the 30th day of October, January, April and July beginning with the quarter following the effective date of the project. The quarterly financial reports shall specify the grant number, grantee name, grant period, report period, report preparer, contact person's name and phone number, date, and signature of bureau director. Additionally, the quarterly financial reports shall contain the following information which must be broken down between programmatic costs (not-to-exceed to be at least 90% of grant total), administrative costs (not to exceed 10% of grant total), and match costs.

A) Approved budget amount,

B) Grant funds received during the report period,

C) Expenditures for the report period (both state and match), and

D) Cumulative expenditures (total of grant expenditures from previous reports, plus expenditures for current grant period).

2) Programmatic Reporting - Quarterly programmatic reports shall be due according to the same schedule specified in subsection f) (f) for both state and match. Final programmatic reports shall be due in the Department no later than September 30th. Quarterly and final reports use the same form. Bureau name, date submitted and indicator for quarterly/final report period shall be specified. Additionally, forms require program activities be reported by project type as follows:

A) Printed (e.g., brochures, posters) including:

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- i) project name,
 - ii) brief description of the project,
 - iii) number of printed items,
 - iv) cost of production/printing,
 - v) distribution network, and
 - vi) project results (documented/anticipated).
- B) Printed Media Advertising including:
- i) name (e.g., newspaper/magazine),
 - ii) brief description of ad subject,
 - iii) number of times run,
 - iv) cost of production/placement,
 - v) distribution network (circulation), and
 - vi) project results (documented/anticipated).
- C) Electronic Media Advertising including:
- i) name (e.g., call letters)/location,
 - ii) brief description of project,
 - iii) number of times aired,
 - iv) cost of production/placement,
 - v) distribution network, and
 - vi) project results (documented/anticipated).
- D) Travel/Trade Shows or Conventions/Seminars including:
- i) show or convention/seminar name,
 - ii) brief description of show or convention/seminar,
 - iii) number of persons attending (bureau personnel),

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- iv) expenses (including registration and travel), and
 - v) project results (documented/anticipated).
- E) Memberships including:
- i) organization name,
 - ii) brief description of organization,
 - iii) name of designated member(s),
 - iv) membership dues, and
 - v) benefits derived (documented/anticipated).
- F) Sales/Marketing Personnel including:
- i) name,
 - ii) title,
 - iii) number of contacts made,
 - iv) means by which contacts were made (e.g., telephone, personal, direct mail), and
 - v) results (documented/anticipated).
- G) Miscellaneous Projects (e.g., billboards, speciality items, familiarization tours) including:
- i) project name,
 - ii) brief description of project,
 - iii) number of items produced/people attending, etc.,
 - iv) itemized cost of project,
 - v) distribution network, and
 - vi) results (documented/anticipated).
- H) Additional Optional Comments: inclusion of additional narrative which the bureau feels may be beneficial to the program.

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Monitoring: The Department shall on-site monitor each bureau funded under this program periodically by visits throughout the period covered under the grant agreement. The Department will notify the bureau in writing at least two working days in advance of monitoring visits. The bureau's marketing plan shall be evaluated for compliance with terms and conditions of the grant document.

Interest on Grant Funds: All interest earned on LTCB grant funds held by the bureau under the grant shall be returned to the Department at the end of the grant period.

Audits: The bureau shall conduct an audit of all grant and match program records which reflect the actual activities conducted and the actual costs and expenses incurred by the bureau using an independent certified public accountant, certified and licensed by authority of the State of Illinois. The audit shall be conducted in accordance with generally accepted auditing standards adopted by the Codification of Statements on Auditing Standards (January 1983) of the AICPA and must be submitted to the Department within twelve months of the end of the grantee's fiscal year expiration-of-the-grant. Any bureau determined to have misused program funds (i.e., fraud and abuse, noncompliance with this part, noncompliance with terms and conditions of grant document) as a result of an audit shall be ineligible to apply for and receive funds under this program for a period not to exceed two years. The Department shall reserve the right to perform special audits of these funds during normal working hours.

Nondiscrimination: The bureau shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 68, pars. 1-101 et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6106-6107); and Title VI of the Civil Rights Act of 1964 (24 CFR 1).

Complaint Process: In the case of a grantee complaint, the Department shall follow the procedures outlined in 47 Ill. Adm. Code 10 (Review and Appeal Procedures).

Non duplication: Project activities funded under this program shall not duplicate any activity funded by the Tourism Marketing grant program (14 Ill. Adm. Code 510).

Bids Solicitation: Bureaus shall attempt to obtain the lowest

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Personnel Activity Reporting - Personnel reports must be completed for each pay period and submitted, on the provided form, according to the schedule specified in subsection(e) (4). Only personnel paid with LTCB grant funds shall be included on this form. The quarterly personnel activity reports must include the following information:

A) Bureau name,

B) Employee name, social security number, and signature,

C) Time period covered,

D) Supervisor's signature as approval,

E) Employee hourly rate,

F) Actual hours or percent of time spent on each activity,

G) Optional comments, and

H) Total hours or percent of time paid from LTCB grant funds.

Financial Management Standards: A bureau's financial management systems shall be structured under the Accounting Standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (AICPA) (1211 Avenue of the Americas, New York, N.Y. 10036-8775) (same-1984September 19, 1987 with no later amendments or editions). The bureau shall be accountable for all funds received under this program. The bureau shall maintain effective control and accountability over all funds, equipment, property, and other assets under the grant as required by the Department. The bureau shall keep records which detail the expenditures of grant and match funds and accurately document such expenditures.

Travel Expenses: Costs in accordance with the latest State of Illinois Department of Central Management Services Travel Regulations (80 Ill. Adm. Code 2800) shall be allowable for expenses of transportation, lodging, per diem, and related items incurred by employees who are in travel status for official business related to the grant-program travel/trade shows. The bureau shall retain receipts as source documentation for travel expenses of its employees. The bureau shall also submit to the Department a completed report for travel expenses.

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bid in implementation of their promotional activities. All purchases, printing and other services in excess of \$2,500.00, acquired with LTCB grant funds, shall be based on the lowest of two or more bids obtained through open bidding. Evidence of compliance with this subsection (i.e. copies of at least two bid proposals) shall be submitted with project approval request. For any purchasing and/or printing costs where the lowest bid is not accepted, documentation (e.g., project specifications and quality requirements) shall be submitted with project approval request.

p)e) Bid Rigging/Rotating: The Bureau shall certify that it has not been barred from bidding on or receiving State contracts as a result of illegal bid rigging or bid rotating as defined in Sections 33E-3 and 33E-4 of the Criminal Code of 1961 (Ill. Rev. Stat. 1988 Supp., ch. 38, pars. 33E-3 and 33E-4).

q)p) Separate Account: A separate bank account shall be established for the purpose of this program. Two authorizing signatures shall be required for the account. Only grant funds received under this program shall be deposited in this account.

r)q) Suspension and Termination:

1) If a bureau has failed to comply with the terms and conditions of the grant document, the Department shall suspend the grant and withhold further payments until the grant is terminated, or the bureau has achieved compliance. The Department will determine that a bureau has failed to comply with the terms and conditions of a grant when:

A) The bureau has been notified in writing of the existence of circumstances which the Department considers to be inconsistent with the terms and conditions of the grant (e.g., consistent failure to submit required reports or evidence of fraud and abuse); and

B) The bureau fails to develop, submit, and implement a corrective action plan within 45 days of the Department's notice.

2) A grant shall be terminated in the absence of full state funding; if the Department determines that the bureau has failed to comply with the terms and conditions of the grant in whole or in part; or if the Department and the bureau agree to terminate the grant.

s)r) Hiring of Staff: Up to 1/2 of the grant funds received under this program may be used for the hiring of staff to conduct

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promotional activities. The bureau is prohibited from hiring any immediate family member of its current staff utilizing funds under this program. Immediate family members shall include a spouse, mother, father, daughter, and son.

t)s) Reallocation of Funds: The grantee shall be required to identify that amount of its grant funds which will not be fully obligated by the end of the fiscal year, on or before May 1 of the current fiscal year. The grant document shall be decreased by the specified amount and such funds shall be reallocated by the Department to grantees who apply for (see application procedures specified in Section 550.60(d)) and can utilize available funds by the end of the fiscal year for new promotional projects.

u)t) Bribery: The grantee certifies to the best of his/her knowledge that no official, agent, or employee of the grantee has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, nor has any such officer, agent, or employee made an admission of guilt of such conduct which is a matter of record.

v)u) Personal Profit Statement of Public Officials and Employees

The following contracting requirements shall be observed by the bureaus:

1) For local government bureaus: no officer or employee of the bureau, no member of its governing body, and no other public official (i.e., mayor, county board chairman, city manager) of the locality in which the program objectives will be carried out, who exercise any function or responsibility in the review or approval of the undertaking or carrying out of such objectives shall:

A) take part in the discussion, deliberation, awarding, or cancellation of any contract negotiated under this grant program which will result in any personal financial profit for the individual or for any corporation, partnership, or association with which he/she is associated (i.e., holds any stock or is a full or partial owner), or

B) receives any personal financial profit from such contract or from the work to be performed under such contract.

2) For nongovernmental bureaus: any such personal financial profit (as described in subsection (u)(v)(1)(B)) for an employee of the bureau, a member of its governing body, or

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
CHAPTER III: ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

PART 1560

OPERATING PROCEDURES FOR THE ADMINISTRATION OF NON-FEDERAL
GRANT FUNDS

Section	
1560.10	Purpose and Authorization
1560.20	Definitions
1560.30	Application and Receipt of Non-Federal Grant Funds
1560.40	Administration of Non-Federal Grant Funds
1560.50	Appeals

AUTHORITY: Implementing and authorized by Ill. Rev. Stat. 1987, ch. 38, par. 210-1 et. seq.

SOURCE: Adopted at _____ Ill. Reg. _____, effective _____, 1990.

NOTE: CAPITALIZATION denotes statutory language.

Section 1560.10 Purpose and Authorization

- a) The Illinois Criminal Justice Information Authority (Authority) establishes this Part to exercise its responsibility TO APPLY FOR, RECEIVE, ESTABLISH PRIORITIES FOR, ALLOCATE, DISBURSE AND SPEND GRANT FUNDS THAT ARE MADE AVAILABLE BY ...PRIVATE SOURCES... (Ill. Rev. Stat. 1987, ch. 38, par. 210-7(k)), TO RECEIVE, EXPEND AND ACCOUNT FOR SUCH FUNDS OF THE STATE OF ILLINOIS AS MAY BE MADE AVAILABLE TO FURTHER THE PURPOSES OF THIS ACT... (Ill. Rev. Stat. 1987, ch. 38, par. 210-7(1)), TO ENTER INTO CONTRACTS AND TO COOPERATE WITH UNITS OF GENERAL LOCAL GOVERNMENT OR COMBINATIONS OF SUCH UNITS, STATE AGENCIES, AND CRIMINAL JUSTICE SYSTEM AGENCIES OF OTHER STATES FOR THE PURPOSE OF CARRYING OUT THE DUTIES OF THE AUTHORITY IMPOSED BY THIS ACT ... (Ill. Rev. Stat. 1987, ch. 38, par. 210-7(m)), TO ENTER INTO CONTRACTS AND COOPERATE WITH UNITS OF GENERAL LOCAL GOVERNMENT OUTSIDE OF ILLINOIS, OTHER STATES' AGENCIES, AND PRIVATE ORGANIZATIONS OUTSIDE OF ILLINOIS TO PROVIDE COMPUTER SOFTWARE OR DESIGN THAT HAS BEEN DEVELOPED FOR THE ILLINOIS CRIMINAL JUSTICE SYSTEM, OR TO PARTICIPATE IN THE COOPERATIVE DEVELOPMENT OR DESIGN OF NEW SOFTWARE OR SYSTEMS TO BE USED BY THE ILLINOIS CRIMINAL JUSTICE SYSTEM ... Ill. Rev. Stat. 1987, ch. 38, par. 210-7 (n)) and TO ESTABLISH GENERAL POLICIES CONCERNING CRIMINAL

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JUSTICE INFORMATION SYSTEMS AND TO PROMULGATE SUCH RULES, REGULATIONS AND PROCEDURES AS ARE NECESSARY TO THE OPERATION OF THE AUTHORITY ... (Ill. Rev. Stat. 1987, ch. 38, par. 210-7 (o)).

Section 1560.20 Definitions

Adverse Action - The term "adverse action" means any or all of the following with respect to non-federal grant funds administered by the Authority:

The suspension by the Executive Director of the performance of an interagency agreement for more than twenty-eight (28) days aggregated within a twelve month period, exclusive of any period of extension that may be granted under Section 1560.40.

The termination of an interagency agreement by the Executive Director.

The denial by the Executive Director of a request for a material revision to an interagency agreement.

Budget Committee - The term "Budget Committee" means the Budget Committee of the Authority as empowered by the Organizational Rules of the Illinois Criminal Justice Information Authority (2 Ill. Adm. Code 1750.340).

Executive Director - The term "Executive Director" means the Executive Director of the Authority (Ill. Rev. Stat. 1987, ch. 38, par. 210-6 and 2 Ill. Adm. Code 1750.350).

Grantor - The term "grantor" means any entity that provides the non-federal grant funds to the Authority.

Interagency Agreement - The term "interagency agreement" means a contract between the Authority and a state agency, unit of local government, or a private organization whereby the Authority provides non-federal grant funds to carry out specified programs, services or activities.

Implementing Agency - The term "implementing agency" means any party, including the Authority, designated to receive funds administered by the Authority pursuant to these rules.

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Section 1560.30 Application and Receipt of Non-Federal Grant Funds

a) The Authority will review the funding purposes set forth by the grantor and invite state agencies, units of local government, and private organizations to submit recommendations for implementing such purposes. Based on the specified purposes of the funds and the needs and recommendations of units of local government and private organizations, the Authority shall select funding priorities at a public meeting in conformance with the Open Meetings Act (Ill. Rev. Stat. 1987, ch. 102, par. 41 et seq.) and the Authority's rules (2 Ill. Adm. Code 1750.310 et seq.).

b) Based upon the funding priorities selected by the Authority pursuant to subsection (a) above, the Executive Director shall use the following evaluation criteria to identify those state agencies, units of local government and private organizations eligible for non-federal grant funding:

- 1) an analysis of need as evidenced by demographic, criminal justice and other data relevant to the purposes set forth by the grantor and resources already available to address that need;
- 2) comments from the public and state and local officials and private organizations;
- 3) current research findings based on data relating to the purposes set forth by the grantor.

A state agency, unit of local government or a private organization, so identified, shall be contacted by the Executive Director to assess its interest in and ability to qualify for the funds pursuant to the requirements of the grantor and, if so interested and so qualified, to prepare a program description that identifies the problem to be addressed, states goals and objectives, and indicates the means by which the state agency, unit of local government or private organization proposes to achieve those objectives. A state agency, unit of local government or private organization not so identified by the Executive Director, shall, upon written request to the Executive Director, be included among those state agencies, units of local government and private organizations evaluated by the Executive Director

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pursuant to the criteria described herein.

c) The Budget Committee shall, at a public meeting, designate programs, implementing agencies and amounts for funding which address one or more of the purposes specified by the Authority in subsection (a) above. The Budget Committee's decision to designate these programs, implementing agencies, and fund amounts shall be based upon equal consideration of the following factors:

- 1) the recommendations of the Executive Director made pursuant to subsection (b) above;
- 2) comments from the public, state and local officials and private organizations;
- 3) the proven effectiveness of a program, by making a prudent assessment of the problem to be addressed by a proposed program;
- 4) the likelihood that a program will achieve the desired objectives, by making a prudent assessment of the concepts and implementation plans included in a proposed program and by the results of any evaluations of previous tests or demonstrations;
- 5) the availability of funds;
- 6) the overall cost of the program; and
- 7) the ability to continue with the program once grant funds are no longer available.

d) The Executive Director shall enter into interagency agreements with those implementing agencies designated by the Budget Committee pursuant to subsection (c) above, specifying the terms and conditions under which the programs, services, or activities are to be conducted and the non-federal grant funds are to be received. If the Authority is the designated implementing agency, then the Executive Director shall document such terms and conditions which, to become effective, must be accepted in writing by the Chairman of the Authority. The terms and conditions shall include but not be limited to reporting requirements that reflect fiscal expenditures and progress toward program objectives, compliance with applicable laws and regulations, the prohibition of

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subcontracting or assignment of agreements without prior written approval of the Authority, and the status of the implementing agency as an independent contractor.

Section 1560.40 Administration of Non-Federal Grant Funds

- a) All implementing agencies shall operate in conformance with the following state laws, when applicable, hereby incorporated by reference: the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1987, ch. 127, pars. 2301 et seq.); the Illinois Purchasing Act (Ill. Rev. Stat. 1987, ch. 127, pars. 132 et seq.); and the State Comptroller Act (Ill. Rev. Stat. 1987, ch. 15, pars. 201 et seq.). The laws and rules incorporated by reference in this subsection do not include any subsequent amendments or editions. The Authority shall maintain a copy of said incorporated materials and shall make them available for public inspection or copying upon request at no more than cost.
- b) Notwithstanding subsection (c) below, the Executive Director shall suspend performance of any interagency agreement for a period not to exceed 28 days where there has been a determination of nonconformance with any federal or state law or rule, such laws specified in subsection (a) above, or the terms or conditions of the agreement. The Executive Director shall reinstate performance of an agreement that has been so suspended if the nonconformance is corrected within twenty-eight (28) days from the date of suspension. However, notwithstanding subsection (c) below, an interagency agreement, for which performance has been suspended, shall be terminated by the Executive Director if performance of the interagency agreement is not reinstated within twenty-eight (28) days from its suspension. Written notice of all such actions by the Executive Director shall be submitted to the implementing agency and members of the Budget Committee as soon as possible, but within five (5) working days.
- c) Upon the request of an implementing agency, the Executive Director shall extend the length of time performance of an interagency agreement may be suspended beyond twenty-eight (28) days for an additional period not to exceed fourteen (14) days, if the nonconformance for which the performance of the agreement was suspended can be corrected within such extension period and such correction would result in fulfillment of the terms of

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the agreement. Such an extension shall be granted by the Executive Director only with the consent of the Chairman of the Budget Committee or in the event the Chairman of the Budget Committee is unavailable for consultation, the Chairman of the Authority. Such consent shall be granted if the nonconformance for which performance of the agreement was suspended can be corrected within such extension period and such correction would result in fulfillment of the terms of the agreement. Since an extension granted by the Executive Director pursuant to this subsection is initiated by the implementing agency, it shall not be deemed an adverse action under these rules. However, an interagency agreement, for which the period of suspended performance has been extended pursuant to this subsection, shall be terminated by the Executive Director if performance of the interagency agreement has not been reinstated by the Executive Director before the extension period has expired. Such termination may then be appealed as provided by section 1560.60. Written notice of all such actions by the Executive Director shall be submitted to the implementing agency and members of the Budget Committee as soon as possible, but within (5) working days.

- d) The Executive Director shall immediately terminate any interagency agreement for any reason of nonconformance specified in subsection (b) above, if performance of the agreement has been suspended on at least one prior occasion or if such nonconformance cannot be corrected by the implementing agency in less than twenty-eight (28) days from the date of termination. Written notice of such termination by the Executive Director shall be submitted to the implementing agency and members of the Budget Committee as soon as possible, but within five (5) working days.
- e) The Executive Director shall approve any revision to an interagency agreement if such action is necessary to fulfill the terms of the agreement. Material revisions shall be reported to the Budget Committee members at or before the next Budget Committee meeting. However, if a request by an implementing agency for a material revision to an interagency agreement is denied by the Executive Director, written notice of such denial shall be submitted to the implementing agency and members of the Budget Committee as soon as possible, but within five (5) working days.

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Authority meeting whichever is sooner -- by phone, mail or written equivalent -- of all appeal decisions made by the Budget Committee. Within ten (10) business days of receipt of such information, a special meeting of the Authority shall be convened upon signed request of five (5) Authority members, for the purpose of fully discussing such action taken by the Budget Committee and to supersede the authorization granted to that committee to act upon the Authority's behalf in any particular appeal. If no action is taken by the Authority, the decision of the Budget Committee shall be deemed the final action of the Authority. Such meetings shall be conducted in conformance with the Open Meetings Act (Ill. Rev. Stat. 1987, ch. 102, par. 41 et seq.) and the Authority's rules (2 Ill. Adm. Code 1750.310 et seq.)

Section 1560.50 Appeals

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a)

The appeals procedures for this part are subject to provisions of Sections 10 through 15 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, pars. 1010-1015).

b)

An implementing agency may appeal any adverse action of the Executive Director by writing to the Budget Committee within fourteen (14) days from the day the notice of adverse action is mailed to the implementing agency. This written appeal shall contain specific reasons stating why the adverse action taken by the Executive Director should be modified and the action requested of the Budget Committee and shall be signed by the implementing agency's authorized official.

c)

If no timely appeal is taken from an adverse action, such action of the Executive Director will be deemed the final action of the Budget Committee, and Authority members shall be notified within five (5) business days or before the next Authority meeting, whichever is sooner -- by phone, mail or written equivalent -- of the action of the Executive Director.

d)

When an appeal is timely filed, the Chairman of the Budget Committee shall arrange for the committee to hear and decide the appeal within forty-nine (49) days of the receipt of the written appeal. The implementing agency shall have the right to appear before the committee and to be represented at the hearing by counsel and shall be notified of the hearing date at least seven (7) days prior to the hearing.

e)

At the hearing, the Budget Committee shall consider the written appeal to the adverse action submitted pursuant to subsection (b), any written response to that appeal by Authority staff, and any testimony given by the implementing agency or Authority staff to questions posed by committee members.

f)

The Budget Committee shall render a decision on the appeal before adjourning the hearing.

g)

In accordance with the Organizational Rules of the Illinois Criminal Justice Information Authority (2 Ill. Adm. Code 1750.340), Authority members shall be notified within five (5) business days or before the next

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: Procedures for Issuing Solid Waste Planning and Enforcement Grants.
- 2) Code Citation: 35 Ill. Adm. Code 870
- 3) Section Numbers: Proposed Action:
- | | |
|---------|-------|
| 870.101 | Amend |
| 870.102 | Amend |
| 870.202 | Amend |
| 870.204 | Amend |
| 870.208 | Amend |
| 870.210 | Amend |
| 870.211 | Amend |
| 870.212 | Amend |
| 870.301 | Amend |
| 870.302 | Amend |
| 870.305 | Amend |
| 870.307 | Amend |
| 870.309 | Amend |
| 870.310 | Amend |
- 4) Statutory Authority: Section 22.15 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1022.15).
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Solid Waste Management Act authorizes the Agency to utilize monies in the Solid Waste Management Fund to provide financial assistance to units of local government to develop nonhazardous Solid Waste Management Plans considering and evaluating alternatives to landfilling of nonhazardous solid waste, and for the performance of enforcement activities. The Act also authorizes the Agency to adopt rules for issuance of financial assistance to local governments. The Agency adopted such rules at 35 Ill. Adm. Code 870, which became effective May 15, 1987, and were published in 11 Ill. Reg. 9585 (May 15, 1987).
- 35 Ill. Adm. Code 870 provides guidance regarding the procedural mechanisms and qualification criteria for distributing funds for the above stated purposes. These amendments increase the maximum financial assistance available and the state share for total eligible costs. The amendments also require some additional information from applicants seeking financial assistance, and they correct certain code citations to the Environmental Protection Act.
- 6) Will this Proposed Amendment replace an Emergency Rule currently in effect? No
- 7) Does this Rulemaking contain an Automatic Repeal Date? No

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- 8) Does this Proposed Amendment contain Incorporations by Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat., ch. 85, par. 2203(b)).
- 11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Persons who wish to submit comments on these proposed Amendments may submit them in writing by no later than 45 days after publication of this notice to:
- Mark V. Gurnik
Enforcement Programs
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276
- 12) Initial Regulatory Flexibility Analysis:
- A) Date Rule was Submitted to the Small Business Office of the Department of Commerce and Community Affairs:
- B) Types of Small Businesses Affected: The Agency believes no small businesses will be affected. Grants from the Solid Waste Management Fund are, by law, restricted to units of local government.
- C) Reporting, Bookkeeping or other Procedures Required for Compliance: These amendments will expand the reporting requirements by requiring grant applications to include methods and procedures for acquiring information on the weight of waste in addition to volume and type of waste. The amendments also state that grant award notifications shall include a report of progress to be submitted to the Agency.
- D) Types of Professional Skills Necessary for Compliance: For solid waste planning grants, the services of a professional engineer may be necessary in some cases; this is a matter of practical reality, however, and is not mandated by these rules.

The full text of the proposed amendments begins on the next page:

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SOURCE: Emergency rules adopted at 10 111. Reg. 17780, effective September 29, 1986, for a maximum of 150 days. Adopted at 11 111. Reg. 9585, effective May 15, 1987; amended at 111. Reg. _____, effective _____.

NOTE: Capitalization denotes statutory language.

SUBPART A: INTRODUCTION

Section 870.101 Purpose

a) The Illinois Solid Waste Management Act (P.A. 84-1319, effective September 4, 1986) 111. Rev. Stat. 1987, ch. 111 1/2, par. 7051 et seq.) amended the Environmental Protection Act (Act) by adding Section 22-1422.15 which authorizes the Environmental Protection Agency (Agency) to:

1) PROVIDE FINANCIAL ASSISTANCE TO UNITS OF LOCAL GOVERNMENT IN PLANNING FOR THE MANAGEMENT OF NONHAZARDOUS SOLID WASTE WHERE ALTERNATIVES TO DISPOSAL OF NONHAZARDOUS SOLID WASTE IN A SANITARY LANDFILL WILL RECEIVE FULL EVALUATION AND CONSIDERATION IN THE PLANNING PROCESS; AND

2) TO PROVIDE FINANCIAL ASSISTANCE TO UNITS OF LOCAL GOVERNMENT FOR THE PERFORMANCE OF INSPECTING, INVESTIGATING AND ENFORCEMENT ACTIVITIES PURSUANT TO SECTION 4(r) AT NONHAZARDOUS SOLID WASTE DISPOSAL SITES(111. Rev. Stat. 1987 Supp., ch. 111 1/2, par. 1022-141022.15).

b) This Part sets forth the procedures used by the Agency in the issuance of grants to units of local government for:

1) planning the management of nonhazardous solid waste in accordance with Section 22-14(g)22.15(g) of the Act; and

2) inspecting, investigating and enforcement activities at nonhazardous solid waste disposal sites in accordance with Section 22-14(h)22.15(h) of the Act.

(Source: Amended at 111. Reg. _____, effective _____)

Section 870.102 Definitions

a) Unless specified otherwise, all terms shall have the meanings set forth in the Environmental Protection Act.

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER 11: ENVIRONMENTAL PROTECTION AGENCY

PART 870

PROCEDURES FOR ISSUING SOLID WASTE PLANNING AND ENFORCEMENT GRANTS

SUBPART A: INTRODUCTION

Section 870.101 Purpose
870.102 Definitions
870.103 Severability

SUBPART B: SOLID WASTE PLANNING GRANTS

Section 870.201 Grant Assistance Availability
870.202 Assistance Amount
870.203 Allocation

870.204 Required Content of Applications for SMP Grants
870.205 Agency Action on Application
870.206 Grant Award and Acceptance
870.207 Evaluation of Performance

870.208 Supplemental SMP Grants
870.209 Grant Payment Schedule
870.210 Noncompliance with Grant Conditions
870.211 Indemnity
870.212 Guidance for Planning

SUBPART C: SOLID WASTE ENFORCEMENT GRANTS

Section 870.301 Grant Assistance Availability
870.302 Assistance Amount

870.303 Required Content of Applications for SWE Grants
870.304 Agency Action on Application
870.305 Grant Award and Acceptance
870.306 Evaluation of Performance

870.307 Supplemental SWE Grants
870.308 Requests for Payments
870.309 Noncompliance with Grant Conditions
870.310 Indemnity

AUTHORITY: Implementing and authorized by Section 22.15 of the Environmental Protection Act (111. Rev. Stat. 1987, ch. 111 1/2, par. 1022.15).

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"Act": means the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111 1/2 par. 1001 et seq.), as amended.

"SWE Grants" or "Solid Waste Enforcement Grants": means grants issued pursuant to Section 22-14(h) 22.15(h) of the Act and Subpart C of this Part.

"SWP Grants" or "Solid Waste Planning Grants": means grants issued pursuant to Section 22-14(g) 22.15(g) of the Act and Subpart B of this Part.

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

SUBPART B: SOLID WASTE PLANNING GRANTS

Section 870.202 Grant Assistance Criteria and Limitation

- a) The amount of assistance to be provided to an applicant will be based on:
- 1) Identification of a need for planning in the affected area for management of solid waste;
 - 2) Provision of a specific means for satisfying that need through development of information conducive to the full evaluation and consideration of each preferred alternative to landfill facilities as identified in Section 2(b) of the Illinois Solid Waste Management Act (Ill. Rev. Stat. 1986 Supp., ch. 111 1/2, par. 7051 et seq.);
 - 3) Demonstration that the costs of the work program do not exceed the benefits from the proposed outputs.
- b) No SWP Grant or grants issued under this Subpart may provide aggregate financial assistance in excess of \$~~250,000~~500,000.

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

Section 870.204 Required Content of Applications for SWP Grants

- a) SWP Grants will not be awarded unless complete applications are filed in accordance with the requirements of this section.
- b) An application for a SWP Grant for a Phase I -- Solid Waste Needs Assessment shall address the following:
 - 1) The geographic area to be encompassed by the grant.

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- 2) The methods to be used in assessing solid waste needs and obtaining the information required under subsection (b)(3).
- 3) Methods and procedures by which the following information will be acquired:
 - A) Residential solid waste generated annually;
 - B) Industrial and commercial solid waste generated annually;
 - C) Volume, weight, and type of waste disposed in landfills;
 - D) Volume, weight, and type of waste recycled or re-used;
 - E) Volume, weight, and type of waste burned for energy recovery;
 - F) Volume, weight, and type of waste incinerated for volume reduction;
 - G) Volume, weight, and type of waste transported into and out of the study area;
 - H) Average distance solid waste is transported before final handling; and
 - I) Volumes, weight, and handling methods used for solid waste managed on-site.
- 4) Projection of information required under subsection (b)(3) for five and twenty years from the study date.
- 5) The work program to be carried out under the grant. The work program must specify:
 - A) work years needed for each program element;
 - B) the outputs committed to under each program element, including outputs required under subsections (b)(3) and (b)(4);
 - C) a schedule for accomplishment of outputs and the tasks to be accomplished to meet the outputs;
 - D) identification of the unit of local government responsible for each of the elements and outputs; and
 - E) identification of the public involvement process to be used in developing the program. At a minimum, such process

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- iii) travel
- iv) equipment
- v) contractual support
- vi) supplies
- vii) other direct costs.

C) Indirect costs.

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

Section 870.208 Supplemental SWP Grants

A recipient of a SWP grant shall be eligible for a supplemental grant not to exceed the state share of eligible project costs. The issuance of a supplemental grant will be based on the availability of funding. In no event may supplemental grant assistance under this Section result in aggregate financial assistance under this Subpart to any recipient in excess of \$250,000,000.

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

Section 870.210 Noncompliance with Grant Conditions

- a) In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to a SWP grant, the grant may be annulled and all grant funds recovered, or
 - 1) The grant may be terminated; or
 - 2) The project work may be suspended; or
 - 3) An injunction may be entered by an appropriate court; or
 - 4) Such other action may be taken by the Agency as the Director shall determine.
- b) No action shall be taken under this Section without prior consultation with the applicant.
- c) Recovery actions taken under this Section shall be pursuant to the Grant Funds Recovery Act (Ill. Rev. Stat. 19857, and 1988 Supp., ch. 127, par. 2301 et seq.).

Section 870.211 Indemnity

ENVIRONMENTAL PROTECTION AGENCY

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The grantee shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency or third persons, and any injury to or death of any persons (including employees of the grantee) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for any such loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of "AN ACT in relation to indemnity in certain contracts" (Ill. Rev. Stat. 19857, ch. 29, pars. 61 et seq.). The grantee shall require that any and all contractors or subcontractors engaged by the grantee shall agree in writing that they shall look solely to the grantee for performance of such contract or satisfaction of any and all claims arising thereunder.

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

Section 870.212 Guidance for Planning

GUIDELINES DEVELOPED BY THE AGENCY, IN COOPERATION WITH THE DEPARTMENT OF NATURAL RESOURCES, FOR PLANS governed by this Subpart shall be provided by the Agency to every unit of local government which has applied for and received assistance under this Subpart. (Ill. Rev. Stat. 19867 Supp., ch. 111 1/2, par. 1022.14(g) 1022.15(g)).

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

SUBPART C: SOLID WASTE ENFORCEMENT GRANTS

Section 870.301 Grant Assistance Availability

- a) Subject to the availability of funding and the limitation and requirements set forth in this Part, grant assistance is available to units of local government which have entered into written delegation agreements with the Agency pursuant to Section 4(r) of the Act under which the Agency has delegated all or portions of its inspecting, investigating and enforcement functions at nonhazardous solid waste disposal sites.
- b) The State share for total eligible costs for SWE Grants shall not exceed 50 percent.
- c) SWE Grants shall be issued with budget periods which shall be concurrent with the state fiscal year. SWE Grants may be issued in subsequent fiscal years subject to funding availability and the requirements of this Part.

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

Section 870.302 Assistance Amount

a) In determining the amount of assistance to an applicant, the Agency will evaluate the extent to which the applicant's work program is demonstrated to be necessary and appropriate and the anticipated cost of the applicant's program is proportionate to the proposed outputs.

b) If the Agency's evaluation of the applicant's work program indicates that the proposed outputs do not justify the level of funding requested, the Agency will reduce the assistance amount.

c) No SWE grant issued under this Subpart may provide financial assistance in excess of \$50,000.

(Source: Amended at 111. Reg. _____, effective _____)

Section 870.305 Grant Award and Acceptance

a) When the Agency has approved or conditionally approved an application, the Agency shall notify the applicant in writing. The grant award notification shall include the following:

- 1) All conditions of the grant, including:
 - A) Conditions of approval imposed under Section 870.304(b);
 - B) Criteria and procedures for determining allowable costs;
 - C) The proportion of allowable costs for which the state will pay under the grant (the "state share");
 - D) The grant payment schedule;
 - E) Requirements applicable to access, auditing, reporting and records; and
 - F) Requirements applicable to subagreements and employees of the grantee; and
 - G) A report of progress to be submitted to the Agency.

2) Grounds and procedures for action by the Agency in the event of noncompliance with these rules or any grant conditions.

b) Within 30 days of receipt of a grant award notification under this Section, the grantee shall notify the Agency in writing of its acceptance. Failure by the applicant to so notify the Agency shall terminate the grant award.

(Source: Amended at 111. Reg. _____, effective _____)

Section 870.307 Supplemental SWE Grants

A recipient of a SWE grant shall be eligible for a supplemental grant not to exceed the state share of eligible project costs. The issuance of a supplemental grant will be based on the availability of funding. In no event may supplemental grant assistance under this Section result in aggregate financial assistance under this Subpart to any recipient in excess of \$50,000.

(Source: Amended at 111. Reg. _____, effective _____)

Section 870.309 Noncompliance with Grant Conditions

a) In addition to such other remedies as may be provided by law, in the event of noncompliance with any condition imposed pursuant to a SWE grant, the grant may be annulled and all grant funds recovered, or

- 1) The grant may be terminated; or
- 2) The project work may be suspended; or
- 3) An injunction may be entered by an appropriate court; or
- 4) Such other action may be taken by the Agency as the Director shall determine.

b) No action shall be taken under this Section without prior consultation with the applicant.

c) Recovery actions taken under this Section shall be pursuant to the Grant Funds Recovery Act (111. Rev. Stat., 1985, 1988 Supp., ch. 127, par. 2301 et seq.).

(Source: Amended at 111. Reg. _____, effective _____)

Section 870.310 Indemnity

The grantee shall assume the entire risk, responsibility and liability for any and all loss or damage to property owned by the grantee, the Agency or third persons, and any injury to or death of any persons (including employees of the grantee) caused by, arising out of, or occurring in connection with the execution of any work, contract or subcontract arising out of this grant, and the grantee shall indemnify, save harmless and defend the State of Illinois and the Agency from all claims for any such loss, damage, injury or death whether caused by the negligence of the State of Illinois, the Agency, their agents or employees or otherwise consistent with the provisions of "AN ACT in

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

relation to indemnity in certain contracts" (Ill. Rev. Stat. 1985, ch. 29, pars. 61 et seq.). The grantee shall require that any and all contractors or subcontractors engaged by the grantee shall agree in writing that they shall look solely to the grantee for performance of such contract or satisfaction of any and all claims arising thereunder.

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED RULES

- 1) Heading of Part: Used and Waste Tires Removal Priority List
- 2) Code Citation: 35 Ill. Adm. Code 861
- 3) Section Numbers:

861.100	<u>Proposed Action:</u>
861.110	New Section
861.120	New Section
861.200	New Section
861.210	New Section
- 4) Statutory Authority: Section 55.3(c) of the Environmental Protection Act ("Act") (Ill. Rev. Stat., ch. 111 1/2, par. 1055.3(c), as amended by P.A. 86-452, effective August 31, 1989).
- 5) A Complete Description of the Subjects and Issues Involved: The General Assembly has found that used and waste tires constitute a growing solid waste problem. Accumulations of used and waste tires can constitute a fire hazard and a threat to air and water quality, encourage open dumping of other types of waste, and provide habitat for a number of disease-spreading mosquitoes and other pests. For these reasons, among others, the General Assembly has granted the Illinois Environmental Protection Agency the authority to remove, or cause the removal of, used and waste tire accumulations. Part of this authority allows the Agency to undertake consensual removal actions for the removal of up to 500 used or waste tires at no cost to the owner when appropriate funding is available. The Agency has been authorized to adopt rules establishing conditions and priorities for the consensual removal of used and waste tires.

This new part creates the Used and Waste Tire Removal Priority List (TPL). The TPL is to serve as an informational tool for use by the Agency in establishing the priority of sites for Consensual Removal Actions under Section 55.3(c) of the Act. The Part establishes criteria for site eligibility for Consensual Removal Actions, and for determining the priority classifications of sites where a consensual removal action is to occur. The Part also provides criteria for determining the order in which sites within each category shall be the subject of a consensual removal action. The TPL is a list, arranged by category, showing the order of these sites.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

NOTICE OF PROPOSED RULES

10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act (Ill. Rev. Stat., ch. 85, par. 2203(b)).

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

Mark V. Gurnik
 Enforcement Programs
 Illinois Environmental Protection Agency
 2200 Church Hill Road
 P.O. Box 19276
 Springfield, Illinois 62794-9276

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 21, 1990
- B) Types of small businesses affected: The Agency believes no small businesses will be affected.
- C) Reporting, bookkeeping or other procedures required for compliance: None
- D) Types of professional skills necessary for compliance: None

The full text of the proposed rule begins on the next page:

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE G: WASTE DISPOSAL
 CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY
 PART 861
 USED AND WASTE TIRES REMOVAL PRIORITY LIST
 SUBPART A: GENERAL

Section
 861.100 Purpose
 861.110 Application
 861.120 Definitions

SUBPART B: PRIORITY FACTORS

Section 861.200 Sites Eligible for Consensual Removal Action
 861.210 Determining Priority for Removal of Used and Waste Tires

AUTHORITY: Implementing and authorized by Section 55.3(c) of the Environmental Protection Act (Ill. Rev. Stat., ch. 111 1/2, par. 1055.3(c), as amended by P.A. 86-452, effective August 31, 1989).

SOURCE: Adopted at _____, 111. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 861.100 Purpose

The purpose of the Used and Waste Tire Removal Priority List (TPL) is to identify factors for establishing the priority of sites for Consensual Removal Actions under Section 55.3(c) of the Illinois Environmental Protection Act ("Act") (Ill. Rev. Stat., ch. 111 1/2, par. 1055.3(c), as amended by P.A. 86-452, effective August 31, 1989).

Section 861.110 Application

The TPL applies to the removal of used and waste tires under the Consensual Removal Action provisions of Section 55.3(c) of the Act.

Section 861.120 Definitions

Unless the context otherwise clearly requires, words and terms used herein shall have the meanings set forth in Sections 54.01 through Section 54.16 of the Act. Words and terms not defined in those sections shall have the meanings otherwise set forth in title I of the Act.

SUBPART B: PRIORITY FACTORS

ENVIRONMENTAL PROTECTION AGENCY

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Section 861.200 Sites Eligible for Consensual Removal Action

- a) A site shall be eligible for a Consensual Removal Action to be performed by the State to remove used or waste tires from the site at no cost to the owner only if all the following requirements are met:
- 1) No more than 500 used or waste tires are accumulated at the site;
 - 2) The owner of the tire accumulation pile is willing to voluntarily enter a written agreement with the Agency in a form as specified by the Agency which meets the requirements of Section 55.2(c)(2) of the Act; and
 - 3) The owner of the site authorizes and consents to entry upon the property by the Agency or authorized representatives or contractors to remove used or waste tires.
- b) The requirements of subsection (a)(1) shall be met by a site at which more than 500 used or waste tires are accumulated if the site owner has entered a Tire Removal Agreement with the Agency pursuant to Section 55.4 of the Act and has removed used or waste tires from the site in accordance with the Tire Removal Agreement such that no more than 500 used or waste tires remain at the site.

Section 861.210 Determining Priority for Removal of Used and Waste Tires

- a) The Agency shall identify, from the categories provided in this Section, the priority classification of sites at which the Agency intends to perform a Consensual Removal Action. The Agency shall include a site within a category only if the site is eligible for Consensual Removal Action under Section 861.200.
- 1) "Environmental/Health Hazard Sites." A site shall be included within this category if the accumulation of used and waste tires at the site poses a threat to human health or the environment or a significant and immediate risk of creating such a hazard. Sites in this category shall have the highest priority for Agency action.
 - 2) "Non-Commercial Sites." A site shall be included within this category if the site is not an Environmental/Health Hazard Site under subsection (a)(1) and the site is not a Commercial Site under subsection (a)(3). Sites in this category shall have the second highest priority for Agency action after Environmental/Health Hazard Sites; except that, it shall not be necessary for the Agency to take Consensual Removal Actions at all Environmental/Health Hazard Sites before taking Consensual Removal Action at the sites in this category.

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- 3) "Commercial Sites." A site shall be included within this category if the used or waste tires were accumulated as a normal course of business. Such sites shall include, but are not limited to the following:
- A) Commercial tire retail facilities;
 - B) Salvage and scrap yards;
 - C) Trucking terminals; and
 - D) Fleet vehicle repair and service facilities.

The Agency shall use State funds to perform Consensual Removal Actions at sites in this category only if State funds are sufficient to perform Consensual Removal Actions at those sites designated for action in the Environmental/Health Hazard Site and Non-Commercial Site categories.

- b) Annually in July, the Agency shall publish a TPL arranged by the categories provided in this section. Within each category, the Agency shall determine the order in which sites shall be the subject of a Consensual Removal Action. The Agency shall consider the following factors in determining the order for the sites:
- 1) Whether removal action has been requested by the Illinois Department of Public Health or a local public health agency.
 - 2) The number of persons residing, working or engaged in recreational activities within one-quarter mile of the site.
 - 3) The type of removal action required and number of tires on a site.
 - 4) Whether access to the site by members of the general public is restricted by a fence or other barrier.
 - 5) Whether the tires were placed on the site without the owner's knowledge.
 - 6) Whether the owner received compensation from other persons to accept the tires.
 - 7) Whether the owner has the capability to undertake or finance the removal action.
 - 8) Other factors relating to the site, including but not limited to whether State resources are available to perform the removal action, pending enforcement actions.

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NOTICE OF PROPOSED RULES

Illustration V	New illustration
Illustration W	New illustration
Illustration X	New illustration
Illustration Y	New illustration

- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 73, pars. 975 and 975a, as amended by P.A. 85-1174, effective August 13, 1988.
- 5) A Complete Description of the Subjects and Issues Involved:

The purpose of this Part is to require full and truthful disclosure in advertisements of Medicare supplement benefits, limitations and exclusions in this State. The Part establishes standards and guidelines for such advertisements. The Part is based on a model regulation adopted by the National Association of Insurance Commissioners.

This Part was originally proposed in the December 23, 1988, Illinois Register, volume 12, issue #52, page 21008, but failed to be adopted as final within one year of the first notice publication date. See the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1005).

This Part reflects all the suggestions for corrections made by the Secretary of State Administrative Code Unit in 1988. This Part also reflects corrections, concerns, and agreements made between the Department and JCAR during the original rulemaking process.

- 6) Will this proposed rule replace emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this rule contain incorporations by reference? No.
- 9) Are there any proposed amendments pending on this Part?
No.
- 10) Statement of Statewide Policy Objections: Not Applicable
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking? Persons who wish to comment on this proposed rulemaking may submit them in writing no later than 45 days after the publication of this Notice to:

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED RULES

Kirk H. Petersen
Assistant Chief Counsel
Department of Insurance
320 West Washington Street, 4th Floor
Springfield, Illinois 62767

- 12) Initial Regulatory Flexibility Analysis: The Department has determined that this proposed rulemaking will not affect small businesses as that term is defined by Ill. Rev. Stat. 1987, ch. 127, par. 1003.10.

The full text of the Proposed Rule(s) begins on the next page:

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NOTICE OF PROPOSED RULES

advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurers benefiting directly or indirectly from their dissemination.

- c) Advertising materials which are reproduced in a quantity of 50 or more copies shall be identified by form numbers. Such identification shall distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.

Section 2010.30 Definitions

a) Advertisement

1) "Advertisement" shall include:

- A) printed and published material, audio visual material and descriptive literature used by or on behalf of an insurer in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays;
- B) descriptive literature and sales aids of all kinds issued by an insurer or an insurance producer as that term is defined in Section 491.1 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 1065.38-1), for presentation to members of the insurance-buying public; including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and lead generating devices of all kinds as herein defined; and
- C) prepared sales talks, presentations and material for use by the insurer or the producer; and
- D) advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.

2) The definition of "advertisement" does not include:

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- A) material to be used solely for the training and education of an insurer's employees or producers;
 - B) material used in-house by insurers;
 - C) communications within an insurer's own organization not intended for dissemination to the public;
 - D) individual communications of a personal nature with current policyholders other than material urging such policyholders to increase or expand coverages;
 - E) correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;
 - F) court approved material ordered by a court to be disseminated to policyholders; or
 - G) a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged; provided, the announcement must clearly indicate that it is preliminary to the issuance of a booklet.
- b) "Medicare Supplement Insurance" means a group or individual policy of accident and health insurance as defined in paragraph (a) of subsection (2) of Section 355a of this Code or a subscriber contract delivered or issued for delivery in this State by an insurer, fraternal benefit society, nonprofit health, hospital or medical service corporation, prepaid health plan, or any similar organization which is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare by reason of age (Section 363(2)(c) of the Code).
- c) "Certificate" means any certificate issued under a group Medicare supplement policy, which certificate has

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j) "invitation to contact" means an advertisement which is neither an institutional advertisement nor an invitation to inquire.

k) "person" means any natural person, association, organization, partnership, trust, group, discretionary group, corporation or any other entity.

l) "Medicare" means the "Health Insurance for the Aged Act," Title XVII of The Social Security Amendments of 1965, as now or later amended, including the "Medicare Catastrophic Coverage Act of 1988" (P.L. 100-360) (Section 363(2)(d) of the Code).

m) "Lead-generating Device" shall mean any communication directed to the public which, regardless of form, content or stated purpose, is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of Medicare supplement insurance.

n) "code" means the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 613, et seq.)

Section 2010.40 Methods of Disclosure of Required Information
All information required to be disclosed by this Part shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous manner or fashion or intermingled with the context of the advertisement so as to be confusing or misleading.

Section 2010.50 Form and Content of Advertisements

a) The format and content of a Medicare supplement insurance advertisement shall avoid deception or the capacity or tendency to mislead or deceive. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence, within the segment of the public to which it is directed.

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been delivered or issued for delivery in this state (Section 363(2)(b) of the Code).

d) "Insurer" means any insurance company, nonprofit health, hospital or medical service plan corporation, prepaid health plan or any other legal entity which has or is proposing to deliver or issue for delivery in this State Medicare supplement insurance and is engaged in the advertisement of itself, or Medicare supplement insurance.

e) "Exception" means any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.

f) "Reduction" means any provision which reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be otherwise payable had such reduction not been used.

g) "Limitation" means any provision which restricts coverage under the policy other than an exception or a reduction.

h) "Institutional Advertisement" means an advertisement having as its sole purpose the promotion of the reader's, viewer's or listener's interest in the concept of Medicare supplement insurance, or the promotion of the insurer as a seller of Medicare supplement insurance.

i) "Invitation to Inquire" means an advertisement having as its objective the creation of a desire to inquire further about Medicare supplement insurance which is limited to a brief description of coverage, and which shall contain a provision in the following or substantially similar form:

"This policy has [exclusions] [limitations] [reductions of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance agent or the company [whichever is applicable]."

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- b) Advertisements shall be truthful and not misleading in fact or in implication. Words or phrases whose meanings are clear only by implication or by the consumer's familiarity with insurance terminology shall not be used.
- c) An insurer must clearly identify its Medicare supplement insurance policy as an insurance policy. A policy trade name must be followed by the words ... "Insurance Policy" or similar words clearly identifying the fact that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.
- d) No insurer, producer or other person shall solicit a resident of this State for the purchase of Medicare supplement insurance in connection with or as the result of the use of any advertisement by such person or any other person, where the advertisement:
- 1) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of such person or the true purpose of the advertisement; or
 - 2) Otherwise violates the provisions of this Part.
- e) No insurer, producer or other person shall solicit residents of this State for the purchase of Medicare supplement insurance through the use of a true or fictitious name which is deceptive or misleading with regard to the status, character, or proprietary or representative capacity of such person or the true purpose of the advertisement.

Section 2010.60 Advertisements of Benefits, Losses Covered or Premiums Payable

- a) Deceptive Words, Phrases or Illustrations Prohibited
- 1) No advertisement shall omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of

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- such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.
- 2) No advertisement shall contain or use words or phrases such as "all," "full," "complete," "comprehensive," "unlimited," "up to," "as high as," "this policy will help fill some of the gaps that Medicare and your present insurance leave out," "this policy pays all that Medicare doesn't" or similar words and phrases, in a manner which exaggerates any benefit beyond the terms of the policy.
 - 3) An advertisement which also is an invitation to join an association, trust or discretionary group must solicit insurance coverage on a separate and distinct application which requires separate signatures for each application. The insurance program must be presented so as not to mislead or deceive the prospective members that they are purchasing insurance as well as applying for membership, if that is the case.
 - 4) An advertisement shall not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a "benefit builder" or stating "even preexisting conditions are covered after 6 months." Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered.
 - 5) An advertisement of Medicare supplement insurance sold by direct response shall not state or imply that "because no insurance agent will call and no commissions will be paid to 'agents' that it is a

the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement shall disclose that a medical examination is required.

3) When an advertisement contains an application form to be completed by the applicant and returned by mail, such application form shall contain a question or statement which reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, such an application form shall contain a question or statement substantially as follows:

A) Do you understand that this policy will not pay benefits during the first six (6) months after the issue date for a disease or physical condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the policy issue date? YES

B) Or substantially the following statement: I understand that the policy applied for will not pay benefits for any loss incurred during the first six (6) months after the issue date due to a disease or physical condition for which I received medical advice or for which treatment was recommended by or received from a physician within six (6) months before the issue date.

Section 2010.70 Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination

An advertisement which is an invitation to contract shall disclose the provisions relating to renewability, cancellability and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner which complies with the standards for disclosure set forth in Section 2010.40 of this Part.

Section 2010.80 Testimonials or Endorsements by Third Parties

low cost plan" or use other similar words or phrases because the cost of advertising and servicing such policies is a substantial cost in marketing by direct response.

b) Exceptions, Reductions and Limitations

1) An advertisement which is an invitation to contract shall disclose those exceptions, reductions and limitations affecting benefits provided by the policy.

2) When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement which is subject to the requirements of subsection (b)(1) shall disclose the existence of such periods.

3) An advertisement shall not use the words "only," "just," "merely," "minimum," or similar words or phrases to describe the applicability of any exceptions and reductions, such as: "This policy is subject to the following minimum exceptions and reductions."

c) Preexisting Conditions

1) An advertisement which is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" without an appropriate definition or description shall not be used.

2) When a Medicare supplement insurance policy does not cover losses resulting from preexisting conditions, no advertisement of the policy shall state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This subsection prohibits the use of

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- a) Testimonials and endorsements used in advertisements must be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial or endorsement, makes as its own all of the statements contained therein, and the advertisement, including such statements, is subject to all the provisions of this Part. When a testimonial or endorsement is used more than one year after it was originally given, a current written confirmation from the author of such testimonial or endorsement must be obtainable and maintained for three years in the insurer's advertising file.
- b) A person shall be deemed a "spokesperson" if the person making the testimonial or endorsement:
- 1) Has a financial interest in the insurer or an affiliate as that term is defined in Section 131.1 of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, par. 743.1) as a stockholder, director, officer, employee or otherwise; or
 - 2) Has been formed by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer; or
 - 3) Has any person in a policy-making position who is affiliated with the insurer in any of the above described capacities; or
 - 4) Is in any way directly or indirectly compensated for making a testimonial or endorsement.
- c) The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence thereto. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, such fact shall be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of

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- similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement; whichever is larger. In the case of television or radio advertising, the required disclosure must be accomplished in the introductory portion of the advertisement and must be given prominence.
- d) The disclosure requirements of this Part shall not apply where the sole financial interest or compensation of a spokesperson, for all testimonials or endorsements made on behalf of the insurer, consists of the payment of union "scale" wages required by union rules, and if the payment is actually for such "scale" for TV or radio performances.
- e) An advertisement shall not state or imply that an insurer or a Medicare supplement insurance policy has been approved or endorsed by any individual, group of individuals, society, association or other organization, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, such fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policy-making position in the association, that fact must be disclosed.
- f) When a testimonial refers to benefits received under a Medicare supplement insurance policy, the specific claim data, including claim number, date of loss, and other pertinent information shall be retained by the insurer for inspection for a period of four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials which do not correctly reflect the present practices of the insurer or which are not applicable to the policy or benefit being advertised is not permissible.

Section 2010.90 Use of Statistics

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comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

a) An advertisement shall not contain statements such as "no red tape" or "here is all you do to receive benefits."

b) Advertisements which state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are unacceptable unless such exceptions, reductions or limitations are contained in not less than 50 percent of such competing coverages.

c) Advertisements which state or imply that an insurer's premiums are lower or that its loss ratios are higher because its organizational structure differs from that of competing insurers are unacceptable.

Section 2010.110 Jurisdictional Licensing and Status of Insurer

a) An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.

b) An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status; or the payment of its claims; or the merits, desirability or advisability of its policy forms or kinds of plans of insurance are approved, endorsed or accredited by any division or agency of this State or the United States Government.

c) An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of the state or federal government. "Approval" of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial conditions.

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a) An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use such statistical information unless it pertains to the insurer's Medicare supplement insurance business. Such an advertisement shall not imply that such statistics are derived from a policy advertised unless such is the fact, and when applicable to other policies or plans shall specifically so state.

1) An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given which are applicable to a different policy, it must be stated clearly that the data do not relate to the policy being advertised.

2) An advertisement using statistics which describe an insurer, such as assets, corporate structure, financial standing, age, product lines or relative position in the insurance business, may be irrelevant and, if used at all, must be used with extreme caution because of the potential for misleading the public. As a specific example, an advertisement for Medicare supplement insurance which refers to the amount of life insurance which the company has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of business.

b) An advertisement shall not represent or imply that claim settlements by the insurer are "liberal" or "generous," or use words of similar import, or state or imply that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.

c) The source of any statistics used in an advertisement shall be identified in such advertisement.

Section 2010.100 Disparaging Comparisons and Statements

An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or

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Section 2010.120 Identity of Insurer

- a) The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement which is an invitation to contract. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which with or without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.
- b) No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to combination of words, symbols or physical materials used by agencies of the federal government or of this State, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.
- c) Advertisements, envelopes or stationery which employs words, letters, initials, symbols or other devices which are so similar to those used by governmental agencies or other insurers are not permitted if they may lead the public to believe:
 - 1) that the advertised coverages are somehow provided by or are endorsed by such governmental agencies or such other insurers;
 - 2) that the advertiser is the same as, is connected with or is endorsed by such governmental agencies or such other insurers.
- d) No advertisement shall use the name of a state or political subdivision thereof in a policy name or description.
- e) No advertisement in the form of envelopes or stationery of any kind may use any name, service mark, slogan, symbol or any device in such a manner that implies that

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- f) No advertisement may incorporate the word "Medicare" in the title of the plan or policy being advertised unless, wherever it appears, said word is qualified by language differentiating it from Medicare. Such an advertisement, however, shall not use the phrase " Medicare Department of the Insurance Company," or language of similar import.
- g) No advertisement shall be used that fails to include the disclaimer to the effect of "Not Connected with or endorsed by the U.S. Government or the Federal Medicare program."
- h) No advertisement may imply that the reader may lose a right or privilege or benefit under federal, state or local law if he fails to respond to the advertisement.
- i) The use of letter, initials, or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letter, initials or symbols of the corporate name or trademark.
- j) The use of the name of an agency or " Underwriters" or " Plan" in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.
- k) The use of an address so as to mislead or deceive as to true identity of the insurer, its location or licensing status is prohibited.
- l) No insurer may use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective purchaser.

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initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears. The term "juxtaposition" means side by side or immediately above or below.

- f) Special awards, such as a "safe drivers award" shall not be used in connection with advertisements of Medicare supplement insurance.

Section 2010.150 Statements About an Insurer

An advertisement shall not contain statements which are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation.

Section 2010.160 Enforcement Procedures

- a) **Advertising File:** Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state, whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be available for inspection by this Department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time.
- b) **Certificate of Compliance:** Each insurer which is required to file an Annual Statement with this Department and which is now or hereafter becomes subject to the provisions of this Part must file with this Department, with its Annual Statement, a Certificate of Compliance executed by an authorized officer of the

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insurer wherein it is stated that, to the best of his knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this State.

- c) If the Director of Insurance finds that any advertisement subject to this Part has materially failed to comply with the provisions of this Part, the Director may, by order, require the person responsible for such non-compliance to publish in the same or similar medium, an approved correction or retraction of any untrue, misleading, or deceptive statement contained in the advertising and may prohibit such person from publishing or distributing, or allowing to be published or distributed on its behalf such advertisement or any new materially revised advertisement without first having filed a copy thereof with the Director 30 days prior to the publication or distribution thereof, or any shorter period specified in such order.

Section 2010.170 Filing Requirements for Advertising

Every insurer shall provide a copy of any Medicare supplement advertisement intended for use in this State whether through written, radio or television medium to the Director of Insurance of this State. Such advertisement shall comply with Sections 149 and 363a of the Illinois Insurance Code (Ill. Rev. Stat. 1987, ch. 73, pars. 761 and 975a).

Section 2010. APPENDIX A Interpretive Guidelines

ILLUSTRATION A Guideline to Section 2010.30

This Part applies to any "advertisement" as that term is defined in Section 2010.30(a), (h), (i), and (j) unless otherwise specified in this Part. This Part applies to group, blanket and individual Medicare supplement insurance advertisements. Certain distinctions, however, are applicable to these categories. Among them is the level of conversance with insurance, a factor which is covered by Section 2010.50(a).

ILLUSTRATION B Guideline to Section 2010.30(a)(i)

The scope of the term "advertisement" extends to the use of all media for communications to the general public, to the use of all media for communications to specific members of the general public, and to use of all media for communications by agents, brokers, producers and solicitors.

ILLUSTRATION C Guideline to Section 2010.30(1)

A "brief description of coverage" in an invitation to inquire may consist of an explanation of Medicare benefits, minimum benefits, standards for Medicare supplement policies, the manner in which the advertised Medicare supplement insurance policy supplements the benefits of Medicare and meets or exceeds the minimum benefit requirements. An invitation to inquire shall not refer to cost or the maximum dollar amount of benefits payable. As with all Medicare supplement advertisements, an invitation to inquire must not:

- 1) Employ devices which are designed to create undue anxiety in the minds of the elderly or excite fear of dependence upon relatives or charity;
- 2) Exaggerate the gaps in Medicare coverage;
- 3) Exaggerate the value of the benefits available under the advertised policy.
- 4) Otherwise violate the provisions of this Part.

ILLUSTRATION D Guideline to Section 2010.40

This Section permits the use of either of the following alternative methods of disclosure:

- a) The first alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions conspicuously and in close conjunction with the statements to which such information relates. This may be accomplished by disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of policy benefits.

- b) The second alternative provides for the disclosure of exceptions, limitations, reductions and other restrictions not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure or otherwise made to appear unimportant. The phrase "under appropriate captions" means that the title must be accurately descriptive of the captioned material. Appropriate captions include the following: "Exceptions," "Exclusions," "Conditions Not Covered," and "Exceptions and Reductions." The use of captions such as, or similar to, the following are not acceptable because they do not provide adequate notice of the significance of the material: "Extent of coverage," "Only these Exclusions," or "Minimum limitations."

In considering whether an advertisement complies with the disclosure requirements of this Section, the requirements of this Section must be applied in conjunction with the form and content standards contained in Section 2010.50.

ILLUSTRATION E Guideline to Section 2010.50(a)

The requirements of Section 2010.50(a) must be applied in conjunction with Sections 2010.10 and 2010.40. This Section refers specifically to "format and content" of the advertisement and the "overall" impression created by the advertisement. This involves factors such as, but not limited to, the size, color and prominence of type used to describe benefits. The word "format" means the arrangement of the text and the captions.

This Section requires distinctly different advertisements for publication in newspapers or magazines of general circulation, as compared to scholarly, technical or business journals and newspapers. Where an advertisement consists of more than one piece of material, each piece of material must, independent of all other pieces of material, conform to the disclosure requirements of this Section.

ILLUSTRATION F Guideline to Section 2010.50(b)

This Section prohibits the use of incomplete statements and words or phrases which have the tendency or capacity to

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mislead or deceive because of the reader's unfamiliarity with insurance terminology. Therefore, words, phrases and illustrations used in an advertisement must be clear and unambiguous. If the advertisement uses insurance terminology, sufficient description of a word, phrase or illustration shall be provided by definition or description in the context of the advertisement. As implied in Illustration E, distinctly different levels of comprehension to the subscribers of various publications may be anticipated.

ILLUSTRATION G Guideline to Section 2010.60(a)(1)

This Section prohibits the use of incomplete statements and words or phrases which create deception by omission or commission. The following examples are illustrations of the prohibitions created by this Section:

- a) An advertisement which describes any benefits that vary by age must disclose the fact.
- b) An advertisement that uses a phrase such as "no age limit" must disclose that premiums may vary by age or that benefits may vary by age if such is the case.
- c) Advertisements, applications, requests for additional information and similar materials are unacceptable if they state or imply that the recipient has been individually selected to be offered insurance, or has had his eligibility for such insurance individually determined in advance, when in fact the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.
- d) Advertisements for group or franchise group plans which provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless such is the fact.
- e) It is unacceptable to use terms such as "enroll" or "join" with reference to group or blanket insurance coverage when such is not the case.

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- f) An advertisement, which states or implies immediate coverage is provided, is unacceptable unless suitable administrative procedures exist so that the policy is issued within fifteen working days after the application is received by the insurer.
- g) Applications, request forms for additional information, and similar related materials are unacceptable if they resemble paper currency, bonds or stock certificates; or use any name, service mark, slogan, symbol or any device in such a manner that implies that the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the Department of Health and Human Services.
- h) An advertisement which uses the word "plan" without identifying it as a Medicare supplement insurance policy is not permissible.
- i) An advertisement which implies in any manner that the prospective insured may realize a profit from obtaining Medicare supplement insurance is not permissible.
- j) An advertisement which fails to disclose any waiting or elimination periods is unacceptable.
- k) Examples of benefits payable under a policy shall not disclose only maximum benefits unless such maximum benefits are paid for loss from common or probable illnesses or accidents, rather than exceptional or rare illnesses or accidents or periods of confinement for such exceptional or rare accidents or illnesses.
- l) When a range of benefit levels is set forth in an advertisement, it must be made clear that the insured will receive only the benefit level written or printed in the policy selected and issued.
- m) Advertisements for policies whose premiums are modest because of their limited amount of benefits shall not describe premiums as "low," "low-cost," "budget" or use qualifying words of similar import. This Section also prohibits the use of words such

as "only" and "just" in conjunction with statements of premium amounts when used to imply a bargain.

n) An advertisement which exaggerates the effects of statutorily mandated benefits or required policy provisions or which implies that such provisions are unique to the advertised policy is unacceptable. For example, the phrase, "Money Back Guarantee," is an exaggerated description of the thirty-day right to examine the policy and is not acceptable.

o) An advertisement which implies that a common type of policy or a combination of common benefits is "new," "unique," "a bonus," "a breakthrough," or is otherwise unusual is unacceptable. Also, the addition of a novel method of premium payment to an otherwise common plan of insurance does not render it "new."

p) An advertisement may not omit the word "covered" when referring to benefits payable under its policy. Continued reference to "covered" is not necessary where this fact has been prominently disclosed in the advertisement.

q) An advertisement must state that benefits payable under the policy are based upon Medicare eligible expenses, if such is the case.

r) An advertisement which fails to disclose that the definition of "hospital" does not include a nursing home, convalescent home or extended care facility, as the case may be, is unacceptable.

s) A television, radio, mail or newspaper advertisement, or lead generating device which is designed to produce leads either by use of a coupon, a request to write or to call the company, or a subsequent advertisement prior to contact must include information disclosing that an insurance agent may contact the applicant if such is the fact.

t) Advertisements for policies designed to supplement Medicare shall not employ devices which are

designed to create undue anxiety in the minds of the elderly. Such phrases as "here is where most people over 65 learn about the gaps in Medicare," or "Medicare is great, but . . ." or which otherwise exaggerate the gaps in Medicare coverage are unacceptable. Phrases or devices which unduly excite fear of dependence upon relatives or charity are unacceptable. Phrases or devices which imply that long sicknesses or hospital stays are common among the elderly are unacceptable.

u) An advertisement which is an invitation to contract implying that the coverage is supplemental to Medicare, if it does not explain the manner in which it is supplemental to Medicare coverage, is not acceptable.

v) An advertisement which is an invitation to contract for Medicare supplement insurance is unacceptable if the advertisement:

1) Fails to disclose in clear language which of the Medicare benefits the policy is not designed to supplement or if it otherwise implies that Medicare provides only those benefits which the policy is designed to supplement;

2) Describes the in-patient hospital coverage of Medicare as "Medicare hospital," or "Medicare Part A" when the policy does not supplement the non-hospital or the psychiatric hospital benefits of Medicare Part A;

3) Fails to describe clearly the operation of the Part or Parts of Medicare which the policy is designed to supplement; or

4) Describes those Medicare benefits not supplemented by the policy in such a way as to minimize their importance relative to the Medicare benefits which are supplemented.

w) Advertisements which indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population,

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or that particular segments of the population are acceptable risks, when such distinctions are not maintained in the issuance of policies, are not acceptable.

- x) Any advertisement which contains statements such as "anyone can apply," or "anyone can join," other than with respect to a guaranteed issue policy for which administrative procedures exist to assure that the policy is issued within a reasonable period of time after the application is received by the insurer, is unacceptable.
- y) Any advertisement which uses any phrase or term such as "here is all you do to apply," "simply," or "merely" to refer to the act of applying for a policy which is not a guaranteed issue policy is unacceptable unless it refers to the fact that the application is subject to acceptance or approval by the insurer.
- z) Advertisements which state or imply that premiums will not be changed in the future are not acceptable unless the advertised policies so provide.
- aa) An advertisement which does not require the premium to accompany the application must not overemphasize that fact and must make the effective date of that coverage clear.
- bb) An advertisement which is an invitation to contract which fails to disclose the amount of any deductible and/or the percentage of any co-insurance factor is not acceptable.

ILLUSTRATION H Guideline to Section 2010.60(a)(2)

This Section recognizes that certain words and phrases in advertising may have a tendency to mislead the public as to the extent of benefits under an advertised policy. Consequently, such terms (and those specified in this Part do not represent a comprehensive list but only examples) must be used with caution to avoid any tendency to exaggerate benefits and must not be used unless the statement is literally true in every instance. The use of

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the following phrases based on such terms or having the same effect must be similarly restricted: "pays hospital, surgical, etc., bills," "pays dollars to offset the cost of medical care," "safeguards your standard of living," "pays full coverage," "pays complete coverage," or "pays for financial needs." Other phrases may or may not be acceptable depending upon the nature of the coverage being advertised.

This Section also prohibits words or phrases which exaggerate the effect of benefit payment on the insured's general well-being, such as "worry-free savings plan," "guaranteed savings," "financial peace of mind," and "you will never have to worry about hospital bills again."

Advertisements which are an invitation to contract for policies designed to supplement Medicare benefits are unacceptable if they fail to disclose that no hospital confinement benefits will be payable for that portion of a Medicare benefit period for which Medicare pays all hospital confinement expenses (currently sixty days) other than the initial deductible if the policy so provides. The length of said period must be stated in days.

ILLUSTRATION I Guideline to Section 2010.60(a)(4)

Explanations must not minimize nor describe restrictive provisions in a positive manner. Negative features must be accurately set forth. Any limitation on benefits precluding preexisting conditions must also be restated under a caption concerning exclusions or limitations, notwithstanding that the preexisting condition exclusion has been disclosed elsewhere in the advertisement. (See Illustration L for additional comments on preexisting conditions.)

ILLUSTRATION J Guideline to Section 2010.60(a)(5)

This Section should be applied in conjunction with Section 2010.110. Phrases such as "we cut cost to the bone" or "we deal direct with you so our costs are lower" shall not be used.

ILLUSTRATION K Guideline to Section 2010.60(b)(1)

An advertisement which is an invitation to contract as

defined in Section 2010.30(j) must recite the exceptions, reductions and limitations as required by this Section and in a manner consistent with Section 2010.40.

If an exception, reduction or limitation is important enough to use in a policy, it is of sufficient importance that its existence in the policy must be referred to in the advertisement.

Some advertisements disclose exceptions, reductions and limitations as required, but the advertisement is so lengthy that it obscures the disclosure. Where the length of an advertisement has this effect, special emphasis must be given by changing the format to show the restrictions in a manner which does not minimize, render obscure or otherwise make them appear unimportant.

ILLUSTRATION L guideline to Section 2010.60(c)(1)

This Section implements the objective of Section 2010.60(a)(4) by requiring in negative terms a description of the effect of a preexisting condition exclusion because such an exclusion is a restriction on coverage. The Section also prohibits the use of the phrase "preexisting condition" without an appropriate definition or description of the term and prohibits stating a reduction in the statutory time limit as an affirmative benefit. The words "appropriate definition or description" mean that the term "preexisting condition" must be defined as it is used by the company's claims department.

ILLUSTRATION M guideline to Section 2010.60(c)(2)

The phrase "no health questions" or words of similar import shall not be used if the policy excludes preexisting conditions. Use of a phrase such as "guaranteed issue," or "automatic issues," if the policy excludes preexisting conditions for a certain period, must be accompanied by a statement disclosing that fact in a manner which does not minimize, render obscure or otherwise make it appear unimportant and is otherwise consistent with Section 2010.40.

ILLUSTRATION N guideline to Section 2010.70

Advertisements of cancellable Medicare supplement policies must state that the contract is cancellable or renewable at the option of the company as the case may be. With respect to noncancellable policies and guaranteed renewable policies, the policy provisions, with respect to renewability, must be set forth and defined where appropriate.

This Section also requires a statement of the qualifying conditions which constitute limitations on the permanent nature of the coverage. These customarily fall into three categories: 1) age limits, 2) reservation of a right to increase premiums, and 3) the establishment of aggregate limits. For example, "noncancellable and guaranteed renewable" does not fulfill the requirements of this Section if the policy contains a terminal age. In such a case, a proper statement would be "Noncancellable and guaranteed renewable to age ____." If a guaranteed renewable policy reserves the right to increase premiums, the statement must be expanded into language similar to "guaranteed renewable to age ____," but the company reserves the right to increase premium rates on a class basis. If the contract contains an aggregate limit after which no further benefits are payable, the above statement must be amplified with the phrase "subject to a maximum aggregate amount of \$50,000" or similar language. A Medicare supplement insurance policy may have one or more of the three basic limitations and an advertisement must describe each of those which the policy contains. Over fifty percent of new individual policy issues are guaranteed renewable; therefore, the fact that a policy is guaranteed renewable shall not be exaggerated.

An advertisement for a Medicare supplement insurance policy which provides for age step-rated premium rates based upon the policy year or the insured's attained age must disclose such rate increases and the times or ages at which such premium increases.

ILLUSTRATION O guideline to Section 2010.80(a)

This Section must be applied in conjunction with Section 2010.90 and requires that all such statements must be genuine and not fictitious. The manufacturing, substantive editing or "doctoring up" of a testimonial is clearly prohibited as being false and misleading to the

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insurance-buying public. However, language which would be unacceptable under this Part must be edited out of a testimonial.

ILLUSTRATION P Guideline to Section 2010.80(c)

The rule requires that both approval or endorsement of a policy by an individual, group or individuals, society, association, or other organization be factual and that any proprietary relationship between the sponsoring or endorsing organization and the insurer be disclosed. For example, if the dividend under an association group case is payable to the association, disclosure of that fact is required. Also, if the insurer or an officer of the insurer formed or controls the association, that fact must be disclosed. This guideline also applies to Section 2010.80(e).

ILLUSTRATION Q Guideline to Section 2010.90(a)

An advertisement shall specifically identify the Medicare supplement insurance policy to which statistics relate and, where statistics are given which are applicable to a different policy, it must be stated clearly that the data does not relate to the policy being advertised.

An advertisement which states the dollar amount of claims paid must also indicate the period over which such claims have been paid.

If the term "loss ratio" is used, it shall be properly explained in the context of the advertisement and, unless the state has issued a regulation otherwise defining the term, it shall be calculated on the basis of premium earned to losses incurred and shall not be on a yearly run-off basis.

ILLUSTRATION R Guideline to Section 2010.90(c)

This Section does not require the statistics for this State be used since such statistics as hospital charges and average stays may vary from state to state. When nationwide statistics are used, such fact should be noted, unless the statistics on the particular point are substantially the same in a state to which the advertisement is directed. Statistics may only be used if they are current and credible.

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ILLUSTRATION S Guideline to Section 2010.100

This Section prohibits disparaging, unfair or incomplete comparisons of policies or benefits which would have a tendency to deceive or mislead the public. The Section does not preclude the use of comparisons by health maintenance organizations, prepaid health plans and other direct service organizations which describe the difference between their prepaid health benefits coverage and indemnity insurance coverage.

ILLUSTRATION T Guideline to Section 2010.110(a)

This Section prohibits advertisements which imply that an insurer is licensed beyond the limits of those jurisdictions where it is actually licensed. An advertisement which contains testimonials from persons who reside in a state in which the insurer is not licensed or which refers to claims of persons residing in states in which the insurer is not licensed implies licensing in those states; and, therefore, is in violation of this Section unless the advertisement states that the insurer is not licensed in those states.

ILLUSTRATION U Guideline to Section 2010.110(b)

Although this Section permits a reference to an insurer being licensed in a state where the advertisement appears, it does not allow exaggeration of the fact of such licensing nor does it permit the suggestion that competing insurers may not be so licensed because, in most states, an insurer must be licensed in the state to which it directs its advertising.

Terms such as "official," or words of similar import, used to describe any policy of application form are not permissible because of the potential for deceiving or misleading the public. This guideline also applies to Section 2010.110(c).

ILLUSTRATION V Guideline to Section 2010.140(a)

This Section prohibits advertising representing that a product is offered on an introductory, initial or special offer basis or otherwise which will not be available later; or is available only to certain individuals, unless such is

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DEPARTMENT OF NUCLEAR SAFETY
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- 1) Heading of the Part: PLAN FOR THE REIMBURSEMENT FOR LOCAL GOVERNMENTS UNDER PROVISIONS OF THE "ILLINOIS NUCLEAR SAFETY PREPAREDNESS ACT"
- 2) Code Citation: 32 Ill. Adm. Code 501
- 3) Section Number:

501.10	<u>Proposed Action:</u>
501.20	Amendment
501.30	Amendment
501.40	Amendment
501.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Illinois Nuclear Safety Preparedness Act (Ill. Rev. Stat. 1987, ch. 111½, par. 4304, as amended by P.A. 86-901, effective September 11, 1989).
- 5) A Complete Description of the Subjects and Issues Involved: The Department is proposing these amendments to reflect changes in policies and procedures regarding the emergency response program. Specifically, the Department is modifying the compensation program to allow local governments that participate in emergency planning activities to be compensated either by the awarding of funds in advance of anticipated expenditure (subject to recovery by the Department if not spent) or by reimbursement of funds actually expended.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify their activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

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Betsy Salus
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
785-9880

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 21, 1990
- B) Types of small businesses affected: The Department believes that these amendments impose no direct impact on any small business as defined by Section 3.10 of the Administrative Procedure Act, however the Department is submitting a copy of these amendments to the Business Assistance Office of the Department of Commerce and Community Affairs during this first notice period for their review.
- C) Reporting, bookkeeping or other procedures required for compliance: Participants in the compensation program must file claims for reimbursement and maintain records of expenditures.
- D) Types of professional skills necessary for compliance: No particular professional skills are necessary for compliance.

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

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER c: NUCLEAR FACILITY SAFETY

PART 501

PLAN FOR THE REIMBURSEMENT FOR COMPENSATION OF LOCAL GOVERNMENTS UNDER PROVISIONS OF THE "ILLINOIS NUCLEAR SAFETY PREPAREDNESS ACT"

Section	501.10	Purpose and Objectives
	501.20	Definitions
	501.30	Policies
	501.40	Procedures
	501.50	Guidelines for the Determination of Necessary Activities and Authorized Expenses

AUTHORITY: Implementing and authorized by Section 4 of the Illinois Nuclear Safety Preparedness Act (111. Rev. Stat. 1983 1987, ch. 111, par. 4304, as amended by P.A. 86-901, effective September 11, 1989).

SOURCE: Emergency rule Adopted at 5 111. Reg. 14862, effective November 22, 1982, for a maximum of 150 days; adopted at 7 111. Reg. 5877, effective April 23, 1983; codified at 8 111. Reg. 1599; amended at 9 111. Reg. 2283, effective January 30, 1985; amended at 111. Reg. _____, effective _____.

The purpose of this plan Part is to establish the policies and procedures necessary to promulgate the plan for the reimbursement of compensate local governments for authorized expenses incurred in implementation of the Illinois Nuclear Safety Preparedness Act (the Act), (111. Rev. Stat., ch. 111, par. 4301 et seq.) on or after July 1, 1982. This plan will endeavor to fulfill the policies and procedures contained in this Part are intended to further the following objectives:

- a) prompt reimbursement of to promptly compensate local governments for authorized expenses incurred in accordance with implementation of the Act;
- b) to reduce the encumbrance of public funds obligated by local governments in implementation of the Act by establishment of a voluntary grant system of compensation, whereby grant monies are paid to the local government in advance of actual expenditures;

- b c) to provide guidance to local governments and departmental staff in determining necessary activities and expenses payable under provisions of pursuant to the Act;
- e d) to establish a fair and equitable system of claims review;
- e e) accelerate review and payment of claims by providing to establish a uniform method of submission, documentation and authentication of claims.

(Source: Amended at 111. Reg. _____, effective _____)

Section 501.20 Definitions

"Authorized Expenses": Actual means the actual expenditures of public funds by a unit of local government attributable to implementation of the Act as determined necessary by the Director, Department of Nuclear Safety (Department).
"Director": means the Director of the Department of Nuclear Safety or his designee.
"Drill": A pre-exercise means the test or trial of a particular emergency preparedness system, function or operation, such as communications.
"Employee": An means an individual actually paid wages or allowances by a unit of local government for work performed on a full-time, part-time or intermittent basis.

"Exercise": the means:

- (1) the required annual biennial testing and evaluation of off-site radiological emergency response plans and preparedness in support of nuclear generating stations, as required by the U.S. Nuclear Regulatory Commission, or
- (2) other testing of emergency response plans for nuclear facilities.

"Local Government": A means a political subdivision below the State Government level, such as a county, municipality, township, village or district, with authority to expend public funds.

(Source: Amended at 111. Reg. _____, effective _____)

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Section 501.30 Policies

- a) The Director shall review all claims for reimbursement of expenses compensation submitted by units of local governments in accordance with this plan Part, and to the extent that the General Assembly has made appropriations therefore, the Director shall compensate local governments approve for payment those expenses relating to activities determined to be necessary. Necessary activities shall include, but not be limited to, the guidelines activities specified in Section 501.50(b) of this Part. The Department shall reimburse compensate local governments from fees collected pursuant to this Section 4 of the Act, except that such reimbursement compensation, in the aggregate, shall not exceed \$150,000 250,000 in any year.
- b) The Division of Emergency Planning and Analysis (DEP) (DPA), Office of Nuclear Facility Safety, is assigned the responsibility for initiation, maintenance and shall be responsible for implementation of this plan Part and shall be the point of contact for units of local governments relative to the provisions contained herein.
- c) This plan Part shall be reviewed by the Department at least annually to determine its effectiveness in accomplishing stated objectives. Users of the plan local governments eligible for compensation under this Part are invited to submit their comments and suggestions at any time. Noted deficiencies will be promptly corrected and improved methods and procedures incorporated to enhance program administration.
- d) Each respective unit of local government, departmental staff and state agency concerned will be furnished a copy of this plan and any revisions thereto. All grants made under this Part providing for payment of funds in advance of anticipated expenditures shall be made in accordance with a grant agreement to be executed by both the Director of the Department and the head of the local government to whom the grant is awarded.

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

Section 501.40 Procedures

- a) Units of local government shall submit their claims for reimbursement of expenses as soon as practicable following the actual expenditure of public funds. Claims for reimbursement of expenses incurred on or before June 30 of any year must be submitted prior to September 1 to insure review under the provisions of this plan. Procedure for compensating local governments by reimbursement:

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- 1) In order to be eligible for reimbursement of expenses incurred by local government, the head of the local government shall provide to the Department the name, title, business address and phone number of the person designated to authenticate claims for reimbursement submitted on behalf of the local government and to act as the point of contact for questions arising therefrom. This information shall be submitted, on the prescribed form furnished by the Department, to the Illinois Department of Nuclear Safety, Attention: Division of Planning and Analysis, 1035 Outer Park Drive, Springfield, Illinois 62704.
- b) The head of each local government shall provide the department with the name, title, business address and phone number of the person designated to authenticate claims submitted for reimbursement of expenses on behalf of the governmental unit and act as the point of contact for questions arising therefrom.
- e) 2) Claims are to be submitted to the Illinois Department of Nuclear Safety Department, Attention: Division of Emergency Planning and Analysis, 1035 Outer Park Drive, Springfield, Illinois 62704 on the prescribed forms furnished by the Department. Forms may be obtained from the Division of Emergency Planning and Analysis or reproduced locally at the option of the user. An initial supply will be furnished with distribution of this plan Part. Claims may be consolidated for each expense category, i.e., personnel services, individual travel, equipment operation use, etc., by the local government entity or, if more convenient, decentralized by operating elements under jurisdiction of the local government entity, e.g., Police Department, Fire Department, Public Works Department, etc. Either method requires the attachment of a cover and summary sheet authenticated by the official designated by the local government head.
- d) 3) Claims shall be initially reviewed The Division of Planning and Analysis shall review claims for completeness, accuracy, conformance with the plan requirements of this Part and program intent by the Division of Emergency Planning. An The Division of Planning and Analysis shall attempt to resolve any questions surfacing from this review will be coordinated by communicating with the point of contact designated by the head of the local government head. Upon completion of this review, the Division of Emergency Planning and Analysis will forward the claim along with their its recommendations to the Director.
- e) 4) Claims approved in their entirety by the Director will be immediately processed for payment through the Budget and Fiscal Services Division and the Division of Emergency Planning and Analysis shall be advised accordingly.

5) Claims with unresolved questions remaining after review of the Director, will be forwarded to a departmental official, appointed by the Director, for further investigation of the exceptions. Upon completion of the inquiry, the claims will be returned to the Director with the findings and recommendations of the investigating official. After final review by the Director, claims with exceptions will be processed for payment of those expenses determined to be appropriate and consistent with law. The Director will advise the claimant, with be advised in writing, of the any exceptions, and action taken the basis for the exceptions with a copy of the Director's decision will be furnished to the Division of Emergency Planning and Analysis.

6) Local governments shall submit claims for compensation covering authorized expenses as soon as practicable following the actual expenditure of public funds. In any event, claims for expenses incurred on or before June 30 of any State fiscal year must be received by the Department within 60 days following the close of the State fiscal year to which they pertain to ensure timely review and processing.

b) Procedure for grants awarding funds in advance of expenditures:
 1) Participating local governments shall, by March 1st of each year, submit a grant application to the Department for the purpose of receiving compensation in advance of anticipated expenditures for the ensuing State fiscal year. The application shall contain a description of the purpose for which the grant is being sought, the proposed term of the grant and an annual spend plan covering the estimated expenses of the participating local government. The annual spend plan shall be submitted on a form provided by the Department. The grant application shall also include the name, title, business address and phone number of the person designated to authenticate documents submitted on behalf of the local government and to act as point of contact for questions arising under the grant. The application shall be signed by the head of the local government.

2) After receipt of the application, the Division of Planning and Analysis shall review the application to determine whether award of the grant would further the purposes of the Act. No later than June 1st of each year, the Division of Planning and Analysis shall make recommendations to the Director regarding action to be taken on the applications. The recommendations regarding award of grants shall be based on the purposes specified in the Act, the guidelines specified in Section 501.50 and on availability of funds.

3) After consideration of recommendations made by the Division of Planning and Analysis, the Director shall execute a grant agreement with each local government to whom a grant is awarded.

4) Upon execution of the grant agreement, the Department shall allocate funds to a grant account established for the participating local government in an amount equal to the grant award. On July 1st of each year, or as soon thereafter as is practicable, the Department shall disburse to the local government an amount equal to the approved grant expenses that are anticipated to be incurred during the first fiscal quarter. On October 1st, or as soon thereafter as is practicable, the Department shall disburse to the local government an amount equal to the approved grant expenses anticipated to be incurred during the third quarter less any amount previously disbursed for 1st quarter expenses for which documentation has not been submitted to the Department and approved by the Department in accordance with subsection (b)(5). On April 1st, or as soon thereafter as is practicable, the Department shall disburse to the local government an amount equal to the approved grant expenses anticipated to be incurred during the fourth quarter less any amounts previously disbursed for 1st and 2nd quarter expenses for which documentation has not been submitted to the Department and approved by the Department in accordance with subsection (b)(5).

5) Participating local governments shall submit documentation of expenditures under the grant. Such documentation shall be on the forms provided by the Department and shall be submitted no later than 20 days following the close of the state fiscal quarter in which the expenditure of public funds was made. Within 30 days of receiving the documentation, the Department shall notify the local government whether the documentation has been approved or disapproved. The Department shall also notify the local government whether the future disbursements of the grant award are subject to adjustment under subsection (b)(4), and if so, what the adjusted disbursement will be.

(Source: Amended at 111. Reg. _____, effective _____)
 Section 501.50 Guidelines for the Determination of Necessary Activities and Authorized Expenses
 a) The following guidance is furnished to assist units of local governments and departmental staff in determining

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necessary activities and authorized expenses payable under the provisions of this reimbursement plan Part. This listing guidance is not intended to be all inclusive, but represents an approach founded on achievement of designed to achieve equality among known prospective claimants and while taking into account the limitations imposed by the availability of appropriated funds.

b) Necessary Activities:

- 1) Pre-exercise Response planning, preparation, radiological training and drills.
- 2) Exercise performance and execution Participation in the exercising of transportation and fixed facility nuclear response plans.
- 3) Internal post exercise critique and corrective action.

c) Authorized Expenses:

1) Personnel Services

- A) Wages, plus fringe benefits, actually paid to local governmental employees for participation in necessary activities as previously defined described in subsection (b).
- B) Reimbursement Compensation will be based on hourly rates for the number of hours of actual participation in necessary activities.
- C) Reimbursement Compensation for "matching funds" type employees will be limited to wages actually paid from the local government's share of total funds contributed.

2) Individual Travel

- A) Travel allowances actually paid to local government employees for travel performed in connection with their participation in necessary activities as previously defined described in subsection (b).
- B) Reimbursement for travel performed by privately owned conveyance Compensation for transportation, lodging, and per diem or meal expenses shall not exceed the state rate of \$19 per mile rate in the State of Illinois Travel Regulations in

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effect at the time the expenditure was incurred unless a local government ordinance, rule or regulation applicable to all employees of the governmental entity local government specifies a higher rate.

- C) Reimbursement for travel performed by commercial transportation shall not exceed the least costly alternative available unless a local government ordinance, rule or regulation applicable to all employees of the governmental entity specifies a higher cost option.

3) Equipment Operation Use

- A) Operating costs Costs actually paid, incurred or obligated (other than personnel services) for local government owned or leased equipment used during or in connection with a necessary activity as previously defined specified in subsection (b).
- B) Reimbursement Compensation for equipment operating costs use shall not exceed the amounts rates indicated in the following table without complete documentation:

<u>Type Equipment</u>	<u>Cost Per Mile Rate</u>	<u>Cost Per Hour Optional Rate</u>
Automobile	+.20	
Bus	+.40	
Fire Truck	+.50	
Heavy Ambulance	+.35	
Light Ambulance	+.25	
Heavy Truck (Dual Axle)	+.55	
Light Truck (1 ton or Less)	+.25	
Medium Truck (Single Axle)	+.35	
Rescue Vehicle (Construction Equipment)	+.35	
End Loader		13.80
Grader		9.70
Track Vehicles		19.40
<u>Automobile</u>	<u>\$0.30 per mile</u>	<u>\$3.20 per hour of actual operation</u>

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- 5) Other Expenses
- A) Expenses not specifically covered herein relating in whole or in part to necessary activities, as specified in subsection (b), will be reviewed on a case by case basis.
 - B) Requests for compensation of such expenses shall be accompanied by detailed documentation of the amount of funds to be expended as well as a statement identifying the relationship of the expense to the activities listed in subsection (b). Prior to incurring such expenses, the local government shall submit the request for compensation to the Illinois Department of Nuclear Safety, Attention, Division of Planning and Analysis, 1035 Outer Park Drive, Springfield, Illinois 62704.

(Source: Amended at 111. Reg. _____, effective _____)

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Bus	\$0.60 per mile	\$8.80 per hour of actual operation
Emergency Vehicle (ambulance, fire truck, rescue vehicle)	Base rate, fee or service charge customary to the area of operation	None
Highway Maintenance and Construction	As published in the current "Schedule of Average Annual Equipment Owner-ship Expense, Ill. Dept. of Transportation	None

- 4) Miscellaneous Expenses
- C) Reimbursement for operation of special purpose equipment, e.g., airplanes, helicopters, boats, etc., shall not exceed the actual cost per hour of operation. Expenses for use of motorized equipment not listed in the table above shall be fully documented.
 - A) Telephones Emergency Operation Center (EOC) Telecommunications

1) Installation, connect/disconnect service and minimum maintenance charges actually paid for those telephones telecommunication lines, circuits and equipment used exclusively for exercising nuclear emergency response plans.

11) Service and toll charges actually paid for "off-peak business" calls exclusively related telecommunication lines or circuit usage charges relating exclusively to the exercising of nuclear emergency response plans.

B) EOC Operational Materials: costs of maps, charts, plexiglass, status boards and similar materials relating exclusively to the exercising of nuclear emergency response plans.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

Code Citation: 35 Ill. Adm. Code 215

<u>Section Numbers:</u>	<u>Proposed Action:</u>
215.102	Amendment
215.105	Amendment
215.108	New Section
215.480	Amendment
215.481	Amendment
215.482	Amendment
215.483	Amendment
215.484	Amendment
215.485	Amendment
215.486	Amendment
215.487	Amendment
215.488	Amendment
215.489	Renumbered, New Section
215.490	Renumbered, Amendment

Statutory Authority: Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1009, 1010, and 1027

- 3) A Complete Description of the Subjects and Issues Involved:

Abbott Laboratories' filed with the Pollution Control Board, on a joint motion with the Illinois Environmental Protection Agency, a Fourth Amended Proposal for amendments to 35 Ill. Adm. Code 211 and 215 on May 8, 1990. This follows a similar filing of an Amended Petition and for expedited hearing on December 4, 1989 (proposed by the Board for First Notice on January 25, 1990 and published February 23, 1990, at 14 Ill. Reg. 2766) and a Third Amended Proposal on April 23, 1990. On April 26, 1990, the Board granted Abbott's motion for expedited proceeding and directed the hearing officer to schedule hearings. On May 10, 1990, the Board granted leave to file the Fourth Amended Proposal and proposed amendments substantially identical to those contained in that Proposal. The Board has scheduled public hearings for June 27, 1990 in Chicago and June 28, 1990 in Waukegan on the Fourth Amended Proposal and the proposed amendments.

The Board proposed Abbott's amended proposal for first notice in order to begin the Administrative Procedure Act rulemaking process. However, the Board takes no position on the merits of the proposal at this time. The Board's action today is taken to effectuate the publication of the proposal in the Illinois Register.

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For a description of the subjects and issues involved, the Board will set out Abbott's statement of reasons submitted with its original proposal on May 3, 1988. The Board notes that this description relates to the original proposal; however, on December 4, 1989 and April 23 and May 8, 1990, Abbott filed amended proposals. It is the proposed amendments as based on the Fourth Amended Proposal that appears below. Although the three proposals are generally similar, the reader is advised to contact the Clerk's Office if he or she is interested in comparing them.

The Board adds the observation that the proposed amendments include Section 215.105, which did not appear in Abbott's Fourth Amended Proposal. The Fourth Amended Proposal included incorporations by reference at Sections 215.108 and 215.480(h). Section 215.105 is the listing of incorporations by reference for the whole of Part 215. Therefore, Sections 215.108 and 215.480(h) in the proposed amendments refer to Section 215.105 where the incorporations by reference actually appear. This revision to Abbott's proposed regulatory language opens Section 215.105 to amendment and would preserve the Board's chosen regulatory format. The Board believes this chosen format facilitates reference to those incorporations.

Abbott's May 3, 1988 statement of reasons stated as follows:

Abbott owns and operates two separate manufacturing plants located approximately five miles apart in Lake County, Illinois. The North Chicago site is located in the city of North Chicago, and the other site, Abbott Park, is located in an unincorporated area in Libertyville Township. Abbott's North Chicago facility occupies approximately 56 acres of land containing over 30 separate building structures. The surrounding area is mixture of residential and industrial area. The complex is devoted to fermentation facilities, hospital products manufacturing, synthetic pharmaceutical production, laboratory and pilot plant research and development, and administrative offices.

The Abbott Park facility, which occupies approximately 500 acres of land, is devoted to administrative offices, laboratory research and development, diagnostic kit assembly and pharmaceutical production. It is in a mostly rural area with farmland or a tollway on all sides except to the east which is a mixture of residential and very light industrial areas.

At the North Chicago facility, Abbott manufactures both synthesized pharmaceutical products (CTG products) and fermentation-based pharmaceutical products (non-CTG products) in bulk form. Unit operations at North Chicago typically consist of reactors, liquid-liquids extractors, crystallizers, distillation columns, centrifuges, filters, vacuum blender dryers, vacuum dryers and fluidized bed air

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prescribed condenser would result in icing, thus preventing the condenser from operating properly and causing malfunctioning of the process.

Section 215.486: The correct name for the equipment regulated is "pan coater" as there is not such item of equipment called a "capsule coater".

Section 215.487: Abbott proposes to amend this section to allow emission calculations to be made consistent with U.S. EPA procedures described in the CTG for synthetic pharmaceutical manufacturing rather than requiring stack testing. Stack testing costs are very high and in most instances the calculations should be sufficient. The Agency has the authority to require such testing where necessary.

Section 215.489: Abbott proposed to amend the compliance date to December 31, 1991, which is consistent with Abbott's variance request. This date is premised upon a decision in this matter being made within two years of the date of filing and, if additional controls are required of Abbott, approximately 18 additional months to install those controls.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Do these proposed amendments contain incorporations by reference? Yes.
- 9) Are there any other amendments pending on this Part? Yes.

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
215.102	Amendments	14 Ill. Reg. 2772, February 23, 1990
215.104	Amendments	13 Ill. Reg. 15551, October 13, 1989
215.105	Amendments	13 Ill. Reg. 15551, October 13, 1989
215.123	Amendments	13 Ill. Reg. 19081, December 8, 1989
215.206	Amendments	13 Ill. Reg. 12384, July 28, 1989
215.480	Amendments	14 Ill. Reg. 2772, February 23, 1990
215.481	Amendments	14 Ill. Reg. 2772, February 23, 1990
215.486	Amendments	14 Ill. Reg. 2772, February 23, 1990
215.487	Amendments	14 Ill. Reg. 2772, February 23, 1990
215.489	Amendments	14 Ill. Reg. 2772, February 23, 1990
215.585	Amendments	13 Ill. Reg. 15551, October 13, 1989

10) Statement of Statewide Policy Objectives:

The Board does not expect that this proposal will require a local government to establish, expand or modify its activities in such a way

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as to necessitate additional expenditures from local revenues. Therefore, the Board does not believe that this rule will create or enlarge a mandate subject to the State Mandates Act, Ill. Rev. Stat. ch 85, Sec. 2201 et seq.

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

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R88-14 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: May 14, 1990
- B) Types of small businesses affected: None.
- C) Reporting, bookkeeping or other procedures required for compliance: None.
- D) Types of professional skills necessary for compliance: None.

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

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215.202 Compliance Schedules

215.204 Emission Limitations for Manufacturing Plants

215.205 Alternative Emission Limitations

215.206 Exemptions from Emission Limitations

215.207 Compliance by Aggregation of Emission Sources

215.208 Testing Methods for Volatile Organic Material Content

215.209 Exemption from General Rule on Use of Organic Material

215.210 Alternative Compliance Schedule

215.211 Compliance Dates and Geographical Areas

215.212 Compliance Plan

215.213 Special Requirements for Compliance Plan

SUBPART H: SPECIAL LIMITATIONS FOR SOURCES IN MAJOR URBANIZED AREAS WHICH ARE NONATTAINMENT FOR OZONE

215.240 Applicability

215.241 External Floating Roofs

215.245 Photographic and Rotogravure Printing

215.249 Compliance Dates

SUBPART I: ALLOTTED FACT EMISSIONS LIMITATIONS

Section

215.260

Applicability

215.261 Petition

215.263 Public Hearing

215.264 Board Action

215.267

Agency Petition

SUBPART K: USE OF ORGANIC MATERIAL

Section

215.301

Use of Organic Material

215.302

Alternative Standard

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Fuel Combustion Emission Sources

215.304

Operations with Compliance Program

215.305

Viscose Exemption (Repealed)

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Hexane Extraction Soybean Crushing

215.342

Hexane Extraction Corn Oil Processing

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Recordkeeping for Vegetable Oil Processes

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Compliance Determination

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SUBTITLE B: AIR POLLUTION

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SUBCHAPTER C: EMISSIONS STANDARDS AND LIMITATIONS FOR

STATIONARY SOURCES

PART 215

ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

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215.101

Clean-up and Disposal Operations

215.102

Testing Methods

215.103

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215.104

Definitions

215.105

Incorporation by Reference

215.106

Alternatives

215.107

Determination of Applicability

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215.121

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215.122

Loading Operations

215.123

Petroleum Liquid Storage Tanks

215.124

External Floating Roofs

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Compliance Dates and Geographical Areas

215.126

Compliance Plan

215.127

Emissions Testing

215.128

Measurement of Seal Gaps

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

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215.141

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215.142

Pumps and Compressors

215.143

Vapor Blowdown

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215.181

Solvent Cleaning in General

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Cold Cleaning

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Conveyorized Degreasing

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SUBPART P: PRINTING AND PUBLISHING

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215.401	Flexographic and Rotogravure Printing
215.402	Exemptions
215.403	Applicability of Subpart K
215.404	Testing and Monitoring (Repealed)
215.405	Compliance Dates and Geographical Areas
215.406	Alternative Compliance Plan
215.407	Compliance Plan
215.408	Heatset Web Offset Lithographic Printing
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SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

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215.442	Vacuum Producing Systems
215.443	Wastewater (Oil/Water) Separator
215.444	Process Unit Turnarounds
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SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

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Appendix B Section into Rule Table
Appendix C Past Compliance Dates
Appendix D List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
Appendix E Reference Methods and Procedures
Appendix F Coefficients for the Total Resource Effectiveness Index (TRE) Equation

AUTHORITY: Implementing Section 22 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111-1/2, pars. 1022 and 1027).

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 205: Organic Material Emission Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R77-3, 33 PCB 357, at 3 Ill. Reg. 10, p. 41,

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215.541 Pesticide Exemption
SUBPART X: CONSTRUCTION

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215.561 Architectural Coatings
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SUBPART Y: GASOLINE DISTRIBUTION

Section
215.581 Bulk Gasoline Plants
215.582 Bulk Gasoline Terminals
215.583 Gasoline Dispensing Facilities
215.584 Gasoline Delivery Vessels
215.585 Gasoline Volatility Standards
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Section
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215.621 Exemption for Waterbase Material and Heatset Offset Ink
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215.624 Open-top Mills, Tanks, Vats or Vessels
215.625 Grinding Mills
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effective May 3, 1979; amended in R78-3 and R78-4, 35 PCB 75, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5 at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13601; Notice of Corrections at 7 Ill. Reg. 14575; amended in R82-14 at 8 Ill. Reg. 13254, effective July 12, 1984; amended in R83-36 at 9 Ill. Reg. 9114, effective May 30, 1985; amended in R82-14 at 9 Ill. Reg. 13960, effective August 28, 1985; amended in R85-28 at 11 Ill. Reg. 3127, effective February 3, 1987; amended in R82-14 at 11 Ill. Reg. 7296, effective April 3, 1987; amended in R85-21(A) at 11 Ill. Reg. 11770, effective June 29, 1987; recodified in R86-39 at 11 Ill. Reg. 13541; amended in R82-14 and R86-12 at 11 Ill. Reg. 16706, effective September 30, 1987; amended in R85-21(B) at 11 Ill. Reg. 19117, effective November 9, 1987; amended in R86-36, R86-39, R86-40 at 11 Ill. Reg. 20829, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 815, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7311, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7650, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10893, effective June 27, 1989.; amended in R88-30(A) at 14 Ill. Reg. 3555, effective February 27, 1990; emergency amendments adopted in R88-30(A) at 14 Ill. Reg. effective 6421, effective April 11, 1990 for a maximum of 150 days; amended in R89-16 at 14 Ill. Reg. , effective May , 1990; amended in R88-14, effective 14 Ill. Reg. , effective

SUBPART A: GENERAL PROVISIONS

Section 215.102 Testing Methods

- a) Volatile organic material or organic material concentrations in a stream is measured by Method 18, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105, Measurement of Gaseous Organic Compounds incorporated by reference in Section 215.105 except as follows. ASTM D-4457, incorporated by reference in Section 215.105, may be used for halogenated organic compounds. Methods 25, 25A or 25B, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105 may be substituted for Method 18 provided the source owner of operator submits calibration data and other proof that this method provides the information in the emission units of the applicable standard. The volumetric flow rate and gas velocity is determined in accordance with Methods 1, 1A; 2, 2A, 2C, 2D, 3 and 4, 40 CFR Part 60, Appendix A, incorporated by reference in Section 215.105. Any other alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

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~~b) Measurement of Vapor Pressures~~

- ~~1) For a single component, the actual vapor pressure shall be determined by ASTM (American Society of Testing and Materials) Method D-2879-83 (Approved 1983), incorporated by reference in Section 215.105, or the vapor pressure may be obtained from a published source such as Douslik, T., v. Fried and B. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973), Perry's Chemical Engineer's Handbook, McGraw Hill Book Company (1984), CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1969-87), Lange's Handbook of Chemistry, John A. Dean, editor, McGraw Hill Book Company (1985).~~
- ~~2) For a mixture, the actual vapor pressure shall be determined by ASTM (American Society of Testing and Materials) Method D-2879-83 (Approved 1983), incorporated by reference in Section 215.105, or the vapor pressure may be taken as either:~~
- ~~A) If the vapor pressure of the volatile organic liquid is specified in the applicable rule, the lesser of the sum of the actual vapor pressure of each component or each volatile organic material component, as determined in accordance with subsection (b)(1) weighted by its mole fraction, or~~
- ~~B) If the vapor pressure of the organic material or volatile organic material is specified in the applicable rule, the sum of the actual vapor pressure of each such component as determined in accordance with subsection (b)(1) weighted by its mole fraction.~~

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.105 Incorporation by Reference

The following materials are incorporated by reference:

- a) American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103:
- 1) ASTM D 1644-59 Method A
 - 2) ASTM D 1475-60

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h) United States Environmental Protection Agency, Washington D.C., EPA-450/2-78-041.

i) 40 CFR 80, Appendices D, E, and F, adopted March 22, (1987) at 54 Fed. Reg. 11997.

j) Elsevier Scientific Publishing Co., New York, "The Vapor Pressure of Pure Substances" (1973), Boublik, I., V. Fried and E. Hala.

k) McGraw-Hill Book Company, "Perry's Chemical Engineer's Handbook" (1984).

l) Chemical Rubber Publishing Company, "CRC Handbook of Chemistry and Physics" (1968-87).

m) McGraw-Hill Book Company, "Lange's Handbook of Chemistry" (1985) John W. Dean, editor.

n) United States Environmental Protection Agency, Washington D.C., "Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products", (EPA-450/2-78-029).

BOARD NOTE: The incorporations by reference listed above contain no later amendments or editions.)

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.108 Measurement of Vapor Pressures

a) Vapor Pressure of Volatile Organic Liquids

1) If the volatile organic liquid consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86, or the vapor pressure may be obtained from a published source such as "The Vapor Pressure of Pure Substances," "Perry's Chemical Engineer's Handbook," "CRC Handbook of Chemistry and Physics," or "Lange's Handbook of Chemistry," each source incorporated by reference at Section 215.105.

2) If the volatile organic liquid is a mixture, the vapor pressure shall be determined by ASTM Method D2879-86 or by the following equation:

P^{vol} = Σ P_i X_iⁱ⁼¹ⁿ

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3) ASTM D 2369-81

4) ASTM D 2879-83 (Approved 1983); ASTM D 2879-86 (Approved 1986)

5) ASTM D 323-82 (Approved 1982)

6) ASTM D 86-82 (Approved 1982)

7) ASTM E 260-73 (Approved 1973), E 168-67 (Reapproved 1977), E 168-63 (Reapproved 1981), E 20 (Approved 1985)

8) ASTM D 97-66

9) ASTM D 1546-67

10) ASTM D 2382-70

11) ASTM D 2504-83

12) ASTM D 2382-83

13) ASTM E 4057-81 (Approved 1981)

14) ASTM D 4177-82 (Approved 1982)

15) ASTM D 4953-89

16) ASTM D-4457-85

b) Federal Standard 141a, Method 4082.1.

c) National Fire Codes, National Fire Prevention Association, Battery March Park, Quincy, Massachusetts 02269 (1979).

d) United States Environmental Protection Agency, Washington, D.C., EPA-450/2-77-026, Appendix A (October 1977).

e) United States Environmental Protection Agency, Washington, D.C., EPA-450/2-78-051 Appendix A and Appendix B (December 1978).

f) Standard Industrial Classification Manual, published by Executive Office of the President, Office of Management and Budget, Washington, D.C., 1972

g) 40 CFR 60 (July 1, 1983).

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where: P_{vol} = Total vapor pressure of the mixture. n = Number of components in the mixture. i = Subscript denoting an individual component. P_i = Vapor pressure of a component determined in accordance with subsection (a)(1). X_i = Mole fraction of the component in the total mixture.b) Vapor Pressure of Organic Material or Solvent

1) If the organic material or solvent consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86, or the vapor pressure may be obtained from a published source such as "The Vapor Pressure of Pure Substances," "Perry's Chemical Engineer's Handbook," "CRC Handbook of Chemistry and Physics," or "Lange's Handbook of Chemistry," each source incorporated by reference at Section 215.105.

2) If the organic material or solvent is a mixture made up of both organic material compounds and compounds which are not organic material, the vapor pressure shall be determined by the following equation:

$$P_{om} = \frac{\sum_{i=1}^n P_i X_i}{\sum_{i=1}^n X_i}$$

where: P_{om} = Total vapor pressure of the portion of the mixture which is composed of organic material. n = Number of organic material components in the mixture. i = Subscript denoting an individual component.

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 P_i = Vapor pressure of an organic material component determined in accordance with subsection (b)(1). X_i = Mole fraction of the organic material component of the total mixture.

3) If the organic material or solvent is a mixture made up of only organic material compounds, the vapor pressure shall be determined by ASTM Method D2879-86 or by the above equation.

c) Vapor Pressure of Volatile Organic Material

1) If the volatile organic material consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86, or the vapor pressure may be obtained from a published source such as "The Vapor Pressure of Pure Substances," "Perry's Chemical Engineer's Handbook," "CRC Handbook of Chemistry and Physics," or "Lange's Handbook of Chemistry," each source incorporated by reference at Section 215.105.

2) If the volatile organic material is a mixture made up of both volatile organic material compounds and compounds which are not volatile organic material, the vapor pressure shall be determined by the following equation:

$$P_{vom} = \frac{\sum_{i=1}^n P_i X_i}{\sum_{i=1}^n X_i}$$

where: P_{vom} = Total vapor pressure of the portion of the mixture which is composed of volatile organic material. n = Number of volatile organic material components in the mixture. i = Subscript denoting an individual component.

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(B) appropriate daily and annual data from records of emission source operation or material throughput, or material consumption.

2) In the absence of representative test data pursuant to Section 215.487 for the hourly emission rate or emission rate per unit of throughput, such items shall be determined using engineering calculations, including the methods described in Appendix B of "Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products", incorporated by reference at Section 215.105.

3) This subsection shall not affect the Agency's authority to require emissions tests to be performed pursuant to Section 215.487.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers

a) The owner or operator shall control all reactors, distillation units, crystallizers, centrifuges and vacuum dryers that are used to manufacture pharmaceuticals with surface condensers ~~operated such that the condenser outlet gas temperature does not exceed or other air pollution control equipment listed in subsection (a)(2).~~

1) If a surface condenser is used, it shall be operated such that the condenser outlet gas temperature does not exceed:

1A) 248.2 K (-13 F) when condensing volatile organic material of vapor pressure greater than 40.0 kPa (5.8 psi) at 294.3 K (70 F); or

2B) 256.2 K (5 F) when condensing volatile organic material of vapor pressure greater than 20.0 kPa (2.9 psi) at 294.3 K (70 F); or

3C) 273.2 K (32 F) when condensing volatile organic material of vapor pressure greater than 10.0 kPa (1.5 psi) at 294.3 K (70 F); or

4D) 283.2 K (50 F) when condensing volatile organic material of vapor pressure greater than 7.0 kPa (1.0 psi) at 294.3 K (70 F); or

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5E) 298.2 K (77 F) when condensing volatile organic material of vapor pressure greater than 3.45 kPa (0.5 psi) at 294.3 K (70 F).

2) If a scrubber, carbon adsorber, thermal incinerator, catalytic incinerator or other air pollution control equipment other than a surface condenser is used, such equipment shall provide a reduction in the emissions of volatile organic material of 90 percent or more.

b) The owner or operator shall enclose all centrifuges used to manufacture pharmaceuticals and that have an exposed volatile organic liquid surface, where the volatile organic material in the volatile organic liquid has a vapor pressure of 3.45 kPa (0.5 psi) or more at 294.3 K (70 F), except as production, sampling, maintenance or inspection procedures require operator access.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters

a) The owner or operator of an air dryer or production equipment exhaust system used to manufacture pharmaceuticals shall control the emissions of volatile organic material from such emission sources by air pollution control equipment which reduces by 90 percent or more the volatile organic material that would otherwise be emitted into the atmosphere.

b) The owner or operator shall enclose all rotary vacuum filters and other filters used to manufacture pharmaceuticals and that have an exposed volatile organic liquid surface, where the volatile organic material in the volatile organic liquid has a vapor pressure of 3.45 kPa (0.5 psi) or more at 294.3 K (70 F), except as production, sampling, maintenance or inspection procedures require operator access.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.483 Material Storage and Transfer

The owner or operator of a pharmaceutical manufacturing plant shall:

a) Provide a vapor balance system ~~or equivalent control system~~ that is at least 90.0 percent effective in reducing volatile organic material emissions from truck or railcar deliveries to storage tanks with capacities equal to or greater than 7.57m³ (2,000

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gallons) that store volatile organic liquids with vapor pressures greater than 26.0 kPa (4.1 psi) at 294.3 K (70 F); and

b) Install, operate and maintain pressure/vacuum conservation vents set at 0.2 kPa (0.03 psi) or greater on all storage tanks that store volatile organic liquids with vapor pressures greater than 10 kPa (1.5 psi) at 294.3 K (70 F); unless a control system that allows less VOM to be emitted is used.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.484 In-Process Tanks

The owner or operator shall install covers on all in-process tanks used to manufacture pharmaceuticals and containing a volatile organic liquid at any time. These covers must remain closed, except when production, sampling, maintenance, or inspection procedures require operator access.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.485 Leaks

The owner or operator of a pharmaceutical manufacturing plant shall repair any component from which a leak of volatile organic liquid can be observed. The repair shall be completed as soon as practicable but no later than 15 days after the leak is found unless the leaking component cannot be repaired until the process unit is shut down, and the leaking component must then be repaired before the unit is restarted.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.486 Other Emission Sources

The owner or operator of a washer, laboratory hood, capsule/tablet coating operation, mixing operation, or any other process emission source not subject to section 215.481 through 215.485 of this subpart, and used to manufacture pharmaceuticals shall control the emissions of volatile organic material from such emission sources by:

b)

Air pollution control equipment which reduces by 81 percent or more the volatile organic material that would otherwise be emitted to the atmosphere, or

A surface condenser which captures all the volatile organic material which would otherwise be emitted to the atmosphere and which meets the requirements of section 215.481(a) of this subpart.

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(Source: Amended at 14 Ill. Reg. , effective)

Section 215.487 Testing

a) Upon reasonable request by the Agency, the owner or operator of any volatile organic material emission source subject to this subpart or exempted from this subpart by provisions of section 215.480(a), (b) or (c) shall, at his own expense, demonstrate compliance by methods or procedures listed in section 215.487(c) and

b)

All tests pursuant to section 215.487(a) shall be performed in conformance with the procedures set forth in 35-111-Xdm-Code 225A person planning to conduct a volatile organic material emissions test to demonstrate compliance with or determine applicability of provisions of this subpart shall notify the Agency of that intent to test not less than 30 calendar days prior to the planned initiation of the test.

c)

Test procedures to determine operation and maintenance compliance with and applicability of this subpart are in 40 CFR Part 60, Appendix A, incorporated by reference at Section 215.105, and shall be used as delineated below; shall be consistent with EPA 450/2-79-011, incorporated by reference in section 215.105. Procedures for testing air pollution control equipment to determine compliance with this subpart shall use Part 250, Appendix A Method 25 (10 e.f.r., 50, Appendix A Method 25).

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40 CFR Part 60, Appendix A, Methods 18, 25 or 25A, as appropriate to the conditions at the site, shall be used to determine VOM concentration. Method selection shall be based on consideration of the diversity of organic species present and their total concentration and on consideration of the potential presence of interfering gases. Except as indicated in subsections (c)(1)(A) and (c)(1)(B), the test shall consist of three separate runs, each lasting a minimum of 60 minutes, unless the Agency determines that procedures vary; shall dictate shorter sampling times.

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When the method is to be used to determine the efficiency of a fixed-bed carbon adsorption system with a common exhaust stack for all the individual adsorber vessels, the test shall consist of three separate runs, each coinciding with one or more complete sequences through the adsorption cycles of all the individual adsorber vessels.

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1) When the method is to be used to determine the efficiency of a fixed-bed carbon adsorption system with individual exhaust stacks for each adsorber vessel, each adsorber vessel shall be tested individually. The test for each adsorber vessel shall consist of three separate runs. Each run shall coincide with one or more complete adsorption cycles.

2) 40 CFR Part 60, Appendix A, Method 1 or 1A shall be used for sample and velocity traverses.

3) 40 CFR Part 60, Appendix A, Method 2, 2A, 2C or 2D shall be used for velocity and volumetric flow rates.

4) 40 CFR Part 60, Appendix A, Method 3 shall be used for gas analysis.

5) 40 CFR Part 60, Appendix A, Method 4 shall be used for stack gas moisture.

6) 40 CFR Part 60, Appendix A, Methods 2, 2A, 2C, 2D, 3 and 4 shall be performed, as applicable, at least twice during each test run.

d) This section shall not affect the authority of the U.S. Environmental Protection Agency under Section 114 of the Clean Air Act.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.488 Monitors for Air Pollution Control Equipment

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- b) Each monitor shall be equipped with a recording device.
- c) Each monitor shall be calibrated quarterly.
- d) Each monitor shall operate at all times while the associated control equipment is operating.

(Source: Amended at 14 Ill. Reg. , effective)

Section 215.489 ~~Compliance Schedule~~ Recordkeeping

a) The owner or operator of a pharmaceutical manufacturing plant shall maintain the following records:

1) The parameters listed in Section 215.488 shall be recorded.

2) For sources subject to Section 215.481, the vapor pressure of the volatile organic material being controlled shall be recorded for every process.

b) For any leak subject to Section 215.485 which cannot be readily repaired within one hour after detection, the following records shall be kept:

1) The name of the leaking equipment.

2) The date and time the leak is detected.

3) The action taken to repair the leak.

4) The date and time the leak is repaired.

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(Source: Section 215.490 renumbered from Section 215.489 and amended at 14 Ill. Reg. , effective)

d) For each emission source used in manufacture of pharmaceuticals for which the owner or operator of a pharmaceutical manufacturing plant claims emission standards are not applicable because the emissions are below the applicability cutoff in Section 215.480(a) or (b), the owner or operator shall:

- 1) Maintain a demonstration, including detailed engineering calculations, of the maximum daily and annual emissions for each such emission source showing that the emissions are below the applicability cutoffs in Section 215.480(a) or (b), as appropriate, for the current and prior calendar years.
- 2) Maintain operating records for each emission source to identify whether the cutoffs in Section 215.480(a) or (b), as appropriate, are ever exceeded; and
- 3) Provide written notification to the Agency within 30 days of a determination that such an emissions source has exceeded the applicability cutoff of Section 215.480(a) or (b), as appropriate.

- e) Records required under this section shall be maintained by the owner or operator for a minimum of two years after the date on which they are made.
- f) Copies of the records shall be made available to the Agency upon verbal or written request.

(Source: Section 215.489 renumbered to Section 215.490, new Section adopted at 14 Ill. Reg. , effective)

Section 215.490 Compliance schedule

- a) The owner or operator of an emission source subject to this Subpart, the construction or modification of which has commenced prior to April 15, 1991 (the effective date of these amendments), must complete onsite construction, modification or installation of the emission control and/or process equipment or both or complete any necessary production process changes so as to operate in compliance with this Subpart by April 30, 1991.
- b) The owner and operator of any emission source subject to this Subpart, the construction or modification of which has not commenced prior to April 15, 1991 (the effective date of these amendments), shall construct such source so that it will operate in compliance with this Subpart.

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- 1) The Heading of the Part: Toxic Air Contaminants
- 2) Code Citation: 35 Ill. Adm. Code 232
- 3) Section Number:
- | | <u>Proposed Action:</u> |
|----------------|-------------------------|
| 232.100 | New Section |
| 232.110 | New Section |
| 232.120 | New Section |
| 232.200 | New Section |
| 232.210 | New Section |
| 232.300 | New Section |
| 232.310 | New Section |
| 232.320 | New Section |
| 232.400 | New Section |
| 232.410 | New Section |
| 232.420 | New Section |
| 232.430 | New Section |
| 232.440 | New Section |
| 232.450 | New Section |
| 232.500 | New Section |
| 232.510 | New Section |
| 232.APPENDIX A | New Section |
| 232.APPENDIX E | New Section |
| 232.APPENDIX C | New Section |
- 4) Statutory Authority: Illinois Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111^{1/2}, pars. 1009.5 and 1027)
- 5) A Complete Description of the Subjects and Issues Involved:

A complete description is contained in the Board's Opinion of April 26, 1990 in R90-1, which Opinion is available from the address below. In general, Section 9.5 of the Illinois Environmental Protection Act (Ill. Rev. Stat. 1987 ch 111-1/2 par. 1009.5) requires the Illinois Environmental Protection Agency to propose and the Pollution Control Board to adopt a list of toxic air contaminants. This proposal seeks to implement the requirements of Section 9.5, including procedures for the determination of toxic air contaminants, procedures for evaluating characteristics of a toxic air contaminant, identification requirements for new emission sources and procedures for the listing and delisting of toxic air contaminants and potential toxic air contaminants. In publishing this First Notice, the Board takes no position on the merits of this proposal;

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- publication is intended solely to foster early public participation in this proceeding..
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference?
- Yes, this part incorporates professional and governmental agency publications by reference.
- 9) Are there any other rules pending on this Part? No
- 10) Statement of Statewide Policy Objective (if applicable)?
- To establish a state program to identify and adopt regulations for toxic air contaminants in Illinois, as required by Section 9.5 of the Act. The statewide policy objectives are set forth in Section 8 of the Act. This rulemaking imposes mandates on units of local government only to the extent that they may emit toxic air contaminants or potential toxic air contaminants.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference Docket R90-1 and be addressed to:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 West Randolph Street
Chicago, Illinois 60601

The Agency will begin presentation of this proposal at hearings to be held June 25 and 26, 1990, at 9:00 a.m. in the Council Chambers, Municipal Building, Seventh and Monroe Streets, Springfield, Illinois. Additional hearing times will be scheduled for receipt of oral public comment. Persons who wish additional information concerning hearings and filing requirements should contact the Hearing Officer:

Mark P. Miller
104 West University Avenue
Urbana, Illinois 61801
(217) 333-5574

(12) Initial Regulatory Flexibility Analysis (if applicable):

A) Date rule submitted to Business Assistance Office of the Department of Commerce and Community Affairs:

May 7, 1990

B) Types of small businesses affected:

All small businesses which emit toxic air contaminants as listed in this Part. Specifically excluded, however, are retail dry cleaning operations, retail and non-commercial storage and handling of motor fuels; combustion processes using only commercial fuels, including internal combustion engines; and, incidental or minor sources including laboratory-scale operations.

C) Reporting, bookkeeping or other procedures required for compliance:

The proposed rules require no reporting, bookkeeping or other procedures for compliance.

D) Types of professional skills necessary for compliance:

Compliance with the proposed rules do not require the services of any persons with professional skills.

The full text of the adopted amendments begins on the next page:

Section

232.100

Introduction

232.110

Incorporation by Reference

232.120

Definitions

SUBPART B: DETERMINATION OF A TOXIC AIR CONTAMINANT

Section

232.200

Characteristics for Determining a Toxic Air Contaminant

232.210

Listing of a Toxic Air Contaminant

SUBPART C: PROCEDURES FOR EVALUATING CHARACTERISTICS OF A TOXIC AIR CONTAMINANT

Section

232.300

Purpose

232.310

Procedure for Determining the Toxicity Score

232.320

Carcinogen Classification

SUBPART D: IDENTIFICATION REQUIREMENTS FOR NEW EMISSION SOURCES

Section

232.400

Purpose

232.410

Exceptions to Identification Requirements for New

232.420

Emission Sources

232.430

Identification Requirements

232.440

Agency Authority

232.450

List of Potential Toxic Air Contaminants for

232.500

Listing and Delisting of Toxic Air Contaminants

232.510

Listing and Delisting of Potential Toxic Air Contaminants

SUBPART E: LISTING AND DELISTING

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- Section 232.APPENDIX A: List of Toxic Air Contaminants
 Section 232.APPENDIX B: Procedures for Calculating the Lowest Toxic Dose Score
 Section 232.APPENDIX C: Categories A, B1, and B2 Carcinogens of the reference United States Environmental Protection Agency, Office of Health and Environmental Assessment, Integrated Risk Information System (IRIS), as of December 31, 1989

AUTHORITY: Implementing Section 9.5 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1009.5 and 1027).

SOURCE: Adopted at ____ Ill. Reg. _____.

SUBPART A: GENERAL PROVISIONS

Section 232.100 Introduction

This Part establishes a program to identify toxic air contaminants in Illinois. It includes a list of toxic air contaminants, the procedures to determine a toxic air contaminant, the procedures to amend the list, and identification requirements for new emission sources.

Section 232.110 Incorporation by Reference

- a) The following materials are incorporated by reference:

American Conference of Governmental Industrial Hygienists (ACGIH). Threshold Limit Values and Biological Exposure Indices for 1989-1990 (1989). Document can be obtained from: ACGIH, 6500 Glenway Avenue., Building D-7, Cincinnati, OH 45211-4438.

United States Department of Health and Human Services, Public Health Service, National Toxicological Program (NTP). Fifth Annual Report on Carcinogens (1989). Document can be obtained from: National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

World Health Organization, International Agency for Research on Cancer (IARC). Monographs on the Evaluation of Carcinogenic Risks to Humans, Overall Evaluations of Carcinogenicity: An Updating of IARC

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Monographs Volumes 1 to 42, Supplement 7 (1987). Document can be obtained from: WHO Publications Centre USA, 49 Sheridan Avenue, Albany, N.Y. 12210.

- b) This Section incorporates no future editions or amendments.

Section 232.120 Definitions

The definitions of 35 Ill. Adm. Code 201.102, 211.122 and 215.104 apply to this Part, as well as the definitions contained in this Section. Where a definition contained in this Section is more specific than those found in 35 Ill. Adm. Code 201.102, 211.122 and 215.104, it must take precedence in application of this Part.

"Adverse Health Effect" means a health injury or disease that may be produced by exposure to a contaminant. This includes any decrement in the function of an organ or organ system or any subclinical organ lesion that is likely to lead to a decrement in an organ or organ system function.

"Emits" or "Emission" or "Emitted" means any non-accidental release into the atmosphere from an emission source or air pollution control equipment, or fugitive emissions defined according to 35 Ill. Adm. Code 203.124.

"LC50" means the concentration in air of a contaminant that kills, or is estimated to kill, 50 percent of a population of laboratory animals where the exposure is brief (8 hours or less) and where the route of exposure is inhalation.

"LD50" means the dose of a contaminant that kills, or is estimated to kill, 50 percent of a population of laboratory animals where the route of exposure is ingestion.

"Lowest Observed Adverse Effect Level" means the lowest experimentally determined dose at which a statistically or biologically significant indication of the toxic effect of concern is observed.

"New Emission Source" means an emission source or air pollution control equipment for which a construction permit is required by 35 Ill. Adm. Code 201 after the

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500-5000 mg/kg 1
Greater than: 5000 mg/kg 0

b) Procedure for Determining the Chronic Toxicity Score

The Chronic Toxicity Score is the product of the Lowest Toxic Dose Score and the Severity of Effects Score.

1) Procedure for Determining the Lowest Toxic Dose Score

A) The Lowest Toxic Dose Score is a number based upon the lowest dose of a contaminant that causes an observable adverse health effect. The Lowest Toxic Dose Score is derived from the following table:

Dose	Lowest Toxic Dose Score
Less than: 5 mg/kg/day	1
5-50 mg/kg/day	2/3
Greater than: 50 mg/kg/day	1/3

B) Procedures for calculating the lowest dose which causes any adverse health effect or the Lowest Toxic Dose Score are described in Appendix B.

2) Procedure for Determining the Severity of Effects Score

The Severity of Effects Score is a number based upon the organ(s) affected and the level of effect upon the organ(s).

A) Organ Categories

There are three categories of organs or organ systems which are identified as follows:

Category Description

i) Category I Category I includes: organs, the impairment or loss of which is fatal or

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usually cannot be compensated for by the body; gonads, the loss of which prevents the transmission of genetic material; and, adverse reproductive outcome including stillbirth, miscarriage, or reduced litter size (animal studies). The Category I organs are: Lungs, Heart, Brain, Spinal Cord, Kidneys, Liver, Bone Marrow, and Gonads.

ii) Category II

Category II includes: organs, the impairment or loss of which may be fatal, but which can be compensated for by drug or replacement therapy; adverse effect on an immune function which may be life threatening; changes in the composition or function of blood constituents which may be life threatening; and, certain fetotoxic effects including premature birth, reduced birth weight, and reduced morphometric parameters. The Category II organs are: Adrenals, Thyroids, Parathyroids, Pituitary, Pancreas, Esophagus, Stomach, Small Intestine, Large Intestine, Lymph Nodes, Thymus, Trachea, Pharynx.

iii) Category III

Category III includes: organs, the impairment or loss of which is not life

threatening but may result in functional or emotional handicaps; and, changes in the composition or function of blood which are not life threatening but may result in functional handicaps. Category III organs include, but are not limited to: Oviducts, Epididymides, Uterus, Prostrate, Seminal Vesicles, Ductus Deferens, Penis, Vagina, Eyes, Bone, Nose, Peripheral Nerves, Muscles, Urinary Bladder, Blood Vessels, Ears, Gallbladder, Larynx, Mammary Glands, Salivary Glands, Skin, Spleen, Tongue, Teeth, Ureter, Urethra.

B) Levels of Effect

There are four levels of effect: Serious Irreversible ("SI"); Serious Reversible ("SR"); Non-serious Irreversible ("NI"); and Non-serious Reversible ("NR").

1) A serious effect is an incapacitating condition or a condition which significantly contributes to an increase in mortality.

ii) A non-serious effect is a non-incapacitating condition or a condition which is unlikely to contribute to an increase in mortality.

iii) An irreversible effect is one that is permanent or would require medical treatment to correct.

iv) A reversible effect is a temporary

effect.

C) Table of Severity of Effects Scores

The following table presents the Severity of Effects Scores for any level of effect observed in an organ belonging to a specified organ category.

Level of Organ Category	I	II	III
SI	6	5	4
SR	5	4	3
NI	4	3	2
NR	3	2	1
No Observed Effect	0	0	0

D)

When a study identifies an adverse health effect on multiple organs within the same category at the lowest observed adverse effect level, the Severity of Effects Score is increased by a value of 1. In no event can the Severity of Effects Score be greater than 6.

Section 232.320 Carcinogen Classification

For purposes of this part, the Agency will consider a contaminant to be a carcinogen if it is classified in the manner described in the following table by one or more of the carcinogen references.

a) Reference Classification

ACGIH	Category A1 Carcinogen or Category A2 Carcinogen
IARC	Category 1 Carcinogen or Category 2A/2B Carcinogen
IRIS	Category A Carcinogen or Category B1/B2 Carcinogen
NTP	Human Carcinogen or Anticipated Human Carcinogen

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- b) The references ACGIH, IARC, and NTP are incorporated by reference in Section 232.110. Categories A, B1, and B2 are carcinogens classified by the United States Environmental Protection Agency, Office of Health and Environmental Assessment, Integrated Risk Information System (IRIS), as of December 31, 1989, and are listed in Appendix C.

SUBPART D: IDENTIFICATION REQUIREMENTS FOR NEW EMISSION SOURCES

Section 232.400 Purpose

This Subpart establishes potential toxic air contaminant and toxic air contaminant identification requirements for new emission sources, and describes procedures to determine and list the potential toxic air contaminants that new emission sources must identify.

Section 232.410 Exceptions to Identification Requirements for New Emission Sources

The requirements of this Subpart do not apply to the following:

- a) retail dry cleaning operations;
- b) retail and noncommercial storage and handling of motor fuels;
- c) combustion processes using only commercial fuel (which does not include hazardous waste), including internal combustion engines; and
- d) any emission source or air pollution control equipment for which a permit is not required by 35 Ill. Adm. Code 201.

Section 232.420 Identification Requirements

- a) An owner or operator of a new emission source shall identify with each permit application for that emission source, by name and Chemical Abstract Service Number where applicable, each contaminant identified in subsection (b) which is or will be emitted by the new emission source.
- b) The identification requirements apply to:

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- 1) toxic air contaminants listed in Appendix A, and
- 2) potential toxic air contaminants listed in the Agency document entitled "Potential Toxic Air Contaminants for Identification Requirements."

Section 232.430 Agency Authority

The Agency will:

- a) identify and score according to the procedures in Subpart C contaminants not listed as toxic air contaminants;
- b) for those contaminants that meet the characteristics of subsections 232.200 (b) or (c), provide public notice and an opportunity to comment according to Section 232.440 on the basis for listing as a potential toxic air contaminant; and
- c) publish annually the Agency document entitled "Potential Toxic Air Contaminants for Identification Requirements," which will list those contaminants that meet the characteristics of subsections 232.200 (b) or (c).

Section 232.440 Public Participation

- a) The Agency will fulfill the public participation requirements set forth below before listing or delisting a contaminant in the Agency document entitled "Potential Toxic Air Contaminants for Identification Requirements."
 - 1) The Agency will maintain a Potential Toxic Air Contaminant Review Notice List. Any person who requests in writing to the Agency will be placed on the Potential Toxic Air Contaminant Review Notice List.
 - 2) The Agency will notify persons on the Potential Toxic Air Contaminant Review Notice List of its intent to list a potential toxic air contaminant. This notice will contain, at a minimum, the following:
 - A) the potential toxic air contaminant name and

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SUBPART E: LISTING AND DETAILING

Section 232.500 Listing and Detailing of Toxic Air Contaminants

- a) When the Agency has knowledge that a potential toxic air contaminant is emitted into the atmosphere in Illinois, the Agency will propose that contaminant to the Board as a toxic air contaminant. A copy of the permanent file for each potential toxic air contaminant will be submitted to the Board with the proposal.
- b) Any person can propose to the Board to list or detail a toxic air contaminant. Written notification must be sent to the Agency 90 days prior to submitting a proposal to the Board.
- c) The notification for listing a contaminant as a toxic air contaminant must include, at a minimum, the following:
 - 1) the contaminant name and Chemical Abstract Service Number where applicable!
 - 2) the basis of listing (toxicity score or carcinogen classifications)
 - 3) a copy of each study or report justifying the basis of listing; and
 - 4) the identification of the source emitting the contaminant.

- d) The notification for detailing a toxic air contaminant must include, at a minimum, the following:
 - 1) the toxic air contaminant name and Chemical Abstract Service Number where applicable!
 - 2) the basis for detailing; and
 - 3) a copy of each study or report justifying the basis for detailing.
- e) The Agency will propose an update of the list of toxic air contaminants to the Board no less frequently than

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Chemical Abstract Service Number where applicable!

B) the basis of listing (the Toxicity score or carcinogen classifications)!

- c) the citations to any applicable studies or reports; and
- d) the date, time, and place of at least one public workshop to be held in order to review the basis for listing as a potential toxic air contaminant and to obtain oral and written comments.
- 3) The notice of intent to list a potential toxic air contaminant will be mailed no later than 90 days prior to the date of the first workshop.
- 4) The Agency will prepare and distribute to all participants a responsiveness summary as to the basis for the Agency's decision.

b) The Agency will maintain a permanent file for each potential toxic air contaminant. In addition to documents obtained by the Agency, this file will also contain all written public comments and documents provided by the public. A copy of this file will be provided to the Board when a proposal for listing or detailing a toxic air contaminant is submitted pursuant to Subpart E, or upon written request of any person.

Section 232.450 List of Potential Toxic Air Contaminants for Identification Requirements

- a) The Agency will publish at least annually the Agency document entitled "Potential Toxic Air Contaminants for Identification Requirements." This document will be available to any person who requests a copy in writing and will be available to permit applicants.
- b) After the public participation requirements of Section 232.440 are met, the Agency will add those contaminants that meet the characteristics of subsections 232.200 (b) or (c) to the Agency document entitled "Potential Toxic Air Contaminants for Identification Requirements."

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once every 2 years.

Section 232.510 Listing and Delisting of Potential Toxic Air Contaminants

- a) Any person can request the Agency to list or delist a potential toxic air contaminant identified in the Agency document entitled "Potential Toxic Air Contaminants for Identification Requirements." The request must include, at a minimum, the following:
- 1) the potential toxic air contaminant name and Chemical Abstract Service Number where applicable;
 - 2) the basis for listing or delisting (Toxicity score or carcinogen classifications); and
 - 3) a copy of each study or report justifying the basis for selection.
- b) The Agency will provide notice and an opportunity for public comment according to Section 232.440 for those requests received by the Agency pursuant to subsection (a) above.
- c) The Agency will update the list of potential toxic air contaminants as necessary, but no less frequently than once every year.

Section 232.APPENDIX A: List of Toxic Air Contaminants

Chemical Name	Chemical Abstract Service Number
1) Acetaldehyde	000075-07-0
2) Acetonitrile	000075-05-8
3) Acrylamide	000079-06-1
4) Acrylic acid	000079-10-7
5) Acrylonitrile	000107-13-1
6) Aniline	000062-53-3
7) Arsenic	007440-38-2
8) Asbestos (friable)	001332-21-4
9) Benzene	000071-43-2
10) Beryllium oxide	001304-56-9
11) Biphenyl	000092-52-4
12) Boron trifluoride	007637-07-2
13) 1,3-Butadiene	000106-99-0

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14) 2-Butoxyethanol	000111-76-2
15) Cadmium	007440-43-9
16) Caprolactam	000105-60-2
17) Carbon disulfide	000075-15-0
18) Carbon tetrachloride	000056-23-5
19) Chloramben	000133-90-4
20) Chlordane	000057-74-9
21) Chlorinated dibenzodioxins	
22) Chlorinated dibenzofurans	
23) Chloroacetic acid	000079-11-8
24) Chloroform	000067-66-3
25) Chromium	007440-47-3
26) Coal tar (pitch) volatiles	065996-93-2
27) Copper	007440-50-8
28) p-Cresidine	000120-71-8
29) 4,4-Diaminodiphenyl ether	000101-80-4
30) Dibutyl phthalate	000084-74-2
31) p-Dichlorobenzene	000106-46-7
32) 2,4-Dichlorophenoxyacetic acid (2,4-D)	000094-75-7
33) 1,3-Dichloropropylene	000542-75-6
34) Dimethyl sulfate	000077-78-1
35) 1,4-Dioxane	000123-91-1
36) Di(2-ethylhexyl) phthalate	000117-81-7
37) Epichlorohydrin	000106-89-8
38) Ethyl acrylate	000140-88-5
39) Ethylene dichloride	000107-06-2
40) Ethylene oxide	000075-21-8
41) Fluorine	007782-41-4
42) Formaldehyde	000050-00-0
43) Hexachlorocyclopentadiene	000077-47-4
44) Hydrazine	000302-01-2
45) Hydrogen cyanide	000074-90-8
46) Lead	007439-92-1
47) Mercury	007439-97-6
48) 4,4'-Methylenebis(N,N'-dimethyl) benzenamine	000101-61-1
49) 4,4'-Methylenedianiline	000101-77-9
50) Methylene chloride	000075-09-2
51) Methylenebis(phenylisocyanate)	000101-68-8
52) Molybdenum trioxide	001313-27-5
53) Nickel	007440-02-0
54) Nitric acid	007697-37-2
55) 2-Nitropropane	000079-46-9
56) Pentachloronitrobenzene	000082-68-8
57) Peracetic acid	000079-21-0
58) Phenol	000108-95-2
59) Phorate	000298-02-2

- 60) Phosphorus
- 61) Polychlorinated biphenyls (PCBs)
- 62) Propylene oxide
- 63) Guinoline
- 64) Selenium
- 65) Styrene
- 66) Sulfuric acid
- 67) Terbutos
- 68) Tetrachloroethylene
- 69) Toluene
- 70) Toluene-2,4-disocyanate
- 71) Toluene-2,6-disocyanate
- 72) Trichloroethylene
- 73) 1,2,4-Trimethylbenzene
- 74) Triflurain
- 75) 2,4,6-Trinitrotoluene
- 76) Vinyl chloride
- 77) Vinylidene chloride
- 78) Arsenic Compounds
- Includes any unique chemical substance that contains arsenic as part of that chemical's infrastructure.
- 79) Cadmium Compounds
- Includes any unique chemical substance that contains cadmium as part of that chemical's infrastructure.
- 80) Chromium Compounds
- Includes any unique chemical substance that contains chromium as part of that chemical's infrastructure.
- 81) Cobalt Compounds
- Includes any unique chemical substance that contains cobalt as part of that chemical's infrastructure.
- 82) Cyanide Compounds
- X (pos) CN (neg) where X = H (pos) or any other group where a formal dissociation can be made. For example, KCN or Ca(CN)₂.
- 83) Lead Compounds
- Includes any unique chemical substance that contains lead

- 007723-14-0
- 001336-36-3
- 000075-56-9
- 000091-22-5
- 007782-49-2
- 00100-42-5
- 007664-93-9
- 013071-79-9
- 000127-18-4
- 000108-88-3
- 000584-84-9
- 000091-08-7
- 000079-01-6
- 000095-63-6
- 001582-09-8
- 000118-96-7
- 000075-01-4
- 000075-35-4
- as part of that chemical's infrastructure. For example, alkylated lead compounds. Nickel compounds
- 84) Includes any unique chemical substance that contains nickel as part of that chemical's infrastructure.
- Section 232.APPENDIX B: Procedures for calculating the Lowest Toxic Dose Score
- a) Procedures to be used in selecting chronic toxicity studies.
- 1) Chronic toxicity studies in which all of the items in subsection (a)(1)(A) are identified or measured with adequate specificity to use the equations in subsection (b) must be given first preference:
- A) Study items to be identified or measured:
 - i) test species!
 - ii) contaminant dose!
 - iii) duration of exposure must be at least 21 days, except for developmental studies in animals, in which case the duration of exposure must be at least 10 consecutive days during critical gestation days!
 - iv) route of exposure! and
 - v) effect of exposure.
- B) In the event that two or more studies are available in which the above items are identified or measured, the study that results in the highest Chronic Toxicity Score must be used.
- 2) Studies that identify or measure all of the items in subsection (a)(1)(A) except for the contaminant dose, must be given second preference.
- A) For a second preference study, the lowest Toxic Dose Score for a given species and a given route of exposure must be determined according to the following table:

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Species	Route of Exposure	Lowest Toxic Dose Score
Human	Inhalation	1
Human	Non-Inhalation	2/3
Non-Human	Inhalation	2/3
Non-Human	Non-Inhalation	1/3

B) In the event that two or more second preference studies are available, the study that results in the highest Chronic Toxicity Score must be used.

3) A contaminant for which there are insufficient data in the study to identify the elements of either a first or second preference study, must be determined to have no data and be assigned a Chronic Toxicity Score of 0.

b) The following general equation must be used to obtain the dose in units of milligram per kilogram per day for the oral, gavage and inhalation routes of exposure:

$$\text{Dose} = (I)(C)(TCF)/UF$$

1) For the routes of exposure listed below, use the following:

TCF = Time Correction Factor of 1, unless the exposure was intermittent, in which case the fraction of time during which exposure occurred is used (e.g., 5 days/week = $5/7 = 0.71$).

UF = Uncertainty Factor of 10, used only when data are for exposure periods less than 90 days. In the case of fetotoxicity and teratogenicity studies, an Uncertainty Factor of 1 must be used.

2) Where the exposure is oral use the following:

A) Oral Exposure via Food:

I = Food Intake in kilogram of food ingested per kilogram of body weight per day (kg/kg-d) (refer to Chart 1 for standard

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values);

C = Contaminant Concentration in food in units of milligram per kilogram (mg/kg); or

B) Oral Exposure via Water:

I = Water Intake in liter of water ingested per kilogram of body weight per day (L/kg-d) (refer to Chart 1 for standard values);

C = Contaminant Concentration in water in units of milligram per liter (mg/L); or

3) Where the exposure is via gavage use the following:

The product (I x C) in the above equation must be replaced by Gavage Dose (GD) in units of milligram of contaminant ingested per kilogram of body weight per day (mg/kg-d); or

4) Where the exposure is via inhalation use the following:

I = Air intake in cubic meter of air inhaled per kilogram of body weight per day ($m^3/kg-d$) measured as the product of Ventilation Rate (VR) (refer to Chart 1 for standard values) and Inhalation retention factor (RF) (assumed to be 0.5 for this procedure);

C = Contaminant Concentration in air in units of milligram per cubic meter (mg/m^3).

Chart 1 Summary of Physiological Parameters

Species	Water Intake L/(kg-d)	Food Intake kg/(kg-d)	Ventilation Rate $m^3/(kg-d)$
Mouse	0.25	0.150	1.44
Rat	0.10	0.050	0.66

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DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) The Heading of the Part: MEDICAL PAYMENT
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers: Proposed Action:
 140.471 Amendment
 140.472 Amendment
 140.473 Amendment
 140.474 Amendment
- 4) Statutory Authority: Sections 5-5.1 et seq. and 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1989, Ch. 23, Pars.5-5.1 et seq. and 12-13)
- 5) A Complete Description of the Subjects and Issues Involved: This amendment clarifies those home health services which are covered under the Medicaid program.
- 6) Will these Proposed Amendments replace Emergency Amendment currently in effect? No
- 7) Do these rulemaking contain automatic repeal date? NO
- 8) Do these Proposed Amendments contain incorporations by reference? No
- 9) Are there any other Proposed Amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.7	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.400	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.413	Amendment	(March 30, 1990 (14 Ill. Reg. 4860)
140.420	Amendment	January 26, 1990 (14 Ill. Reg. 1570)
140.421	Amendment	January 26, 1990 (14 Ill. Reg. 1570)

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NOTICE OF PROPOSED AMENDMENTS

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.435	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.436	Amendment	February 2, 1990 (14 Ill. Reg. 1737)
140.461	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.462	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.463	Amendment	April 20, 1990 (14 Ill. Reg. 5726)
140.475	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.476	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.477	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.478	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.479	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.480	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.481	Amendment	September 29, 1989 (13 Ill. Reg. 15281)
140.525	Amendment	November 17, 1989 (13 Ill. Reg. 17667)
140.526	Amendment	November 17, 1989 (13 Ill. Reg. 17667)
140.528	Amendment	November 17, 1989 (13 Ill. Reg. 17667)

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Section Numbers Proposed Action Illinois Register Citation

140. Table D Amendment January 26, 1990 (14 Ill. Reg. 1570)

140. Table H Amendment March 2, 1990 (14 Ill. Reg. 3019)

10) Statement of Statewide Policy Objectives: This rulemaking has no effect on local governmental units.

11) Time, place, and manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning the proposed rulemaking. All comments must be in writing and should be addressed to Daniel Leikvold, Staff Attorney Office of the General Counsel, Illinois Department of Public Aid, Jesse B. Harris Building II, 100 South Grand Avenue East, 3rd floor, Springfield, Illinois 62762, (217) 782-1233. The department will consider all written comments it receives within 30 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

A) Date amendments were submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 29, 1990

B) Types of small businesses affected: Medical providers

C) Reporting, bookkeeping or other procedures required for compliance: No new procedures required

D) Types of professional skills necessary for compliance: No new professional skills required

The full text of the proposed amendments begin on the next page:

Section Numbers	Proposed Action	Illinois Register Citation
140.542	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.543	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.544	Repealed	March 23, 1990 (14 Ill. Reg. 4415)
140.545	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.565	Repealed	November 17, 1989 (13 Ill. Reg. 17667)
140.566	Repealed	November 17, 1989 (13 Ill. Reg. 17667)
140.567	Repealed	November 17, 1989 (13 Ill. Reg. 17667)
140.568	Repealed	November 17, 1989 (13 Ill. Reg. 17667)
140.642	Amendment	March 2, 1990 (14 Ill. Reg. 3019)
140.646	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.647	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.648	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.649	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.650	Amendment	March 23, 1990 (14 Ill. Reg. 4415)
140.652	Amendment	March 23, 1990 (14 Ill. Reg. 4415)

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NOTICE OF PROPOSED AMENDMENTS

Section Numbers Proposed Action Illinois Register Citation

140. Table D Amendment March 23, 1990 (14 Ill. Reg. 4415)

140. Table H Amendment March 23, 1990 (14 Ill. Reg. 4415)

140.544 Repealed March 23, 1990 (14 Ill. Reg. 4415)

140.545 Amendment March 23, 1990 (14 Ill. Reg. 4415)

140.565 Repealed November 17, 1989 (13 Ill. Reg. 17667)

140.566 Repealed November 17, 1989 (13 Ill. Reg. 17667)

140.567 Repealed November 17, 1989 (13 Ill. Reg. 17667)

140.568 Repealed November 17, 1989 (13 Ill. Reg. 17667)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

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140.1	Incorporation By Reference
140.2	Medical Assistance Programs
140.3	Covered Services Under The Medical Assistance Programs for AFDC, AFDC-MANG, AABD, AABD-MANG, RRP, Individuals Under Age 18 Not Eligible for AFDC, Pregnant Women Who Would Be Eligible if the Child Were Born and Pregnant Women and Infants Under Age One Year Who Do Not Qualify As Mandatory Categorically Needy
140.4	Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5	Covered Medical Services Under GA and AMI
140.6	Medical Services Not Covered
140.7	Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Six
140.8	Medical Assistance For Qualified Severely Impaired Individuals
140.9	Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10	Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION/DRUG MANUAL

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140.11	Enrollment Conditions for Medical Providers
140.12	Participation Requirements for Medical Providers
140.13	Definitions
140.14	Denial of Application to Participate in the Medical Assistance Program
140.15	Recovery of Money
140.16	Termination of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17	Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program

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Section	
140.18	Effect of Termination on Individuals Associated with Vendor
140.19	Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20	Submittal of Claims
140.21	Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
140.22	Magnetic Tape Billings
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
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140.35	False Reporting and Other Fraudulent Activities
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140.41	Prior Approval in Cases of Emergency
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SUBPART C: HOSPITAL SERVICES

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140.94	Hospital Services (Recodified)
140.95	Participation (Recodified)
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140.97	Special Requirements (Recodified)
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140.102	Heart Transplants (Recodified)
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140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)

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140.418	Section
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140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
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140.426	Limitations on Podiatry Services
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140.466	Rural Health Clinics
140.467	Independent Clinics
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140.473	Prior Approval for Home Health Services
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140.350	Copayments (Recodified)
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140.369	Groupings (Recodified)
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140.376	Utilization, Case-Mix and Discretionary Funds (Repeated)
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140.476	Medical Equipment, Supplies and Prosthetic Devices for Which Payment Will Not Be Made
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140.504	Cessation of Payment Because of Termination of Facility
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140.514	Certifications and Recertifications of Care
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140.516	Recipient Management of Funds
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140.526	Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP)
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ILLINOIS REGISTER

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SUBPART G: REIMBURSEMENT FOR NURSING COSTS FOR GERIATRIC FACILITIES

Section 140.900 Reimbursement for Nursing Costs for Geriatric Residents in Group Care Facilities (Recorded)

140.901 Functional Areas of Needs (Recorded)

140.902 Service Needs (Recorded)

140.903 Definitions (Recorded)

140.904 Times and Staff Levels (Repealed)

140.905 Statewide Rates (Repealed)

140.906 Reconsiderations (Recorded)

140.907 Midnight Census Report (Recorded)

140.908 Times and Staff Levels (Recorded)

140.909 Statewide Rates (Recorded)

140.910 Referrals (Recorded)

140.911 Basic Rehabilitation Aide Training Program (Recorded)

140.912 Interim Nursing Rates (Recorded)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recorded)

140.942 Definition of Terms (Recorded)

140.944 Notification of Negotiations (Recorded)

140.946 Hospital Participation in ICARE Program Negotiations (Recorded)

140.948 Negotiation Procedures (Recorded)

140.950 Factors Considered in Awarding ICARE Contracts (Recorded)

140.952 Closing an ICARE Area (Recorded)

140.954 Administrative Review (Recorded)

140.956 Payments to Contracting Hospitals (Recorded)

140.958 Admitting and Clinical Privileges (Recorded)

140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recorded)

140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recorded)

140.964 Contract Monitoring (Recorded)

140.966 Transfer of Recipients (Recorded)

140.968 Validity of Contracts (Recorded)

140.970 Termination of ICARE Contracts (Recorded)

140.972 Hospital Services Procurement Advisory Board (Recorded)

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SUBPART F: POINT COUNT GUIDELINES FOR ICF/MR AND SNF/PED FACILITIES

Section 140.575 Newly Constructed Facilities (Repealed)

140.576 Renovations (Repealed)

140.577 Capital Costs for Rented Facilities (Renumbered)

140.578 Property Taxes

140.579 Specialized Living Centers

140.580 Mandated Capital Improvements

140.581 Qualifying as Mandated Capital Improvement

140.582 Cost Adjustments

140.583 Campus Facilities

140.584 Illinois Municipal Retirement Fund (IMRF)

140.590 Audit and Record Requirements

140.642 Long Term Care Screening Assessment

140.643 In-Home Care Program

140.645 Medical and In-Home Care for Disabled Persons Under Age 21

140.646 Reimbursement for Developmental Training for the Mentally Retarded who Reside in Long Term Care Facilities

140.647 Description of Developmental Training Service Levels

140.648 Determination of the Amount of Reimbursement for Day Programming for the Mentally Retarded

140.649 Effective Dates of Reimbursement for Day Programs

140.650 Certification of Day Programs

140.651 Decertification of Day Programs

140.652 Terms of Assurances and Contracts

140.680 Effective Date of Payment Rate

140.700 Discharge of Long Term Care Residents

140.830 Appeals of Rate Determinations

140.835 Determination of Cap on Payments for Long Term Care

SUBPART F: POINT COUNT GUIDELINES FOR ICF/MR AND SNF/PED FACILITIES

Section 140.850 Facility/Client Participation (Recorded)

140.855 Evaluation of Need for Care (Recorded)

140.860 Payment (Recorded)

140.865 Definitions (Recorded)

140.870 Guidelines (Recorded)

140.875 Intermediate Care (ICF/MR) (Recorded)

140.880 Skilled Care (SNF/PED) (Recorded)

140.885 Statewide Rates (Recorded)

140.890 Reimbursement for ICF/MR-15 and Under Facilities (Recorded)

140.895 Night Shift Reimbursement (Recorded)

140.896 Reimbursement for Program Costs (Active Treatment) for Clients in Long Term Care Facilities for the Developmentally Disabled (Recorded)

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TABLE B	Health Service Areas
TABLE C	Capital Cost Areas
TABLE D	Schedule of Dental Procedures
TABLE E	Time Limits for Processing of Prior Approval Requests
TABLE F	Podiatry Service Schedule
TABLE G	Travel Distance Standards
TABLE H	Areas of Major Life Activity
TABLE I	Staff Time and Allocation for Training Programs (Recodified)
TABLE J	HSA Grouping

AUTHORITY: Implementing Article III of the Illinois Health Finance Reform Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 6503-1 et seq.) and implementing and authorized by Articles III, IV, V, VI, VII and Section 12-13 of the Illinois Public Aid Code (Ill. Rev. Stat. 1987, ch. 23, pars. 3-1 et seq., 4-1 et seq., 5-1 et seq., 6-1 et seq., 7-1 et seq., and 12-13).

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; recodified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984;

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 10, 1987;

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DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Section 140.471 Home Health Covered Services (Cont'd)

in accordance with a plan of care established by the physician and reviewed at least every 60 days.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 140.472 Types of Home Health Services

- a) The types of services for which payment can be made are:
 - 1) Skilled Nursing
 - 2) Home Health Aid
 - 3) Speech Therapy
 - 4) Occupational Therapy
 - 5) Physical Therapy
- b) Home health agencies may provide covered services for which they are certified by Medicare. In addition, they may provide medical equipment and appliances if it is the agency's usual and customary practice to provide such items as part of the per visit charge.
- c) Self-employed, registered nurses may provide nursing services within the scope of their practice, as defined by the Illinois Nurse Practice Act or, in other States, by comparable authority in the absence of a Medicare certified agency in the area.
- d) Independent therapists may provide services for which they are qualified. Community health agencies may provide services for which they have been approved by the Department.
- e) ~~When home health care is required on an extended basis, payment shall not be made if the total cost of care and services required to maintain the recipient in his home exceeds the cost of alternate care in a group care facility.~~

(Source: Amended at 14 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Section 140.473 Prior Approval for Home Health Services

- a) Prior approval is required for the provision of services by home health agency. The decision to approve or deny a request for prior approval will be made within 21 days of the date the request and all necessary information is received. Prior approval is required for the provision of all home health agency services to terminally ill GA and AMI clients. Prior approval is not required for the first 60 days of service provided by a home health agency to eligible clients other than terminally ill GA and AMI clients.
- b) Prior approval is required for intermittent part-time services by a registered nurse in the home. The decision to approve or deny a request will be made within 21 days of the date the request and all necessary information is received.
- c) Prior approval is required for the provision of services by an independent physical, speech or occupational therapist or by a community health agency, unless the recipient is eligible for the services Under Medicare. No prior approval is required for the first 30 days of ~~service~~ service, if the client has just been discharged from the hospital and was receiving therapy services while in the hospital. The decision to approve or deny the prior approval request shall be made within 30 days.
- d) Approval will be granted when in the judgment of a consulting physician and/or professional staff of the Department the services are appropriate for the recipient's condition and circumstances.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

Section 140.474 Payment for Home Health Services

- a) Home health agencies shall be paid an all inclusive, per visit rate which shall be the lowest of:
 - 1) the agency's usual charge for the service,
 - 2) the agency's Medicare rate, or
 - 3) an upper limit established by the Department at

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

Section 140.474 Payment for Home Health Services (Cont'd)

the 90th percentile of approved Medicare rates for all agencies participating in the program as of March-1984.

b) Payment to self-employed registered nurses providing in-home nursing services is made at the community rate for such services as determined for each case at the time prior approval is given.

c) Payment to independent therapists and community health agencies shall be at the provider's usual and customary charge, not to exceed the maximum established by the Department.

(Source: Amended at 14 Ill. Reg. _____, effective _____)

1) Heading of the Part: Admissions and Credentials

2) Code Citation: 11 Ill. Adm. Code 1428

3) Section Numbers: 1428.130
Proposed Actions: Repeal

4) Statutory Authority: 111. Rev. Stat. 1988, ch. 8 par. 9

5) A complete description of the subjects and issues involved: This rulemaking will eliminate the necessity of compiling a report on tax-exempt credentials.

6) Will this proposed rule replace an emergency rule currently in effect? No.

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

8) Does this proposed rule contain incorporations by reference? No.

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

10) Statement of Statewide Policy Objectives: Not applicable, no local governmental units will be required to increase expenditures.

11) Time, place, and manner in which interested persons may comment on this proposed rulemaking:

All comments should be submitted in writing to:

Illinois Racing Board
Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written comments it receives within 30 days of the publication of this notice in the Illinois Register

NOTICE OF PROPOSED AMENDMENTS

ILLINOIS RACING BOARD

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 21, 1990
- B) Types of small businesses affected: None.
- C) Reporting, bookkeeping or other procedures required for compliance: Not applicable.
- D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed amendment begins on the next page!

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER 1: ILLINOIS RACING BOARD
 SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
 (THOROUGHBRED)

PART 1428
 ADMISSIONS AND CREDENTIALS

Section	
1428.10	State Admissions Tax
1428.20	Admission Records
1428.30	Weekly Remittance of Tax
1428.40	Admission Statements
1428.50	Delivery of Reports
1428.60	Board Approval of Tickets and Credentials
1428.70	Control Numbers
1428.80	Revocation of Tickets, Credentials
1428.90	Notice of State Tax
1428.100	Credential and Ticket Specimens
1428.110	Gate Cards
1428.120	Tax Exempt Credentials
1428.130	Report on Tax Exempt Credentials (Repealed)
1428.140	Concessionaires, Employees Credentials
1428.150	Requisitions for Passes
1428.160	Tax Exempt Credentials Report
1428.170	Summary of Tickets and Credentials
1428.180	Track Responsible for Credentials
1428.190	Board Access to Records
1428.200	Turnstiles
1428.210	Admission to Track
1428.220	Revocation of Credentials
1428.230	Admissions for Licensees

AUTHORITY: Implementing Section 9(b) and authorized by Section 25 of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1988, ch. 8, pars. 37-9(b) and 37-25)).

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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 21, 1990
- B) Types of small businesses affected: None.
- C) Reporting, bookkeeping or other procedures required for compliance: Not applicable.
- D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER 1: ILLINOIS RACING BOARD
 SUBCHAPTER c: RULES APPLICABLE TO OCCUPATION LICENSEES

PART 502
LICENSING

SUBPART A: PROCEDURE

Section
 502.10 Submission of Application
 502.20 Complete Application
 502.30 License Fees
 502.40 Duration and Extent of Occupation Licenses
 502.50 Rulings and Hearings
 502.55 Denial of License
 502.58 License to Participate

SUBPART B: STATUTORY GROUNDS FOR DENIAL OF A LICENSE

Section
 502.60 Denial of a License for Criminal Conviction
 502.72 First-Time Applicant Who Has Been Convicted of a Crime
 502.76 Prohibitions Against Persons on Probation
 502.78 Probationary Nature of Licenses
 502.80 Unqualified to Perform the Duties
 502.90 Falsifying Answers or Omitting Facts
 502.100 Just Cause
 502.102 Burden of Going Forward
 502.104 Denial of a License for Just Cause in Illinois or in Another Racing Jurisdiction

SUBPART C: GENERAL CRITERIA

Section
 502.110 Criteria for Determining Eligibility
 502.115 Standards Required of All Applicants

SUBPART D: OWNERS

Section
 502.120 Owners

SUBPART E: TRAINERS AND ASSISTANT TRAINERS

Section
 502.200 Trainers and Assistant Trainers
 502.210 Prospective Trainers or Assistant Trainers
 502.220 Worker's Compensation

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Emergency rule adopted and codified at 6 Ill. Reg. 9711, effective July 27, 1982, for a maximum of 150 days;

adopted and codified at 6 Ill. Reg. 13786, effective October 26, 1982; amended at 7 Ill. Reg. 5225, effective April 1, 1983;

amended at 11 Ill. Reg. 20611, effective January 1, 1988;

amended at 14 Ill. Reg. _____, effective _____.

NOTE: Capitalization Denotes Statutory Language.

Section 502.820

The following kinds of dual licensing shall be prohibited:

a) A person licensed as a jockey, veterinarian, totalizator

employee, or farrier shall not be licensed in any other

capacity.

b) _____

c) A person licensed as an owner shall not be licensed as a

jockey agent, nor shall any person licensed as a jockey

agent be licensed as an owner.

d) A person licensed as a racing official shall not be

licensed in another capacity during the race meeting at

which that person is serving as a racing official,

except as provided in 11 Ill. Adm. Code 422.60

(Source: Amended at 14 Ill. Reg. _____, effective _____.)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: JOCKEYS AND APPRENTICE JOCKEYS

Section

502.230

Jockeys and Apprentice Jockeys

502.235

Apprentice Jockeys, Criteria for Eligibility

502.238

Apprentice Contracts or Certificate

SUBPART G: DRIVERS

Section

502.250

Harness Driver

502.260

Prospective Harness Driver

502.270

"Q" Licenses

502.280

"P" Licenses

502.290

"A" Licenses

SUBPART H: OTHER LICENSES

Section

502.300

Veterinarians

502.320

Veterinary Assistants

502.350

Farriers (Blacksmiths)

502.380

Exercise Riders

502.400

Pony Person

502.450

Stable Foreman

502.500

Jockey Agents

502.600

Authorized Agents

502.650

Tack Shop Operators and Other Vendors

502.660

Vendor Helper

502.680

Thoroughbred Grooms

502.690

Harness Grooms

502.700

Hotwalker

502.790

Totalizator Employee

SUBPART I: CONFLICTS OF INTEREST

Section

502.800

General Provision

502.820

Dual Licensing

502.830

Limitations on License

502.840

Husbands and Wives

502.850

Transfer of a Horse

AUTHORITY: Implementing Section 15 and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (111, Rev. Stat. 1988 ch. 8, pars. 37-15 and 37-9(b)).

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pari-Mutuels
- 2) Code Citation: 11 Ill. Adm. Code 405
- 3) Section Numbers: 405.170 Proposed Action: Repeal
- 4) Statutory Authority: Ill. Rev. Stat. 1988, ch. 8, par. 9
- 5) A complete description of the Subjects and Issues Involved: This repeal will eliminate the limitations on Multiple Wagering Pools. The Illinois Racing Board is in the process of eliminating generalized rules and replacing them with specific rules in the appropriate sections and parts.
- 6) Will this proposed repealer replace an emergency repealer currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed rule contain an incorporation by reference? No.
- 9) Are there any other proposed amendments pending in this Part? Yes. 405.170, 14 Ill. Reg. 1224, January 19, 1990.
- 10) Statement of Statewide Policy Objectives: Not applicable, no local governmental units will be required to increase expenditures as a result of this rulemaking.
- 11) Time, Place, and Manner in which interest parties may comment on this proposed rulemaking: All comments should be submitted in writing to:

Illinois Racing Board
 Legal Department
 State of Illinois Center
 100 West Randolph, Suite 11-100
 Chicago, Illinois 60601

The Illinois Racing Board will consider all written comment it receives within 30 days of the publication of this notice in the Illinois Register.

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
 - A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 14, 1990
 - B) Types of small businesses affected: None
 - C) Reporting, Bookkeeping, or other procedures required for compliance: Not applicable.
 - D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed repealer begins on the next page:

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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Perfecta or Exacta Rules
- 2) Code Citation: 11 Ill. Adm. Code 408
- 3) Section Numbers: 408.20 Proposed Actions: Repeal
- 4) Statutory Authority: Ill. Rev. Stat. 1988, ch. 8 par. 9
- 5) A complete description of the Subjects and Issues Involved: This rulemaking will eliminate the prohibition of entries and fields in Perfecta and Exacta races. The Illinois Racing Board has waived this rule for the past several years and has experienced no adverse reactions or affects.
- 6) Will this proposed rule replace an emergency rule currently in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed rule contain incorporations by reference? No.
- 9) Are there any other proposed amendments pending on this Part? No.
- 10) Statement of Statewide Policy Objectives: Not applicable, no local governmental units will be required to increase expenditures.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

All comments should be submitted in writing to:

Illinois Racing Board
Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written comments it receives within 30 days of the publication of this notice in the Illinois Register

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
 - A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 21, 1990
 - B) Types of small businesses affected: None.
 - C) Reporting, bookkeeping or other procedures required for compliance: Not applicable.
 - D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Quinella Rules
- 2) Code Citation: 11 Ill. Adm. Code 407
- 3) Section Numbers: 407.20
Proposed Actions: Repeal
- 4) Statutory Authority: 111. Rev. Stat. 1988, ch. 8 par. 9
- 5) A Complete description of the Subjects and Issues
Involved: This rulemaking will eliminate the prohibition
of entries and fields in Quinella races. The Illinois
Racing Board has waived this rule for the past several
years and has experienced no adverse reactions.
- 6) Will this proposed rule replace an emergency rule currently
in effect? No.
- 7) Does this rulemaking contain an automatic repeal date? No.
- 8) Does this proposed rule contain incorporations by
reference? No.
- 9) Are there any other proposed amendments pending on this
Part? No.
- 10) Statement of Statewide Policy Objectives: Not applicable,
no local governmental units will be required to increase
expenditures.
- 11) Time, Place, and Manner in which interested persons may
comment on this proposed rulemaking:

All comments should be submitted in writing to:

Illinois Racing Board
Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written
comments it receives within 30 days of the publication of
this notice in the Illinois Register

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER B: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 408

PERFECTA OR EXACTA RACES

Section	408.10	Perfecta or Exacta
	408.20	Entries and Fields Prohibited (Repealed)
	408.30	No Winning Combinations
	408.40	Dead Heat for First or Second
	408.50	Dead Heat for Second -- No Winning Combination
	408.60	No Winning Ticket

AUTHORITY: Implementing and authorized by Section 9(b) of the
Illinois Horse Racing Act of 1975 (111. Rev. Stat. 1988, ch. 8,
par. 37-9(b)).

SOURCE: Adopted at 4 Ill. Reg. 38, p. 187, effective September
8, 1980; codified at 5 Ill. Reg. 10893; amended at 9 Ill. Reg.
9161, effective June 4, 1985; amended at 14 Ill. Reg. _____,
effective _____.

Section 408.20 Entries and Fields Prohibited

Entries and fields are prohibited in Perfecta or Exacta races
except in instances when a Perfecta or Exacta is scheduled on
the feature race. A feature race shall be considered an
invitational race having the highest purse of the program, a
stakes race, or an allowance race.

(Source: Repealed at 14 Ill. Reg. _____, effective _____.)

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

- A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 21, 1990
- B) Types of small businesses affected: None.
- C) Reporting, bookkeeping or other procedures required for compliance: Not applicable.
- D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
 SUBTITLE B: HORSE RACING
 CHAPTER I: ILLINOIS RACING BOARD
 SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEES

PART 407
 QUINELLA RULES

Section	
407.10	Winning Quinella Combinations
407.20	Entries and Fields Prohibited (Repealed)
407.30	Individual Winners
407.40	No Winners or Win Tickets
407.50	No Winners or Place Tickets
407.60	Quinella Refund
407.70	Only One Horse Finishes
407.80	Dead Heat for Win
407.90	Multiple Dead Heat
407.100	Dead Heat for Place
407.110	Multiple Dead Heat for Place

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. ch. 8, par. 27-9(b)).

SOURCE: Adopted at 4 Ill. Reg. 38, p. 187, effective September 8, 1980; codified at 5 Ill. Reg. 10892; amended at 9 Ill. Reg. 9163, effective June 4, 1985; amended at 14 Ill. Reg. _____, effective _____.

Section 407.20 Entries and Fields Prohibited (Repealed)

Entries and fields are prohibited in Quinella races, except in instances when a quinella is scheduled on the feature race. A feature race shall be considered an invitation race having the highest purse of the program, a stakes race, or an allowance race.

(Source: Repealed at 14 Ill. Reg. _____, effective _____.)

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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER 1: ILLINOIS RACING BOARD
SUBCHAPTER F: RULES AND REGULATIONS OF HARNESS RACING

PART 1305
RACE TRACK OPERATORS AND THEIR DUTIES

Section	
1305.10	Definition of Race Track Operator
1305.20	Application
1305.30	Time for Filing Applications
1305.40	Conditions of License
1305.45	Lease of Race Track (Repealed)
1305.50	Written Disclosure
1305.60	Notice of Changes
1305.70	Political Contributions
1305.80	Termination of License
1305.90	Wagering On Races Conducted off of Premises
1305.100	Reciprocal Suspensions
1305.110	Horse Ambulance
1305.120	Ambulance of Racing Strip
1305.130	First Aid Station
1305.140	Medical Services
1305.150	Illinois Racing Board Office
1305.170	Moving Office (Repealed)
1305.180	Judges' Stand
1305.190	Drivers' Bench
1305.200	Stabling of Horses
1305.220	Stall Numbers and Distance Poles
1305.230	Licensed Outrider
1305.240	Drinking Fountains and Rest Rooms
1305.250	Telephones
1305.260	Broadcasting and Telecasting
1305.270	Pest Control
1305.280	Alcohol Sales
1305.290	Track Lights
1305.300	Fire Prevention
1305.320	Admissions
1305.330	Inspection Report
1305.340	Lottery Events at Race Tracks
1305.350	Off-Track Betting Agencies of Other States
1305.370	Reporting of Horsemen's Purse Account

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat., 1988, ch. 8, par. 37-9(b)).

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Published in Rules and Regulations of Harness Racing, (Original date not cited in publication); amended October 9, 1973, filed October 19, 1973; amended October 25, 1973, filed December 17, 1973; amended February 15, 1974, filed February 28, 1974; amended October 25, 1974; filed November 7, 1974; added May 9, 1975, filed May 15, 1975; amended August 21, 1976, filed August 21, 1976, filed August 30, 1976; amended at 2 Ill. Reg. 27, p. 275, effective July 10, 1978; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; codified at 5 Ill. Reg. 10923; amended at 6 Ill. Reg. 11063, effective September 1, 1982; amended at 9 Ill. Reg. 9165, effective May 30, 1985; amended at 14 Ill. Reg. _____, effective _____.

Section 1305.250 Telephones

All telephones at the track or in the grounds of the race track operated or conducting the same shall be closed with the opening or the parlor windows for the fire race or the day or evening. No calls shall be allowed to be made or received at the telephones are closed until after the last race has been finished except by officials of the Illinois Racing Board.

Telephone use shall be disallowed in the paddock area, except under the direct supervision of the Board or its delegates.

(Source: Amended at 14 Ill. Reg. _____, effective _____.)

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Regulations for Meetings

2) Code Citation: 11 Ill. Adm. Code 1424

3) Section Numbers: 1424.230
Proposed Actions: Amendment

4) Statutory Authority: 11. Rev. Stat. 1988, ch. 8 par. 9

5) A complete description of the subjects and issues involved: This rulemaking will eliminate the prohibition on the use of phones on Illinois racetracks, except in the paddock area.

6) Will this proposed rule replace an emergency rule currently in effect? No.

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

8) Does this proposed rule contain incorporations by reference? No.

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

10) Statement of Statewide Policy Objectives: Not applicable, no local governmental units will be required to increase expenditures.

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

All comments should be submitted in writing to:

Illinois Racing Board
Legal Department
100 West Randolph, Suite 11-100
Chicago, Illinois 60601

The Illinois Racing Board will consider all written comments it receives within 30 days of the publication of this notice in the Illinois Register

NOTICE OF PROPOSED AMENDMENTS

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Business Assistance Office of the Department of Commerce and Community Affairs: May 21, 1990

B) Types of small businesses affected: None.

C) Reporting, bookkeeping or other procedures required for compliance: Not applicable.

D) Types of professional skills necessary for compliance: Not applicable.

The full text of the proposed amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1424
REGULATIONS FOR MEETINGS

- Section
- 1424.10 Illinois Racing Board Right of Entry
- 1424.20 Office for Racing Board
- 1424.25 Moving Offices (Repealed)
- 1424.40 Inspections and Searches
- 1424.45 Investigative Authority
- 1424.50 Allocation of Stalls
- 1424.55 AGID (Coggins) Tests
- 1424.60 Distance Poles
- 1424.70 Arrivals, Departures and Stabling
- 1424.80 Departure Slips
- 1424.90 Horse Ambulance
- 1424.100 Races Per Day
- 1424.110 Extra Races
- 1424.120 Clockers
- 1424.125 Outriders
- 1424.160 Camera
- 1424.170 Medical Services
- 1424.180 Policing of Premises
- 1424.190 Stable Area Security
- 1424.200 Stable Area Security
- 1424.210 Security Reports
- 1424.220 Night Patrol
- 1424.230 Telephones and/Telegraph
- 1424.240 Calls Through Switchboard
- 1424.250 Races for Illinois Horses
- 1424.260 Breeder Awards
- 1424.270 Admission to Parts of Premises
- 1424.280 Stable Areas Fenced
- 1424.290 Merchandise Selling
- 1424.300 Tip Sheets
- 1424.310 Alcoholic Beverages
- 1424.320 Jockey Quarters
- 1424.330 Water Supply and Washrooms
- 1424.340 Drug Vendors
- 1424.350 Seven Day Rule
- 1424.353 Penalty for Violation of Rules
- 1424.355 Stall Availability Prior to Meet

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1988, ch. 9, par. 27-9(b)).

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); added October 25, 1973, filed November 26, 1973; added August 8, 1973; amended February 15, 1974, filed February 28, 1974; amended April 11, 1974, filed April 30, 1984; amended July 12, 1974, filed July 22, 1974, amended October 25, 1974, filed November 7, 1974; amended March 14, 1975, filed and effective March 27, 1975; amended May 9, 1975, filed May 15, 1975; amended June 19, 1976, filed June 25, 1976; amended December 9, 1977, filed December 29, 1977; amended at 4 Ill. Reg. 41, p. 164, effective September 26, 1980; codified at 5 Ill. Reg. 10996; amended at 8 Ill. Reg. 12460, effective June 27, 1984; amended at 9 Ill. Reg. 9166, effective May 30, 1985; amended at 14 Ill. Reg. _____, effective _____.

Section 1424.230 Telephones and/Telegraph

ALL public telephones and telegraph wires at the track or in the grounds of the operator conducting the meeting shall be closed with the opening of the pari-mutuel windows for the first race of the day. No calls or wires shall be allowed to be made or received after the telephones and telegraph wires are closed until after the last race has been finished except by the officials of the Illinois Racing Board and by duly accredited members of the press.

Telephone use shall be disallowed in the paddock area, except under direct supervision of the Board or its delegates.

(Source: Amended at 14 Ill. Reg. _____, effective _____.)

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ILLINOIS RACING BOARD
NOTICE OF PROPOSED RULESTITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER b: RULES APPLICABLE TO ORGANIZATION LICENSEESPART 440
TWIN TRIFECTA EXCHANGE

Section

- 440.10 Twin Trifecta Exchange Wager
- 440.20 Sale and Exchange of TTE Tickets
- 440.30 Transfer of Tickets Prohibited
- 440.40 Pool Calculations
- 440.50 Distribution of Divided Pool
- 440.60 Failure to Select
- 440.70 "Exchange" Tickets
- 440.80 Trifecta Rules Shall Apply
- 440.90 Scratches
- 440.100 Dead Heats
- 440.110 No Winning Combinations
- 440.120 Jackpot Pool
- 440.130 Races Cancelled
- 440.140 Rules Displayed
- 440.150 Minimum Price

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 (Ill. Rev. Stat. 1988, ch. 8, par. 37-9(b)).

SOURCE: Adopted at 14 Ill. Reg. _____, effective _____.

Section 440.10 Twin Trifecta Exchange Wager

A Twin Trifecta Exchange (TTE) wager requires the selection of the three horses that will finish first, second and third in each of the two designated TTE races in the exact order as officially posted. The TTE pool shall be calculated in a pool entirely separate from all other wagering pools.

Section 440.20 Sale and Exchange of TTE Tickets

TTE tickets shall be sold and exchanged only from the organization licensee's ticket-issuing machines.

ILLINOIS RACING BOARD
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Sale of TTE tickets other than from the Association's ticket-issuing machines or from one individual to another shall be deemed illegal and prohibited.

Section 440.30 Transfer of Tickets Prohibited

Exchange tickets shall be non-transferable. Holders of transferred exchange tickets shall not be entitled to any winnings. Persons involved in the unauthorized transfer of exchange tickets shall be subject to exclusion for the grounds of the organization licensee.

Section 440.40 Pool Calculations

Commissions shall be deducted from the TTE Daily Divided pool in accordance with state law for wagers involving three or more betting interests. The net pool will then be divided into two separate pools of equal amounts.

Section 440.50 Distribution of Divided Pool

- a) The first part of the divided net pool will be distributed to the holders of the TTE tickets selecting the first three horses in order on the first Twin Trifecta race, in accordance with established pari-mutuel practice. The term "First part of Divided Pool" shall mean one-half of the net distributable pool of the total money wagered on the TTE on the current program only and specifically excluding therefrom any carryover of any special cumulative second race TTE pool from any previous program.
- b) The second part of the divided pool will be placed in a separate pool to be distributed to the holders of "second half" TTE tickets selecting the first three horses, in order, on the second designated TTE race, in accordance with established pari-mutuel practice.

Section 440.60 Failure to Select

In the first half of the TTE only, if there is a failure to select, in exact order, the first three horses, payoffs and exchanges shall be made on TTE tickets selecting in the following order of priority:

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- a) The first two horses in exact order;
- b) The first horse;

Failure to select the winner to win, regardless of the selection of the exact order of the second and/or third horse shall cause a refund of all TTE tickets.

Section 440.70 "Exchange" Tickets

After the official declaration of the first three horses to finish in the first race of the TTE, each bettor must, prior to the running of the second TTE race, exchange such winning ticket for both the monetary value established by the totalisator for such ticket and a TTE "exchange" ticket which shall designate the three horses to finish in the second TTE race. No further money shall be required of the holders of the winning ticket in order to make the exchange.

No tickets upon the second TTE race shall be issued except upon surrender of the winning TTE ticket from the first race as described in these rules.

If a winning TTE ticket from the first race is not presented for cashing and exchanged within the time provided, the bettor may still collect the monetary value attached to the ticket but forfeits all rights to any distribution of the second race TTE pool.

Section 440.80 Tiffecta Rules Shall Apply

Unless provided otherwise in these rules, all Illinois Racing Board rules governing tiffecta races shall apply to both TTE races.

Section 440.90 Scratches

If a horse is scratched from either race of the TTE, all TTE tickets on the scratched horse will be refunded.

Section 440.100 Dead Heats

In the event of a dead heat or dead heats in either the first or second half of the TTE, all TTE tickets selecting the

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correct order of finish counting a horse in a dead heat as finishing in any position dead-heated shall be winning tickets. In the case of the dead-heat occurring in the first half, the payout shall be calculated in the same manner as a win pool. In the case of the dead-heat occurring in the second half, contrary to the usual pari-mutuel practice, the aggregate number of winning tickets shall be divided into the net pool and be paid the same payout price.

Section 440.110 No Winning Combination

In the event there is no TTE ticket issued selecting the officially declared first three finishers of the second TTE race in the exact order, such second race pool, as divided earlier, shall be held for the next consecutive program and combined with that program's second race TTE pool. This sum shall be termed the "Carryover Jackpot". Distribution of the special cumulative second race TTE pool shall be made only upon the selection, in exact order, of the first three officially declared finishers of the second TTE race or unless a mandatory distribution is required.

Section 440.120 Jackpot Pool

On the last program of a meeting or the last program during consecutive race meetings of the same type of racing at the same race track, or upon order of the Executive Director, a mandatory distribution shall be declared by the organization licensee and shall be advertised to the public. When a mandatory distribution is required, all of the carryover jackpot shall be distributed even if no ticket combines the exact winning combination. In the event there are no winners, the sum of the combined pools shall be distributed equally to holders of valid exchange tickets, or if no valid exchange tickets were issued, in accordance with Section 440.60.

Section 440.130 Races Cancelled

In the event the second TTE race is cancelled for any reason, or if wagering on the second race is unavailable at any wagering facility which accepted wagers on the first TTE race, the entire net pool for that day shall be distributed to holders of tickets correctly selecting the first TTE race and any carryover pool shall remain undistributed and added to the pool for the next program.

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Section 440.140 Rules Displayed

These rules shall be prominently displayed in the official program on any day the TTE is offered.

Section 440.150 Minimum Price

TTE tickets shall not be sold in denominations of less than \$1.00.

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Non-Financial Eligibility Criteria
 - 2) Code Citation: 89 Ill. Adm. Code 685
 - 3) Section Numbers: Proposed Action:

685.500	amendment
685.600	amendment
 - 4) Statutory Authority: Implementing and authorized by Section 3(g) of "AN ACT in relation to rehabilitation of persons with one or more disabilities" (Ill. Rev. Stat. 1988 Supp., ch. 23, par. 3434(g)).
 - 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 685 reflect changes which will result from the implementation of a revised Determination of Need (DON), which is used as an assessment tool in determining the need for long-term care.
 - 6) Will this proposed rule replace an emergency rule currently in effect? No
 - 7) Does this rulemaking contain an automatic repeal date?
 Yes No
 - 8) Does this proposed amendment contain incorporations by reference? No
 - 9) Are there any other amendments pending on this Part? No
- | <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|---|------------------------|-----------------------------------|
| 10) <u>Statement of Statewide Policy Objectives (if applicable):</u>
Not Applicable | | |
| 11) <u>Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:</u> Interested persons may present their comments concerning these rules within 45 days after this issue of the Illinois Register. All requests and comments should be submitted in writing to: | | |

Ms. Janice Lobb
Regulations and Training Division
Department of Rehabilitation Services
P.O. Box 19429
Springfield, Illinois 62794-9429

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DEPARTMENT OF REHABILITATION SERVICES

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- b) To determine the need for long-term care, the Determination of Need Scale (DON) is utilized to measure a client's service needs (Part A) and the resources available to meet those needs (Part B), based on pertinent medical, social and psychological factors, and on the extent to which service needs are already met, and/or will begin/continue to be met, either wholly or in part, by family, friends, and others, or through the client's available financial resources. The Determination of Need DON consists of two parts:

- i) Functions evaluated in Parts A and B described in Section 650.500(a) are:

- A) telephoning,
- B) getting into and out of bed,
- C) traveling outside the home,
- D) shopping,
- E) managing money,
- F) preparing meals,
- G) eating,
- H) doing housework,
- I) doing laundry,
- J) dressing,
- K) grooming,
- L) bathing,
- M) bowel and bladder control,
- N) routine health care, and
- O) being alone.

- ii) A score of zero (0) through three (3) for the 16 individual functions included in Section 650.500(b)(1) (Part A) indicates the client's need for assistance.

- A) Zero (0) meaning the client performs or can perform all essential components of the activity, with or without an assistive device such that:

- i) no significant impairment of function remains, or
- ii) activity is not required by the client (routine and special health only), or
- iii) client may benefit from but does not require supervision or physical assistance.

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- B) One (1) meaning the client performs or can perform most essential components of the activity with or without an assistive device but some impairment of function remains such that a client requires some supervision or physical assistance in some or all components of the activity. This includes clients who:

- i) experience minor, intermittent fatigue in performing the activity, or

- ii) take longer than for an unimpaired person, or

- iii) must perform the activity more often than for an unimpaired person.

- C) Two (2) meaning the client cannot perform most of the essential components of the activity, even with an assistive device, and requires a great deal of assistance or supervision to accomplish the activity. This includes clients who:

- i) experience frequent fatigue on minor exertion in performing the activity, or

- ii) take an excessive amount of time to perform the activity, or

- iii) must perform the activity and requires someone to perform the task, although the client may be able to assist in small ways, or requires constant supervision.

- 1) The mini-mental state section measures cognitive functioning of the applicant/client.

- A) The applicant/client who receives a score of 14 or more points is considered to be cognitively aware. Therefore 0 points will be added to the Part A, Level of Impairment, score on the DON.

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B) The applicant/client who receives a score of 13 or less points is considered to be cognitively impaired. Therefore 10 points will be added to the Part A, Level of Impairment, score on the DON.

2) The second section of the DON measures the applicant's ability to perform the following activities of daily living (ADLs) and instrumental activities of daily living (IADLs):

- Activities of Daily Living:
- A) Eating
- B) Bathing
- C) Grooming
- D) Dressing
- E) Transferring
- F) Incontinence Care
- Instrumental Activities of Daily Living:
- G) Preparing Meals
- H) Being Alone
- I) Telephoning
- J) Managing Money
- K) Routine Health
- L) Special Health
- M) Outside Home
- N) Laundry
- O) Housework

c) The DON includes the six ADLs and nine IADLs listed above. Each function is scored in two parts: Part A - Level of Impairment, and Part B - Unmet Need of Care.

1) Part A, Level of Impairment, of the DON measures the ability of the applicant/client to perform each ADL and IADL function. A scoring range of 0 through 3 indicates the degree of impairment of the applicant/client in the performance of ADLs and IADLs.

A) Zero (0) means the applicant/client performs or can perform all essential components of the activity, with or without an existing assistive device, such that:
1) no significant impairment of function remains; or
2) activity is not required by the applicant/client (routine and special health only); or

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1) applicant/client may benefit from, but does not require, supervision or physical assistance.

B) One (1) means the applicant/client performs or can perform most essential components of the activity, with or without an existing assistive device, but some impairment of function remains such that an applicant/client requires some supervision or physical assistance in some or all components of the activity. This includes the applicant/client who:

1) experiences minor, intermittent fatigue to perform the activity; or
2) takes longer than an unimpaired person in performing the activity; or
3) must perform the activity more frequently than an unimpaired person.

C) Two (2) means the applicant/client cannot perform most of the essential components of the activity, even with an existing assistive device, and requires a great deal of assistance or supervision to accomplish the activity. This includes the applicant/client who:

1) experiences frequent fatigue in performing the activity; or
2) takes an excessive amount of time to perform the activity; or
3) must perform the activity much more frequently than an unimpaired person.

D) Three (3) means the applicant/client cannot perform the activity and requires someone to perform the task, although the applicant/client may be able to assist in small ways, or requires constant supervision.

DEPARTMENT OF REHABILITATION SERVICES

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- 3) A score of zero (0) through three (3) for the 16 individual functions included in Section 685-500(b)(1) (Part B) will indicate the resources available to the client (excluding the Home Services Program) to meet the client's functional needs.
- 2) Part B, Unmet Need for Care, of the DON measures the need of the applicant/client for assistance/performance/supervision for each ADL and IADL function which is not being met by non-HSP resources in the community (e.g., family, friends, local services.)
- A) Zero (0) meaning:
- i) the applicant/client's need for assistance is met to the extent that the applicant/client is at no risk to health or safety if additional assistance is not acquired; or
 - ii) the applicant/client has no need for assistance; or
 - iii) additional assistance will not benefit the applicant/client.
- B) One (1) meaning the applicant's/client's need for assistance is met most of the time but there is a minimal risk to the health and safety of the client if additional assistance is not acquired.
- C) Two (2) meaning the applicant's/client's need for assistance is not met most of the time and there is a moderate risk to the health and safety of the client if additional assistance is not acquired.
- D) Three (3) meaning the applicant's/client's need for assistance is rarely, or never met and the applicant's/client's health and safety are at severe risk, which would ~~or~~ the client will require acute medical intervention if additional assistance is not acquired.

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- ed) The Determination of Need scale DON measures these applicant/client function needs and resources in the areas of the applicant's/client's abilities to:
- 1) use the telephone
 - A) Part A scoring will reflect the applicant's/client's ability to use the telephone to communicate essential needs.
 - B) Part B scoring will reflect the availability of assistance, if needed, to help the applicant/client reach and use the telephone or to use the telephone on behalf of the applicant/client.
 - 2) get into and out of bed transfer
 - A) Part A scoring will reflect the applicant's/client's ability to get into or out of bed or other usual sleeping place as well as ability to transfer (from/to) between bed and wheelchair or walker.
 - B) Part B scoring will reflect the availability of assistance, if needed, to aid and/or motivate the applicant/client in getting into and out of bed as well as transferring.
 - 3) travel outside the home/shop for groceries and other essentials/manage money (and pay bills)
 - A) Part A scoring will reflect the applicant's/client's ability to leave and return home and complete daily living tasks which are normally transacted outside of the home.
 - B) Part B scoring will reflect the availability of assistance, if needed, to assist the applicant/client in completing these tasks.
 - 4) prepare nutritionally balanced meals/feed himself/herself
 - A) Part A scoring will reflect the applicant's/client's ability to plan, prepare, and feed himself/herself a nutritionally balanced meal.

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DEPARTMENT OF REHABILITATION SERVICES

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above, and who have been continuously served since determination of initial eligibility, shall have their Service Cost Maximum (SCM) remain fixed at the same rate as that prior to the effective date of this Section. These clients will have their SCM frozen until they achieve an eligible score and SCM in accordance with this Section.

2) Individuals having a combined score on Part A and Part B of 29 points or more and a minimum of 15 points on Part A shall have their need for long term care established in accordance with this Section.

eg) As part of the determination of need for long-term care, the client's physician must certify the client's need for long-term care and the safety of serving the client at home.

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

Section 685.600 Service Cost Maximum

a) If all other factors of eligibility are met, local office staff will prepare an individualized service plan for each client to address all unmet service needs of the client as measured by the Determination of Need Scale DON and according to the provisions of 89 Ill. Adm. Code 700. The cost of the required services on this plan may not exceed the amount the state would expect to pay for the institutional care of a client having similar scores on the Determination of Need Scale, DON; which is delineated as follows:

1) Individuals whose eligibility for the HSP is determined on or after the effective date of this Section shall have their need for long term care established in accordance with subsection 685.500(d)(1) and (2). Their monthly SCM is as follows:

Total Determination of Need Score	Service Cost Maximum
18 through 28	No more than \$ 426
29 through 32	No more than \$ 406566
33 through 34	No more than \$ 539707

DEPARTMENT OF REHABILITATION SERVICES

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4133 through 4549	No more than \$ 673785
5046 through 5659	No more than \$ 748941
6057 through 6769	No more than \$ 8961,106
7068 through 7879	No more than \$ 17,0521,196
8079 through 87100	No more than \$ 17,1391,286
88 through 96	No more than \$ 17,225

2) Individuals whose eligibility for the HSP was determined prior to the effective date of this Section, and in accordance with Section 685.500(e)(1) shall have their monthly SCM fixed at the following rates:

Total Determination of Need Score	Service Cost Maximum
18 through 27	No more than \$ 406
28 through 32	No more than \$ 539
33 through 45	No more than \$ 673
46 through 56	No more than \$ 748
57 through 67	No more than \$ 896
68 through 78	No more than \$ 1,052
79 through 87	No more than \$ 1,139
88 through 96	No more than \$ 1,225

b) Certain eCases on hand June 30, 1983, which have case costs that exceed the maximum projected monthly institutional cost, may continue to be subject only to the institutional cost standards in force prior to July 1, 1983, (see Appendix A). All cases on hand June 30, 1983, will otherwise be subject to this and all other eligibility criteria stated in 89 Ill. Adm. Code: Chapter IV, Subchapter d.

c) Where changes of service needs are temporary and would result in costs which would exceed the projected monthly institutional cost and do not otherwise require a redetermination, an average monthly cost will be used. to accommodate situations in which a client temporarily has a service need where costs would exceed the projected monthly institutional cost, but where However, the average monthly service cost over a 12 month period must would be within the allowable maximums. For the purposes of this provision, the 12 month period would include the 11 previous months, if applicable, plus the month of the temporarily increased service cost. This determination of average cost will be conducted for each month of service in which the service cost exceeds the monthly maximum.

NOTICE OF PROPOSED AMENDMENTS

d) Denial of HSP Service Eligibility

1) Eligibility for HSP services is to be denied if:

A) The client's physician will not certify the safety of serving the client at home.

B) The services necessary to an adequate service plan are not available or cannot be provided.

C) The service plan cannot be designed by local office staff to adequately meet the client's essential needs within the service cost maximum.

2) Where clients are denied services for any of these reasons, the client shall be referred for assistance to a local social service agency, local home health agency or visiting nurses association if the client refuses needed institutional care.

(Source: Amended at 14 Ill. Reg. _____)

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Cannabidiol and Controlled Substances Tax Act

2) Code Citation: 86 Ill. Adm. Code 428

3) Section Numbers: 428.130
Proposed Action: Amendment

4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 120, par. 2154

5) A Complete Description of the Subjects and Issues Involved: Collection of penalty as a part of the tax. Jeopardy assessments and the filing and enforcement of jeopardy assessment liens.

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

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

8) Does this proposed rule contain incorporations by reference? No

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

10) Statement of Statewide Policy Objectives: Enforcement of taxes due from drug dealers.

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

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: May 18, 1990

NOTICE OF PROPOSED AMENDMENTS

- B) Types of small businesses affected: Drug dealers.
- C) Reporting, bookkeeping or other procedures required for compliance: None.
- D) Types of professional skills necessary for compliance: None.

The text of the Proposed Amendment is identical to the text of the emergency amendment which appears in this edition of the Illinois Register at page 9252:

NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of Part: Certificates of Title, Registration of Vehicles
- 2) Code Citation: 92 Ill. Adm. Code 1010
- 3)

<u>Section Number</u>	<u>Proposed Action</u>
1010.510	Amendment
- 4) Statutory Authority: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 3-100 et seq. and 2-104(b))
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes the criteria for a 24 hour grace period to allow a buyer of a vehicle to drive the vehicle from the point of sale to the individual's residence or to a facility to obtain registration. Provides that evidence of ownership must be carried on the vehicle.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1010.170	New Section	14 Ill. Reg. 1851
1010.520	Amendment	14 Ill. Reg. 3022
1010.453	New Section	14 Ill. Reg.
1010.454	New Section	14 Ill. Reg.
- 10) Statement of Statewide Policy Objectives: Not applicable to this amendatory rulemaking.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking. Written comments may be submitted within 45 days to:

Robert B. Powers
Assistant Counsel to the Secretary
Office of the Secretary of State
298 Centennial Building
Springfield, Illinois 62706
217/785-3094

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SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

SUBPART E: SPECIAL PERMITS AND PLATES

Section	
1010.410	Temporary Registration - Individual Transactions
1010.420	Temporary Permit Pending Registration In Illinois
1010.430	Registration Plates for Motor Vehicles Used for Transportation of Persons for Compensation and Tow Trucks
1010.440	Title and Registration of Vehicles with Permanently Mounted Equipment
1010.450	Special Plates
1010.451	Purple Heart License Plates
1010.452	Special Event License Plates
1010.455	Collectible License Plates
1010.456	Sample License Plates For Motion Picture and Television Studios
1010.460	Special Plates for Members of the United States Armed Forces Reserves
1010.470	Dealer Plate Records
1010.480	State of Illinois In-Transit Plates

SUBPART F: FEES

Section	
1010.510	Determination of Registration Fees
1010.520	When Fees Returnable
1010.530	Circuit Breaker Registration Discount
1010.540	Maximum Fees for Distribution of Motor Vehicle Renewal Plates and/or Stickers

SUBPART G: MISCELLANEOUS

Section	
1010.610	Unlawful Acts, Fines and Penalties
1010.620	Change of Engine

SUBPART H: SECOND DIVISION VEHICLES

Section	
1010.705	Reciprocity
1010.710	Vehicle Proration
1010.715	Proration Fees
1010.720	Vehicle Apportionment
1010.725	Trip Leasing
1010.730	Intrastate Movements, Foreign Vehicles
1010.735	Interline Movements
1010.740	Trip and Short-term Permits

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT(S)

1010.745	Signal 30 Permit for Foreign Registered Vehicles (Repealed)
1010.750	Signal 30-Year-round for Prorated Fleets of Leased Vehicles (Repealed)
1010.755	Mileage Tax Plates
1010.756	Suspension or Revocation of Illinois Mileage Weight Tax Plates
1010.760	Transfer for "For-Hire" Loads
1010.765	Suspension or Revocation of Exemptions as to Foreign Registered Vehicles
1010.770	Required Documents for Trucks and Buses to detect "intrastate" movements
1010.775	Certificate of Safety

APPENDIX A Uniform Vehicle Registration Proration and Reciprocity Agreement
APPENDIX B International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95½, pars. 3-100 et seq. and 2-104(b)).

SOURCE: Filed and effective December 15, 1970; emergency amendments at 2 Ill. Reg. 25, p. 119, effective June 14, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 12, p. 76, effective March 23, 1979; amended at 3 Ill. Reg. 29, p. 123, effective July 20, 1979; amended at 4 Ill. Reg. 17, p. 247, effective April 11, 1980; emergency amendments at 4 Ill. Reg. 21, p. 99, effective May 14, 1980, for a maximum of 150 days; amended at 6 Ill. Reg. 2241, effective February 1, 1982; amended at 6 Ill. Reg. 11076, effective August 26, 1982; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 1432, effective January 21, 1983; amended at 7 Ill. Reg. 1436, effective January 21, 1983; amended at 8 Ill. Reg. 5329, effective April 6, 1984; amended at 9 Ill. Reg. 3358, effective March 1, 1985; amended at 9 Ill. Reg. 9176, effective May 30, 1985; amended at 9 Ill. Reg. 12863, effective August 2, 1985; amended at 9 Ill. Reg. 14711, effective September 13, 1985; amended at 10 Ill. Reg. 1243, effective January 6, 1986; amended at 10 Ill. Reg. 4245, effective February 26, 1986; amended at 10 Ill. Reg. 14308, effective August 19, 1986; recodified at 11 Ill. Reg. 15920; amended at 12 Ill. Reg. 14711, effective September 15, 1988; amended at 12 Ill. Reg. 15193, effective September 15, 1988; amended at 13 Ill. Reg. 1598, effective February 1, 1989; amended at 13 Ill. Reg. 5173, effective April 1, 1989; amended at 13 Ill. Reg. 7965, effective May 15, 1989; amended at 13 Ill. Reg. 15102, effective September 15, 1989; amended at 14 Ill. Reg. 3671, effective March 1, 1990; amended at 14 Ill. Reg. 4560, effective March 1, 1990; amended at 14 Ill. Reg. _____, effective _____.

NOTICE OF PROPOSED AMENDMENT(S)

SUBPART F: FEES

Section 1010.510 Determination of Registration Fees

a) References

1) Subject

This Section describes the determinations of registration fees.

2) Authority

This Section is promulgated under the general authority of Section 2-104 of the Illinois Vehicle Code and based on the provisions of Section 3-803 of the Illinois Vehicle Code (IVC), Ill. Rev. Stat. 1983, ch. 95 1/2, pars. 2-104 and 3-803.

3) References

The following Sections of the Illinois Vehicle Code are referenced in this Section:

- 3-801
- 3-803
- 3-806

4) Definitions

"Delayed registration affirmation" means a statement by the owner that the vehicle to be registered has not been operated on the public highways during his ownership. The Office of the Secretary of State shall deny a delayed registration affirmation if all the information requested is not supplied or if the information provided is in conflict with other information.

To "operate" a vehicle means to cause the vehicle to move about the public highways under the vehicle's own power. Towing a vehicle shall not be considered operating the vehicle.

5) Interpretive Comment

A) Section 3-803 of the Illinois Vehicle Code establishes the policy that certain individuals are entitled to a reduced registration fee under specific conditions.

NOTICE OF PROPOSED AMENDMENT(S)

By paragraph 3-803(a) persons who are eligible for a reduction are those who

- 1) acquire the vehicle "after the beginning of... (the applicable) registration period"; or
- 1i) independent of when the vehicle was acquired, have a vehicle "which (became) subject to registration" after the beginning of the applicable registration period.

Paragraph (b) through (d) of Section 3-803 of the Code establish the percent of the permissible reduction to which each class of registrants is entitled and the qualifying times.

B)

In Paragraphs (b) and (d) the term "on which become subject to registration after the beginning of a registration period..." does not appear even though it appears in Paragraph (a). It is our interpretation that the Legislature intended the broader statement of Paragraph (a) to apply throughout Section 3-803 of the Code, and that a vehicle is not subject to registration until the owner uses it on public highways. Therefore, an individual who purchases a vehicle which is specially outfitted or stored does not become subject to registration until the vehicle is so outfitted or removed from storage and the owner operates the vehicle on public highways. If such operation occurs after a qualifying time period for fee reduction, then such individual is entitled to such fee reduction. Guidelines for determining the date a vehicle becomes subject to registration are set forth in paragraph (a)(b), below.

C)

Paragraphs (e) and (f) of Section 3-803 of the Code establish certain types of registration to which fee reduction cannot apply under any circumstance.

D)

Section 3-801 remains unaffected by this rule:

Section 3-801 provides a 24 hour grace period which will enable a new purchaser to operate the vehicle upon the public highways applicable only to vehicle sales between individuals to allow the buyer to drive the vehicle from the point of sale to the individual's residence or to a

NOTICE OF PROPOSED AMENDMENT(S)

facility to obtain registration. Evidence of ownership should be carried on the vehicle and shall consist of a properly assigned title to the new owner or a bill of sale which contains but is not limited to the following information: the name and address of the seller and buyer; the year, make, serial number of the vehicle; and the date of the sale. Once the vehicle has been operated upon the public highways, however, the owner must apply for registration within 24 hours of such operation. The owner's subsequent plans for the vehicle (storage, special outfitting, etc.) are irrelevant. The fee reductions of Section 3-802(b)-(d) are not available once the vehicle has been operated on the public highways.

- ii) Vehicle operated with a 48-hour 5 day permit but not operated after the expiration of the permit shall become subject to registration as provided in subsection (a)(6).
- iii) If the vehicle was towed to its new destination, the vehicle will be subject to registration as provided in subsection (a)(6), infra.

6) Date Vehicles Become Subject to Registration

- A) The date the vehicle is first operated on the public highways by the present owner determines the date the vehicle becomes subject to registration. However, if the date of initial operation of the vehicle is unknown to the personnel of the Department of Vehicle Services, the date upon which the vehicle becomes subject to registration will be determined by subsection B or C below.
- B) The purchase date shall be used to determine when the vehicle became subject to registration if the title and registration application date is within six (6) months of the purchase date, and no delayed registration affirmation accompanied the registration application.
- C) The application date shall be used to determine when the vehicle became subject to registration if
 - i) the title and registration application date is

NOTICE OF PROPOSED AMENDMENT(S)

within six (6) months of the purchase date and the owner submits a delayed registration affirmation; or

- ii) the title and registration application date is more than six (6) months after the purchase date; or
- iii) the vehicle was previously titled but was not registered; or
- iv) the vehicle has been registered within the preceding twelve (12) months, but the plates have been transferred to another vehicle.

- D) For purposes of Section 3-803(f) of the IVC, the date the applicant becomes a resident of this state shall determine when the vehicle became subject to registration if the vehicle, within the preceding 12-month registration year, had been titled and registered in this state but currently is registered in another state. The owner shall submit proper proof that the vehicle had been validly registered in the other state during this period. The other state's vehicle registration card shall provide such proof. If this card is unavailable, the Secretary will request verification of current registration from the other state. Upon providing such verification, the vehicle owner shall not be assessed registration fees for any prior registration period.

b) Calendar Year Registration

- 1) The registration fees and taxes imposed upon vehicles registered on an annual registration year basis shall be reduced by 50 percent when the vehicle becomes subject to registration on or after June 15, but before December 1 of a given calendar year. This subsection shall apply to passenger cars used as taxicabs or livery, and to vehicles registered with funeral home, ambulance, or honorary consular license plates.
- 2)
 - A) Within any calendar year, if an applicant becomes the owner of a vehicle of the first division prior to June 15, and the vehicle is in fact not used or operated on a highway of this state prior to June 15;
 - B) Then the applicant shall be entitled to a reduced registration in the manner provided for in paragraph

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DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of Part: Organizational Chart, Description, Rulemaking Procedure and Programs
- 2) Code Citation: 2 Ill. Adm. Code 700
- 3) Section Number: Adopted Action:
700.20 Amended
- 4) Statutory Authority: Illinois Administrative Procedure Act (Ill. Rev. Stat. 1989, ch. 127, par. 1004.01).
- 5) Effective Date of Amendments: May 29, 1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendments contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 25, 1990
- 9) Notices of Proposal Published in Illinois Register: Because this is internal rulemaking, a notice of proposed rulemaking is not required by the Illinois Administrative Procedure Act.
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version: N/A
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? N/A
- 13) Will these amendments replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments):

The Bureau of Data Information Services and the agency's print shop section have been combined into a one bureau. The bureau has

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DEPARTMENT OF AGRICULTURE
NOTICE OF ADOPTED AMENDMENTS

Telephone: (217) 785-0112

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

Section 700.160 General, Agency, and Peremptory Rules; Internal Rules (Agency's Organization, Description and Rule-making Procedures)
 700.170 Public Participation and Comments
 700.180 Consideration of Rules by Advisory Boards
 700.190 Public Comment Period; Submission of Written Comments; Extending the Public Comment Period
 700.200 Public Hearing Procedure
 700.210 Director's Decision
 700.220 Second Review Period; Final Disposition of Rulemaking Proposal
 700.230 Computing Time
 700.240 Interested Person May Request Rulemaking

Section 700.300 General Rulemaking Initiated by Department
 700.310 Rulemaking Requested by Advisory Board or Committee
 700.320 Emergency or Peremptory Rulemaking by Department

APPENDIX A Marketing Program for Illinois Apples and Peaches
 APPENDIX B Marketing Program for Illinois Corn and Corn Products
 APPENDIX C Marketing Program for Illinois Eggs (Repealed)
 APPENDIX D Marketing Program for Illinois Soybeans and Soybean Products
 APPENDIX E Fertilizer Research and Education Program

AUTHORITY: Implementing and authorized by Section 4.01 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1989, ch. 127, par. 1004.01); Appendix A implementing and authorized by the Apple and Peach Marketing Act (Ill. Rev. Stat. 1989, ch. 5, pars. 351 et seq.); Appendix B implementing and authorized by the Illinois Corn Marketing Act (Ill. Rev. Stat. 1989, ch. 5, pars. 701 et seq.); Appendix C implementing and authorized by the Egg Market Development Act (Ill. Rev. Stat. 1989, ch. 5, pars. 503 et seq.); Appendix D implementing and authorized by the Soybean Marketing Act (Ill. Rev. Stat. 1989, ch. 5, pars. 551 et seq.). Appendix E implementing and authorized by the Illinois Fertilizer Act of 1961 (Ill. Rev. Stat. 1989, ch. 5, par. 55.6a) as amended by P.A. 86-232, effective August 15, 1989).

SOURCE: Rules and Regulations Relating to The Administrative Procedure Act, filed December 30, 1977, effective January 15, 1978; amended at 5 Ill. Reg. 10257, effective September 29, 1981, codified at 2 Ill. Adm. Code 450 et 5 Ill. Reg. 10255; amended at 5 Ill. Reg. 10613, effective November 29, 1981; amended at 6 Ill.

Section 700.160 TITLE 2: GOVERNMENTAL ORGANIZATION
 SUBTITLE D: CODE DEPARTMENTS
 CHAPTER I: DEPARTMENT OF AGRICULTURE

PART 700
 ORGANIZATIONAL CHART, DESCRIPTION, RULEMAKING PROCEDURE, AND PROGRAMS

SUBPART A: DESCRIPTION OF THE DEPARTMENT OF AGRICULTURE

Section 700.10 Scope of the Department of Agriculture
 700.20 Division of Administrative Services
 700.30 Division of Animal Industries
 700.40 Division of Marketing
 700.50 Division of Plant Industries and Consumer Services
 700.60 Division of Fairs and Horse Racing
 700.70 Division of Natural Resources
 700.80 Statutorily Established Advisory Boards and Committees

SUBPART B: ORGANIZATIONAL CHART

Section 700.100 Illinois Department of Agriculture Organization Chart

SUBPART C: REQUEST FOR INFORMATION

Section 700.110 Information About Programs, Activities, Laws and Rules
 700.120 Information On Employment

SUBPART D: PROGRAMS (LAWS) ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE

Section 700.130 Code Indicating Administrative Enforcement
 700.140 Statutes Administered by the Department of Agriculture

SUBPART E: RULES AND REGULATIONS DEPARTMENT OF AGRICULTURE

Section 700.150 Rules and Regulations Promulgated by the Department of Agriculture

SUBPART F: PROVISIONS AND PROCEDURES GOVERNING THE PROMULGATION OF RULES AND REGULATIONS

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

Reg. 11826, effective September 21, 1982; amended at 7 Ill. Reg. 9147, effective July 26, 1983; amended at 8 Ill. Reg. 13124, effective July 12, 1984; amended at 10 Ill. Reg. 13168, effective July 25, 1986. Rules and Regulations Relating to the Procedures for the Establishment of an Apple and Peach Marketing Program, filed and effective March 10, 1972; amended at 4 Ill. Reg. 19, p. 181, effective April 28, 1980; codified as 8 Ill. Adm. Code 300 at 5 Ill. Reg. 10547; Part repealed at 6 Ill. Reg. 10908, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11154, effective August 31, 1983. Corn Marketing Program adopted at 3 Ill. Reg. 47, p. 72, effective November 9, 1979; codified as 8 Ill. Adm. Code 310 at 5 Ill. Reg. 10549; Part repealed at 6 Ill. Reg. 10909, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 3407, effective March 21, 1983. Rules and Regulations Relating to the Procedures for the Establishment of an Egg Marketing Program, filed January 3, 1973, effective January 13, 1973; codified as 8 Ill. Adm. Code 320 at 5 Ill. Reg. 10551; Part repealed at 6 Ill. Reg. 10915, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11171, effective August 31, 1983. Rules and Regulations Relating to Procedures for the Establishment of a Soybean Marketing Program, filed March 20, 1974, effective April 1, 1974; amended May 2, 1974, effective May 12, 1974; codified as 8 Ill. Adm. Code 330 at 5 Ill. Reg. 10553; Part repealed at 6 Ill. Reg. 10916, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11189, effective August 31, 1983. 2 Ill. Adm. Code 450 recodified to 2 Ill. Adm. Code 700, 8 Ill. Adm. Code 300 recodified to 2 Ill. Adm. Code 700. Appendix A, 8 Ill. Adm. Code 310 recodified to 2 Ill. Adm. Code 700. Appendix B, 8 Ill. Adm. Code 320 recodified to 2 Ill. Adm. Code 700. Appendix C, and 8 Ill. Adm. Code 330 recodified to 2 Ill. Adm. Code 700. Appendix D at 11 Ill. Reg. 15602, effective September 10, 1987; amended at 11 Ill. Reg. 18605, effective October 28, 1987; amended at 12 Ill. Reg. 6648, effective March 25, 1988; amended at 12 Ill. Reg. 22135, effective December 8, 1988; amended at 13 Ill. Reg. 5066, effective March 31, 1989; amended at 14 Ill. Reg. 584, effective December 27, 1989; amended at 14 Ill. Reg. 4093, effective March 2, 1990; amended at 14 Ill. Reg. 9009, effective May 29, 1990.

NOTE: Capitalization denotes statutory language.

SUBPART A: DESCRIPTION OF THE DEPARTMENT OF AGRICULTURE

Section 700.20 Division of Administrative Services

- a) The Division of Administrative Services supports all branches of the Department. Functions of the division include:

DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED AMENDMENTS

- 1) The General Office Administrative Staff performs a variety of support functions. They carry out research projects on problems facing the Department or any sector of the agricultural community. Internal management programs are administered through this office, such as, training programs for Department personnel and support for the Director's office.
 - A) The legal staff provides counsel to the Department on all legal matters.
 - B) The legislative staff is responsible for the preparation and presentation of the Department's legislative program and for advising the Governor about bills that affect agriculture.
 - C) The rulemaking staff prepares and adopts rules in accordance with the procedures and requirements of The Illinois Administrative Procedure Act (Ill. Rev. Stat. 1989, ch. 127, par. 1001 et seq.) and maintains the official rules of the Department as promulgated under the statutory authority of the Department.
- 2) The Bureau of Buildings and Grounds is responsible for the management and maintenance of all buildings and grounds, equipment and security under the control of the Department.
- 3) The Bureau of Computer and Printing Services provides data processing, word processing and printing support services for the entire Department Data Information Services provides data processing and word processing capabilities for the entire Department.
 - b) Address and phone numbers for the Division of Administrative Services:
 - 1) Superintendent, Division of Administrative Services, Department of Agriculture, Agriculture Building, State Fairgrounds, Post Office Box 19281, Springfield, 62794-9281; Phone 217/782-2172.
 - 2) Buildings and Grounds; Phone 217/782-0789 (Springfield) and 618/542-9797 (DuQuoin).

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DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

545.345	New Section
545.350	New Section
545.355	New Section
545.360	New Section
545.365	New Section
545.410	New Section
545.420	New Section
545.430	New Section
545.440	New Section
545.450	New Section
545.460	New Section
545.470	New Section
545.480	New Section
545.490	New Section
545.495	New Section

- 4) Statutory Authority: Implementing and authorized by the Technology Advancement and Development Act (P.A. 86-870, effective September 8, 1989).
- 5) Effective Date of Amendments: May 29, 1990
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Do these rules contain incorporations by reference? Yes, under Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: May 22, 1990.
- 9) Notice of Proposal Published in Illinois Register: December 15, 1989; 13 Ill. Reg. 19336.
- 10) Has JCAR issued a Statement of Objections to these rules? No.
- 11) Differences between proposal and final version:

In the table of contents a new Section 545.25 entitled "Incorporation by Reference" has been added.

In the table of contents the heading for Section 545.340 has been corrected to match the heading in the text.

A new Section 545.25 has been added to provide information on "Incorporation by Reference".

Section 545.30

In the fourth line of subsection(b)(2), "the" has been inserted before "science".

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

To the end of subsection(b)(4) and (b)(5), the following phrase has been added: "when the resources of the Committee are insufficient to assure a thorough review".

In the second line of subsection(c)(2), "Administration" has been changed to "Administrative".

The phrase "when the resources of the Coalition are insufficient to assure a thorough review" has been added to the end of subsection(c)(5).

Section 545.50

Another sentence has been added to the end of subsection(a) which reads: "Applicants shall be notified in writing within 120 days of the application deadline."

Subsection(b) has been revised to include additional requirements in the application.

In line 1 of subsection(c), deleted "concise".

In line 2 of subsection(c), changed "P.A. 86-870" to "the Act".

Section 545.60

The following sentence has been added to the end of subsection(b)(1): "In making this determination, the Department shall look for evidence of: consistent failure to submit required reports, failure to maintain required records, failure to protect inventory, misuse of equipment, or findings of fraud and abuse."

In the first line of subsection(b)(2), replaced "consider" with "give equal consideration to".

Another sentence has been added to the end of subsection(b)(4) which reads: "Directly attributable costs are: capital improvements, equipment, contractual services, personnel, support costs, including telecommunications, electronic data processing and commodities."

Section 545.70

In lines 7 and 8 of subsection(a), "P.A. 86-870, effective September 8, 1989" has been replaced with "the Act".

The first sentence of subsection(d) has been rewritten as follows: "The grantee will conduct an audit of all appropriate program records (such as books of accounts, warrants, receipts for payment, reports of in-kind expenditures, time sheets and bank deposit slips) as required by the Department, using an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500 et seq.)."

NOTICE OF ADOPTED RULES

In the sixth line of subsection(d), inserted "(1989)" after "(AICPA)".
In the second sentence of subsection(e), "may" has been changed to "shall" and "reduced or" has been inserted after "be".

Another sentence has been added to the end of subsection(e) which reads: "Grants shall be terminated for consistent failure to submit required reports, failure to maintain required records, failure to protect inventory, misuse of equipment, or findings of fraud and abuse."
Subsection(j) has been rewritten to read: "Administrative Costs - Only 15% of direct costs can be used as general indirect costs."

The following sentence has been added to the end of subsection(k)(2): "The waiver will be documented and kept on file by the Department."
In the third sentence of subsection(m)(1), "10th" has been changed to "30th" and "reporting period" has been changed to "fiscal quarter".

In the first sentence of subsection(m)(2), a period has been placed after "report" and the remainder of the sentence has been deleted.
The second sentence of subsection(m)(2) has been changed to read: "The program report shall include a narrative report on progress towards achieving objectives and activities which advance technology, leverage federal or private research dollars and activities which adapt, commercialize or adopt advanced technologies for the benefit of the State or which create or retain jobs in Illinois and economic impact of the program (Section 2003 of the Act)."
In the last sentence of subsection(m)(2), "reporting period" has been changed to "fiscal quarter".

Section 545.110
In the twelfth line of subsection(a), changed "may" to "shall".
In line 14 of subsection(a), inserted "acquisition of assets," after "development costs," and inserted "general selling and administrative expenses," after "organization costs,".

Section 545.120
In line 5 of the definition of "Participating Lender", replaced "or other institution approved by the Department" with ", entity or funding source".

NOTICE OF ADOPTED RULES

In the definition of "Qualified Security Investments", changed "contact" to "contract" in line 5 and changed "right" to "right" in line 9.

Section 545.130
In the fourth line, replaced "should" with "shall summarize," and added "(see Section 545.150)" to the end of the section.
Section 545.150
In the first line the word "should" has been changed to "shall".
In the third line of subsection(a), changed "should" to "shall".
In the last line of subsection(b), changed "should" to "shall".

In the second line of subsection(g), replaced "MAI" with "independent".
In lines 5-6 of subsection(h), deleted "Detail should" and replaced it with "The applicant shall, if applicable,".

Subsection(j) has been rewritten as follows: "Company management - a listing of those people responsible for the management of the company (including resumes and personal references), their positions and job responsibilities and percentages of ownership, if applicable."
Subsection(k) has been deleted and subsection(l) relabeled as (k).
Section 545.160
In line 4 of subsection(a), deleted "may" and in line 5 inserted "(as evidenced by academic and professional credentials in the subject matter of the proposed project)" after "technology".

In line 4 of subsection(b), placed a period after "information" and deleted the remainder of the sentence.
In line 2 of subsection(c), changed "may" to "shall" and inserted ", if applicable," after "include" on line 3.

Section 545.170
Inserted ", based on an evaluation of the criteria listed in Section 545.160," after "exhibit" in line 2 of subsection(a) and in line 4 of the same subsection inserted "that" before "seeks".
Another sentence has been added to the end of subsection(a) which reads: "The amount of money that shall be invested in the program shall be determined in light of the amount requested, amount of matching funds available to the applicant and the capital requirements of the proposed project."

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

In subsection(b), line 2, inserted "of" after "amount" and in line 6 changed "should evidence" to "shall list".

New language has been added to subsection(b) which reads: "In determining whether to grant such a waiver, the Director shall consider the following factors, if applicable: the project would not go forward but for the State's participation; the business is located in a distressed community; the anticipated business has a likelihood of generating new or increased businesses or investment within the State. The waiver will be documented and kept on file by the Department."

Section 545.180

In line 1, deleted the space between "545.140" and the comma which follows.

In subsection(a), line 1, deleted "and".

In subsection(c), replaced "indicates that the company's project is commercially feasible and viable " with "is correct".

Section 545.190

The language ", (i.e., receipts, property control records, documents evidencing the scope of signature authority of an applicant's employees)" has been added to the end of subsection(a)(2).

In subsection(b) "NOT" has been placed in lower-case.

Section 545.195

In subsection(a), line 1, "will" has been changed to "shall".

The last sentence of subsection(a) has been replaced with "Fair market value of the state's equity shares to be determined by mutual agreement or arbitration."

Added "(e.g., payment schedules, default rates of return, late payment penalties)" to the end of subsection(b)(2)(B).

The language "rules or regulations of any administrative or governmental body," has been deleted from lines 8-9 of subsection(c).

In subsection(f)(1), "certified" has been added in line 4 after "independent"; "certified and" has been deleted from line 5, and ", pursuant to the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500 et seq.)" has been inserted after "Illinois" in line 6.

In line 2 of subsection(f)(2), the word "house" has been replaced with "hours".

DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

NOTICE OF ADOPTED RULES

In subsection(i), the first letters of "financial accounting standards board" have been placed in upper-case and "(September 19, 1987)" has been placed after "(AICPA)".

Section 545.210

The cite "(Section 3001(ii) of the Act)" has been added to the end of this Section.

Section 545.215

The cite "(Section 1003(c) of the Act)" has been added to the end of the definition of "Business Project".

The cite "(Section 1003(g) of the Act)" has been added to the end of the definition of "Loan".

The cite "(Section 1003(h) of the Act)" has been added in the fifth line after "INSTITUTION" in the definition of "Participating Lender".

Section 545.225

In line 4 of subsection(b), capitalized "department".

Section 545.230

Subsection(d) has been rewritten as follows: "Actual and Pro Forma Statements -- Financial Statements must be submitted by the company. Audited financial statements are preferred; prepared financial statements are the minimum which is acceptable. Prepared statements must be certified by the applicant's chief executive officer as being prepared from the books and records of the company, fairly reflecting the operations and financial position of the company. Financial statements shall include:".

In line 2 of subsection(g), "sate" has been corrected to "state".

The language "conducted in accordance with Section 5 of the Responsible Property Transfer Act of 1988 (Ill. Rev. Stat. 1988 Supp., ch. 30, par. 905)" has been added to the end of subsection(h)(3).

Section 545.235

In subsection(a), the third sentence has been deleted, the last sentence has been moved up to take its place and the language "as provided in Section 545.235 (b)-(d)" has been added.

In subsection(d)(1), inserted "published by Robert Morris Associates, P.O. Box 8500, S-1140, Philadelphia, Pa., 19178)" before "(1988)" in line 3.

In line 6 of subsection(d)(4), the cite "(Section 3002(a) of the Act)" has been inserted after "DEPARTMENT".

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In line 4 of subsection(a), changed "can" to "shall".

Line 9 of subsection(b) has been changed to read: "Services shall include any or all of the following, as applicable:".

Section 545.325

In lines 3 and 4 of subsection(c), replaced "Department assistance through this program may be targeted through special promotions and advertising to assist" with "If funds are available, the Department may target assistance through this program, based on the following factors:".

Section 545.330

Subsection(a) has been revised to read: "Company information shall include the following, if applicable:".

The last sentence of subsection(a)(5)(B) has been replaced with the following new sentence: "Audited financial statements are preferred; prepared financial statements are the minimum which is acceptable."

Section 545.335

In subsection(b), line 2, changed "may" to "shall".

In subsection(b), line 3, replaced "determines the necessity to do so" with "cannot verify application information through other means".

Section 545.340

In subsection(a), lines 2-3, deleted language after "determine" and replaced it with "that the proposed activities and services could be expected to result in the project impact as set out in subsection(c)".

In line 2 of subsection(b), deleted "there is minimal likelihood" and inserted "not" after "could".

In line 3 of subsection(b), inserted "not" after "would" and moved remainder of text up to start on that line.

In line 2 of subsection(d), placed a period after "results" and deleted the remainder of sentence.

Section 545.345

In lines 6-7 of subsection(a), "will be targeted figures based on the anticipated demand for funds which" has been deleted and replaced with "shall be based on the previous demand for funds and likely grant applications(based on inquiries made to the Department) and".

In line 2 of subsection(b)(3), after "JOBS", inserted "(Section 3004(e)(1) through (iii) of the Act)".

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In line 2 of subsection(d), changed "legislation" to "Act".

The second sentence of subsection(c) has been replaced with the following language: "The waiver will be documented and kept of file by the Department. In determining whether to waive the funding limitation, the Director shall consider the following:".

Section 545.350

In line 1 of subsection(b) and line 2 of subsection(c) changed "may" to "shall".

Section 545.355

In line 5 of subsection(c), "il." has been changed to "Ill.".

All language after "in" in line 2 of subsection(d) has been replaced with "47 Ill. Adm. Code 10 (Review and Appeal Procedures)".

In line 2 of subsection(f), capitalized the first letter of "department".

In line 5 of subsection(f), replaced "as determined by the Department" with "in accordance with the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1987, ch. 127, pars. 2301 et seq.)".

In line 5 of subsection(g) changed "or" to "and".

Language has been added to the end of subsection(g) which reads: "Examples of the categories of disbursements follow:"

- 1) Advance Payment - Applicant is a governmental unit or nonprofit entity.
- 2) Work in Progress Payment - Project requires reimbursement to facilitate cash flow, project term is more than one month or more than one report is to be submitted.
- 3) Single Payment - Project end report is received prior to disbursement by the Department."

In subsection(i), line 3, changed "2301" to "2310".

In subsection(j), line 5, changed "may" to "shall also".

Subsection 545.360

Added language to the end of subsection(a) which reads: "Examples of circumstances in which interim progress reports shall be required include, but are not limited to:"

- 1) applicant has failed to provide a report required by the

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grant agreement;

2) reports to address inquiries from Department auditors, and;

3) reports requested by the Department for year end budget and

program planning purposes."

In line 5 of subsection(d)(3), changed "may" to "shall".

In line 4 of subsection(e) inserted "(such as books of accounts, warrants, receipts for payment, reports of in-kind expenditures, time sheets and bank deposit slips)" after "records".

Section 545.365

In line 5 of subsection(a)(1), inserted "Funds" after "Grant".

The following sentence has been added to the end of subsection(a)(2): "Such determinations shall be based on a review of the data submitted pursuant to Section 545.340."

In line 1 of subsection(b)(1), changed "believes" to "determines" and in line 2 of the same subsection, deleted "faithfully".

In line 3 of subsection(b)(1), replaced "may" with "shall, after notice and an opportunity to correct has been provided to the Recipient,"

Section 545.410

Added the cite "(Section 3001(iv) of the Act)" to the end of the Section.

Section 545.420

Added the cite "(Section 1003(c) of the Act)" to the end of the definition of "BUSINESS PROJECT".

Added the cite "(Section 1003(b) of the Act)" at the end of the definition of "BUSINESS PROJECT EXPENSE".

Added the cite "(Section 1003(f) of the Act)" to the end of the definition of "FINANCIAL ASSISTANCE".

Added the cite "(Section 1003(i) of the Act)" at the end of the definition of "QUALIFIED SECURITY INVESTMENTS".

Section 545.440

In line 3 of subsection(b), capitalized the first letter of "part".

Added "as determined by anticipated operational costs of less than or equal to anticipated income or the availability of equity to cover any shortfall based on the company's historical and projected financial

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statements" in subsection(b)(8), line 3, after "public".

Section 545.450
In the last lines of subsections(a)(1), (a)(2), and (a)(3) capitalized the "a" in "act".

In line 1 of subsection(b), inserted "shall" before "waive".

Section 545.460

The last 2 lines of subsection(c) have been deleted and replaced with "47 Ill. Adm. Code 10 (Review and Appeal Procedures)".

Deleted subsection(g) and relabeled subsection(h) as (g).

In line 2 of subsection(g), formerly (h), deleted "provide adequate standards".

Section 545.470

In line 4 of subsection(a), capitalized "commission".

In the last line of subsection(b), replaced "purposes of the Act" with "grant award criteria listed in Section 545.430".

In the last line of subsection(g) corrected "(AIPA)" to say "AICPA" and changed "(June, 1984)" to "(September 19, 1987)".

In line 5 of subsection(h), changed "may" to "shall".

Section 545.480

In subsection(a), line 3, inserted "certified" before "public" and deleted "certified and".

In line 4 of subsection(a), inserted "pursuant to the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500 et seq.)" after "Illinois".

In line 5 of subsection(a), inserted "adopted by the American Institute of Certified Public Accountants (AICPA) (1989)" after "standards".

Deleted subsection(b) and relabeled the rest of the subsections that follow.

Section 545.490

In line 6 of subsection(a)(1), inserted "Funds" after "Grant".

In line 7 of subsection(a)(2), inserted "of the grant award criteria set out in Section 545.430" after "objectives".

In subsection(b)(1), line 1, changed "believes" to "determines".

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In subsection(b)(1), line 2, deleted "faithfully".

In line 3 of subsection(b)(1), replaced "may" with "shall, after notice and an opportunity to correct has been provided to the recipient,".

In line 6 of subsection(c)(2), deleted "the".

Section 545.495

Added the cite "(Section 3003 of the Act)" to the end of subsections(a) and (b).

In line 3 of subsection(c), replaced "BE IN THE FORM OF" with "include, but shall not be limited to" and inserted "or" before "BOND" in line 4.

In lines 5-6 of subsection(c) replaced all language after "PURCHASE" with the cite "(Section 3002(a) of the Act)".

Added the cite "(Section 3002(b) of the Act)" in line 4 of subsection(d) after "THE".

Added the cite "(Section 3002(c) of the Act)" to the end of subsection(e).

Added the cite "(Section 3004(b) of the Act)" at the end of subsection(f).

Added the cite "(Section 3004(a) of the Act)" at the end of subsection(g):

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.
- 13) Will these rules replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
- 15) Summary and Purpose of Rules: The Technology Advancement and Development Act (Act) took effect September 8, 1989. This rulemaking serves to implement five new programs which the Act authorizes: the

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specifies loan provisions governing agreements, terms, security, termination, default, and maintenance and insurance of property. This Subpart also addresses waivers, leverage, and audits. Subpart D has separate Sections dealing with the modification, suspension, and termination of a grant as well as project reporting. Subpart E includes Sections on audits; modification, suspension and termination of financial assistance; and relending.

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

Mr. John D. Taylor, Deputy Director
Department of Commerce and Community Affairs
Bureau of Program Administration
620 East Adams Street, 5th floor
Springfield, Illinois 62701
(217) 782-6136

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

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a) General Purposes

- 1) TO INCREASE THE LEVEL OF INVESTMENT IN RESEARCH AND DEVELOPMENT UTILIZING INDUSTRY, STATE AND LOCAL GOVERNMENT, AND LABOR AND ACADEMIA TO CREATE STATEWIDE PROGRAMS FOSTERING AN IMPROVED ENVIRONMENT FOR PRODUCTIVITY AND TECHNOLOGICAL COMPETITIVENESS.
- 2) TO UTILIZE ILLINOIS' PRESENT RESOURCES IN MANY DEVELOPING AREAS INCLUDING HEALTH CARE AND BIOMEDICAL RESEARCH, INFORMATION AND TELECOMMUNICATIONS, COMPUTING AND ELECTRONIC EQUIPMENT, MANUFACTURING TECHNOLOGIES AND MATERIALS RESEARCH, TRANSPORTATION AND AEROSPACE, GEOSCIENCE, FINANCIAL AND SERVICE INDUSTRIES, AND AGRICULTURE AND BIOTECHNOLOGY.
- 3) TO IDENTIFY, DEVELOP AND COMMERCIALIZE TECHNOLOGY WHICH WILL PERMIT ILLINOIS FIRMS TO SUCCESSFULLY COMPETE IN TODAY'S WORLD MARKETS, AND
- 4) TO PROMOTE SYSTEMATICALLY, THOSE PRIVATE SECTOR AND NONPROFIT RESEARCH INSTITUTION EFFORTS THAT WILL CONTINUE TO INSURE ILLINOIS' ECONOMIC VITALITY AND COMPETITIVENESS (Section 1002 of the Act).

b) Grant Purposes

- 1) TO RESPOND TO UNIQUE, ADVANCED TECHNOLOGY PROJECTS FOR WHICH NO OTHER SOURCE OF FUNDING IS AVAILABLE AND WHICH FOSTER THE DEVELOPMENT OF ILLINOIS' ECONOMY THROUGH THE ADVANCEMENT OF THE STATE'S SCIENTIFIC AND TECHNOLOGICAL ASSETS.
- 2) TO RECOGNIZE TECHNOLOGY PROGRAMS OF EXEMPLARY AND OUTSTANDING RESEARCH IN THE FIELD OF SCIENCE AND TECHNOLOGY WHICH WILL BE OF BENEFIT TO ILLINOIS INDUSTRIES INCLUDING BUT NOT LIMITED TO HEALTH CARE AND BIOMEDICAL RESEARCH COMPUTING AND ELECTRONIC EQUIPMENT, MANUFACTURING TECHNOLOGIES AND MATERIALS RESEARCH, TRANSPORTATION AND AEROSPACE, GEOSCIENCE, FINANCIAL AND SERVICE INDUSTRIES, AGRICULTURE AND BIOTECHNOLOGY.
- 3) TO ASSIST ELIGIBLE APPLICANTS IN THE STATE APPLY FOR, OR QUALIFY FOR AND LEVERAGE, FEDERAL FUNDS AWARDED FOR ADVANCED TECHNOLOGY PROJECTS CONCERNING RESEARCH AND DEVELOPMENT, BUSINESS INNOVATION RESEARCH OR TECHNICAL DEVELOPMENT, OR THE TRANSFER OF USEFUL TECHNOLOGY TO THE PRIVATE SECTOR.

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- 4) TO FUND TECHNOLOGY PARTNERSHIPS, TECHNOLOGY CONSORTIUMS OR RESEARCH CENTERS THAT ARE, OR WILL BE, ESTABLISHED TO PERFORM RESEARCH AND DEVELOPMENT IN PRESENT AND EMERGING TECHNOLOGIES THAT CAN BE DEVELOPED FOR USE BY COMMERCE AND INDUSTRY.
- 5) GRANTS AWARDED PURSUANT TO THIS SUBPART MAY BE USED TO HELP SUBSIDIZE EXPENSES, AS APPROVED BY THE DEPARTMENT, FOR CAPITAL IMPROVEMENTS, EQUIPMENT, CONTRACTUAL SERVICES, COMMODITIES, PERSONNEL, SUPPORT COSTS, INCLUDING TELECOMMUNICATION, ELECTRONIC DATA AND COMMODITIES, OR OTHER COSTS (Section 2002 of the Act).

Section 545.20 Definitions

"Act" - The Technology Advancement and Development Act (P.A. 86-870, effective September 8, 1989).

"ADVANCED TECHNOLOGY PROJECT" - ANY AREA OF BASIC OR APPLIED RESEARCH OR DEVELOPMENT WHICH IS DESIGNED TO FOSTER GREATER KNOWLEDGE OR UNDERSTANDING, OR WHICH IS DESIGNED FOR THE PURPOSES OF IMPROVING, DESIGNING, DEVELOPING, PROTOTYPING, PRODUCING OR COMMERCIALIZING NEW PRODUCTS, TECHNIQUES, PROCESSES OR TECHNICAL DEVICES IN PRESENT OR EMERGING FIELDS INCLUDING BUT NOT LIMITED TO HEALTH CARE AND BIOMEDICAL RESEARCH, INFORMATION AND COMMUNICATION SYSTEMS, COMPUTING AND COMPUTER SERVICES, ELECTRONICS, MANUFACTURING, ROBOTICS AND MATERIALS RESEARCH TRANSPORTATION AND AEROSPACE, AGRICULTURE AND BIOTECHNOLOGY, AND FINANCE AND SERVICES (Section 1003(a) of the Act).

"Application" - A request for program funds including the required statistical and narrative information and attachments.

"Associated Private Sector Coalition" - The Illinois Coalition. The Illinois Coalition is a private, not-for-profit corporation formed to advance the scientific and technological strength of Illinois by increasing publicly and privately supported research and development, and to improve the economic prospects of Illinois and the region.

"Coalition" - The Illinois Coalition.

"Committee" - The Governor's Science Advisory Committee.

"Department" - The Illinois Department of Commerce and Community Affairs.

"Director" - The Director of the Illinois Department of Commerce and Community Affairs.

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"Grant" - Funds provided from the Department through the Technology Challenge Grant Program.

"Grant Award" - Contractual agreement between the Department and grantee, which includes the scope of work to be provided, the budget, and all terms and conditions of the contract.

"Grantee" - Any eligible applicant receiving funds under this program.

"Nonexpendable Personal Property" - Tangible personal property having a useful life of more than one year and an acquisition cost of \$300 or more per unit.

"Program" - The Technology Challenge Grant Program.
"Program Income" - Earnings by the recipient realized from grant supported activities.

"Project" - An activity or activities funded under this program.

Section 545.25 Incorporation by Reference

a) Any incorporation by reference in this part of standards of a nationally recognized organization or association includes no new amendments or editions after the date specified.

b) The American Institute of Certified Public Accountants is located at 1211 Avenue of the Americas, New York, New York, 10036-8775.

Section 545.30 Program Responsibilities

a) The Department shall establish and administer a Technology Challenge Grant Program as provided under the provisions of the Act. The Department, in addition to those powers granted under Section 46.60 of the Civil Administrative Code of Illinois, (Ill. Rev. Stat. 1987, ch. 127, par. 46.60, as added by P.A. 86-870, effective September 8, 1989) is granted the powers specified in Section 1004 of the Act.

Governor's Science Advisory Committee

1) The Department and the Illinois Department of Energy and Natural Resources are hereby authorized to cooperate with and provide support to the Governor's Science Advisory Committee and the Coalition. Such support may include but not be limited to the provision of office space and may be technical, advisory or operational in nature.

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2) The Committee shall be comprised of distinguished scientists and engineers selected by the Science and Technology Advisor to the Governor. The position and duties of the Science and Technology Advisor to the Governor are described in Executive Order 89-2.

3) The Committee shall review and evaluate all applications for grants from the Technology Challenge Grant Program. The Committee shall determine the scientific and technical merit of the proposal for which a grant is sought.

4) The Committee may seek evaluations from external reviewers and may form subcommittees, study groups, or task forces for purposes of conducting the review and evaluation. These review and evaluation tasks may be conducted jointly with the Coalition when the resources of the Committee are insufficient to assure a thorough review.

5) The Committee shall make a report of findings and recommendations for funding to the Director of the Department. The Committee may seek concurrence from the Coalition regarding the Committee's findings and recommendations when the resources of the Committee are insufficient to assure a thorough review.

6) The recommendations for funding made to the Director may include recommendations for multi-year commitments by the Department. All such recommendations shall be subject to availability of appropriations and all applicable law.

Associated Private Sector Coalition

1) A private sector coalition shall be formed in association with the Committee to advance the scientific and technological strength of Illinois by increasing publicly and privately supported research and development, and to improve the economic prospects of Illinois and the region. The associated private sector coalition shall be the Illinois Coalition.

In accordance with Section 46.60 of the Civil Administrative Code of Illinois, the Department shall cooperate with the Coalition for the purpose of administering programs to identify, develop or commercialize technology.

2) In accordance with Section 46.60 of the Civil Administrative Code of Illinois, the Department shall cooperate with the Coalition for the purpose of administering programs to identify, develop or commercialize technology or promote private sector efforts to identify, develop or commercialize technology.

3) The Coalition shall include representatives of Illinois businesses, both large and small, representatives of labor

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organizations, representatives of government, representatives of institutions of higher education research including federal laboratories located in Illinois.

- 4) The Coalition shall review and evaluate all applications for a grant from the Technology Challenge Grant Program as presented to the Coalition by the Department. The Coalition shall determine the potential economic and commercial benefits of the proposed project to Illinois and the likelihood that the project for which assistance is sought will:
- A) contribute to Illinois' scientific and technological development;
 - B) promote the private commercialization of new products and processes by and for Illinois businesses;
 - C) establish consortia for research and development in Illinois; or
 - D) increase Illinois' competitiveness for federal and private sector research and development funds.
- 5) The Coalition may seek evaluation of applications from external sources and may form subcommittees for the purposes of conducting the review and evaluation. The Coalition may seek concurrence from the Committee, regarding the Coalition's findings and recommendations when the resources of the Coalition are insufficient to assure a thorough review.
- 6) The Coalition shall make a report of its findings and recommendations to the Director.

Section 545.40 Eligible Applicants

Eligible applicants shall include:

- a) universities, colleges, community colleges, nonprofit research foundations or laboratories, State research institutions, or
- b) technology partnerships or technology consortiums established by a formal joint project agreement between:
 - 1) two or more private industries, or
 - 2) any combination of one or more private industries with one

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or more universities, colleges, community colleges, nonprofit research laboratories, nonprofit research foundations, or State research institutions.

Section 545.50 Application Process

- a) At least annually the Department shall issue a Request for Proposals (RFP) soliciting grant requests for the Technology Challenge Grant Program. The RFP shall include the deadline(s) for applications and a timeline for the applications' review and notification to the applicants. Applicants shall be notified in writing within 120 days of the application deadline.
- b) Applications to the Technology Challenge Grant Program shall include:
 - 1) A cover page with the title of the application; the name of the institution submitting the application; the name, address and telephone number of the individual authorized to submit the application; and if different, the name, address and telephone number of an individual qualified, willing, and available to answer questions about the application that may arise during review of the application; the amount of State funding requested; and the starting and ending dates for the proposed project.
 - 2) A summary or abstract of the proposed project.
 - 3) The body of the application may be in whatever format the applicant believes best describes the proposed project. A text of less than ten pages is sufficient for most projects. A list of references cited and other key documents should be provided.
 - 4) A one or two page professional resume should be provided for the proposed project manager or principal investigator.
 - 5) Twelve complete copies of the application should be submitted to:

Director
Illinois Department of Commerce & Community Affairs
Office of Technology Advancement and Development
State of Illinois Center
100 West Randolph Street, Suite 3-400
Chicago, Illinois 60601
Attn: Technology Challenge Fund
- c) The application shall contain responses to all of the following (The Act requires that the Department consider these items in

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may be considered for funding under this Subpart. Directly attributable costs are: capital improvements, equipment, contractual services, personnel, support costs, including telecommunications, electronic data processing and commodities.

Section 545.70 Program Administration Requirements

- a) Record Retention and Review - Grantees will, as deemed necessary by the Department, permit the Department or its representatives to have full access to and the right to examine any pertinent documents, papers, and records of the recipient involving transactions related to a grant under this program. To the extent authorized by the Freedom of Information Act (Ill. Rev. Stat. 1987, ch. 116, pars. 201 et seq., as amended by the Act), the Department will not make public any information disclosing program supported technical information if such disclosure would affect the commercialization potential of the project.
- b) Financial Management Standards - A grantee's financial management system shall be structured to provide for accurate, current, and complete disclosure of the expenditures under the grant program. The grantee is accountable for funds received under this grant and shall maintain effective control and accountability over all funds, equipment, property, and other assets under the grant. Grantee records shall be sufficient to permit the tracking of funds to a level of expenditure adequate to ensure that funds have not been spent unlawfully.
- c) Method of Compensation -
 - 1) Payments pursuant to a grant are subject to the availability of funds appropriated by the General Assembly.
 - 2) Payments to the grantee are subject to the initiation of an invoice voucher. The first payment for program initiation may be an advance for the first month's cash needs. Thereafter, the payments are dual purpose in that they will be sufficient to cover the expenditures to date as well as the cash needs of the recipient for the next period. Otherwise, payments may be made pursuant to the project budget and a schedule agreed to by the Department and the grantee.
- d) Audits - The grantee will conduct an audit of all appropriate program records (such as books of accounts, warrants, receipts for payment, reports of in-kind expenditures, time sheets and bank deposit slips) as required by the Department, using an independent certified public accountant, licensed by authority of

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the State of Illinois pursuant to the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500 et seq.). The audit must be conducted in accordance with generally accepted auditing standards adopted by the American Institute of Certified Public Accountants (AICPA) (1989) and must be submitted to the Department within six months of the expiration of the grant. If the grantee is routinely audited by the Auditor General of the State of Illinois, the grant need not be audited separately by the grantee.

- e) Suspension and Termination - If the grantee fails to comply with the terms and conditions of the Grant Award, the Department shall, after notice to the grantee, suspend the grant and withhold further payments or prohibit the grantee from incurring additional obligations of grant funds. The Grant shall be reduced or terminated in the absence of full state funding; if the Department determines that the grantee has failed to comply with the terms and conditions of the Grant in whole, or in part; or if the Department and the grantee agree that the continuation of the program objectives would not produce beneficial results commensurate with the future expenditures of funds. Grants shall be terminated for consistent failure to submit required reports, failure to maintain required records, failure to protect inventory, misuse of equipment, or findings of fraud and abuse.
- f) Nondiscrimination - The grantee shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (Ill. Rev. Stat. 1987, ch. 68, pars. 1-101 et seq.).
- g) Complaint Process - In the case of a grantee complaint, the Department will follow the procedures outlined in 47 Ill. Adm. Code 10 (Review and Appeal Procedures).
- h) Patent and Technical Information - Grantee copyright and patent policies must provide for protection of technical information, identify ownership and control of patents, detail procedures for the sale of licensing of patents, and protect government use of patented and copyrighted items.
- i) Publication, Promotion, and Marketing - Grantees shall provide copies of public information and promotional documents, such as program reports, annual reports, informational brochures, fact sheets, manuals, or other similar documents. In addition, all such documents and scientific research papers resulting from grant activities must include acknowledgement of the support of the State of Illinois, Department of Commerce and Community

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2) Program Report - Each grantee shall prepare a program report. The program report shall include a narrative report on progress towards achieving objectives and activities which advance technology, leverage federal or private research dollars and activities which adapt, commercialize or adopt advanced technologies for the benefit of the State or which create or retain jobs in Illinois and economic impact of the program (Section 2003 of the Act). Program reports shall be submitted to the Department by the 30th day following the end of each fiscal quarter.

j) Administrative Costs - Only 15% of direct costs can be used as general indirect costs.

k) Program Match - Each grantee shall be required to match Department funds, except as noted below.

1) Department funds shall account for no more than 50% of the project's costs. Match can include cash or in-kind contributions as well as indirect cost contributions exclusive of the 15% ceiling noted in subsection (j). Grant monies or other funds received from the federal government or from other public and private entities can be calculated as match, provided that such funds are directly related to the objectives of the project and are under the administrative control of the project director.

2) The Director may waive the match requirement upon recommendation of the Committee or the Coalition. Match may be waived when it is demonstrated that no other source of funds is known or available to support the project or that the project would not go forward without the waiver. The waiver will be documented and kept on file by the Department.

l) Interest on grant funds - In accordance with Section 10 of the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1988 Supp., ch. 127, par. 2310), all interest earned on funds held by the recipient under this grant shall become part of the grant principal when earned unless the grant agreement provides otherwise. However, any interest earned on funds subject to a Department grant after the grant's expiration date shall become part of the grant principal and shall be so treated for all purposes.

m) Program Reports - Each grantee is required to report financial and programmatic data to the Department on a regular basis on forms prepared by the Department. Standard reports are as follows:

1) Expenditure Summary - The grantee shall maintain appropriate records of actual grant costs on expenditure summaries supplied by the Department. These expenditure summaries will identify line item costs charged to the grant and line item matching share supplied by the applicant or third parties. Expenditure summaries are to be submitted to the Department by the 30th day following the end of each fiscal quarter.

2) Program Report - Each grantee shall prepare a program report. The program report shall include a narrative report on progress towards achieving objectives and activities which advance technology, leverage federal or private research dollars and activities which adapt, commercialize or adopt advanced technologies for the benefit of the State or which create or retain jobs in Illinois and economic impact of the program (Section 2003 of the Act). Program reports shall be submitted to the Department by the 30th day following the end of each fiscal quarter.

n) Confidentiality of Trade Secrets and Commercial or Financial Information - Applications and other information obtained by the Department under the Technology Challenge Fund shall be administered pursuant to Section 7 of the Freedom of Information Act (Ill. Rev. Stat. 1987, ch. 116, par. 207, as amended by the Act). Trade secrets and commercial or financial information obtained from a person or business where such trade secrets or information are proprietary, privileged or confidential, or where disclosure of such trade secrets or information may cause competitive harm including all information determined confidential under Section 4002 of the Act shall be exempt from inspection and duplication. Nothing in this subsection shall be construed to prevent a person or business from consenting to disclosure.

o) Third Party Award Challenge - Applicants denied funds by the Department in accordance with the provisions of this Act shall not be construed to be conveyed with the right to challenge the awarding of funds by the Department to successful applicants, nor to challenge any other agreement executed in connection therewith.

SUBPART B: TECHNOLOGY VENTURE INVESTMENT PROGRAM

Section 545.110 Purpose

a) Through the Technology Venture Investment Program (Program), the Department of Commerce and Community Affairs will provide capital for investing in young or growing Illinois businesses in cooperation with private investment companies, private investors, or conventional lending institutions. Projects supported by program funds will be with businesses seeking funding for any new process, technique, product or device commercially exploitable by Illinois businesses in fields such as health care and biomedical products, information and telecommunications, computing and electronic equipment, manufacturing technology, materials, transportation and aerospace, geoscience, financial and service

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industries, and agriculture and biotechnology. Program funds shall be used for such costs including, but not limited to, research and development costs, acquisition assets, amortizable organization costs, general selling and administrative expenses, working capital, purchase or lease of machinery and/or equipment, and the acquisition and/or improvement or rehabilitation of land and buildings. The ultimate purpose of the program is to provide funding for advanced technology oriented businesses that is likely to increase job opportunities as a result of the investment.

- b) Any business operating in Illinois may submit a business plan requesting financial assistance under this Program.

Section 545.120 Definitions

"Advanced technology project" means any area of basic or applied research or development which is designed to foster greater knowledge or understanding, or which is designed for the purposes of improving, designing, developing, prototyping, producing or commercializing new products, techniques, processes or technical devices in present or emerging fields of health care and biomedical research, information and communication systems, computing and computer services, electronics, manufacturing, robotics and materials research transportation and aerospace, agriculture and biotechnology, and finance and services.

"Business expense" includes working capital financing, the purchase or lease of machinery and equipment, or the lease or purchase of real property, including construction, renovation or leasehold improvements, but does not include refinancing current debt.

"Business project" means any specific economic development activity of a commercial, industrial, manufacturing, agricultural, scientific, financial, service or other not-for-profit nature, which is expected to yield an increase in jobs or to result in the retention of jobs or an improvement in production efficiency.

"Department" means the Illinois Department of Commerce and Community Affairs.

"Director" means the Director of the Illinois Department of Commerce and Community Affairs.

"Financial assistance" means a loan or a grant or the purchase of qualified securities or other means whereby financial aid is made to or on behalf of a business project or advanced technology

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project.

"Participating lender" means any trust company, bank, savings bank, credit union, merchant bank, investment bank, broker, investment trust, pension fund, building and loan association, savings and loan association, insurance company, venture capital company, entity or funding source which assumes a portion of the financing for a business project.

"Qualified security investments" means any stock, convertible security, treasury stock, limited partnership interest, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, investment contract, certificate of interest or participation in a patent or application or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing, but not including any instrument which contains voting rights or which can be converted to contain voting rights in the possession of the Department.

Section 545.130 Application Cycle

Companies interested in applying for financial assistance under this program must submit a business plan for review. Plans will be accepted throughout the year and consideration of plans will be ongoing until funds are exhausted. Business plans shall summarize, document and convey the company's business strategy, markets, competition, products, management, financial status, and other information relevant for making an informed investment decision (see Section 545.150).

Section 545.140 Application Review

Review process -- The Department shall screen all business plans to determine that all requirements of the program have been addressed. Applicants will be notified of deficiencies in business plans and given an opportunity to correct such deficiencies through resubmission. Business plans meeting overall program guidelines will be provided with a formal application requiring additional information not contained in the business plan. Complete applications will then be reviewed and evaluated by Department staff. This review and evaluation process will be completed within 90 working days of the receipt of a complete application. Department staff will conduct an evaluation of each application.

Section 545.150 Application Documentation

The application shall provide the following information:

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shall include, if applicable, an analysis of the size of the potential market, the anticipated market share, the competitive advantage the project has over existing products on the market, the degree of the competitive advantage, and the potential users of the product(s).

- d) Management Evaluation Component: The Department will require key management to show what their record of performance in a related field has been or how other experiences may benefit the project and may make it viable. The Department will also require the applicants to show their commitment in time and/or personal funds to the project.

Section 545.170 Funding

- a) Program Funds

The Fund may invest up to \$500,000 in an advanced technology project that can exhibit, based on an evaluation of the criteria listed in Section 545.160, the likelihood of the technical and commercial viability of the project's products and/or services and that seeks funds for expenses that include but are not limited to costs incurred for research and development, organizational costs, working capital, machinery and equipment and the acquisition of land and buildings. Investments may be secured by royalties on the anticipated sales of the company, debt, convertible debt, common and/or preferred stock. The amount of money that shall be invested in the program shall be determined in light of the amount requested, amount of matching funds available to the applicant and the capital requirements of the proposed project.

- b) Funding Limitations

In accordance with Section 3004(a) of the Act, the Director will waive the funding limitation governing the amount of the state's percentage participation in the project when it is determined that a waiver of these limits is required to meet the purpose of the Act. Funding to projects will also be subject to evidence that there is an increased job opportunity in the near term as a result of the investment. Applicants shall list the number and types of jobs to be created five years from the date the project is undertaken. In determining whether to grant such a waiver, the Director shall consider the following factors, if applicable: the project would not go forward but for the State's participation; the business is located in a distressed community; the anticipated business has a likelihood of generating new or increased businesses or investment within the State. The waiver will be documented and kept on file by the Department.

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Section 545.180 Selection for Funding

For any application meeting the criteria of Section 545.140, the program staff will conduct a field/site visit to verify the information in the application which will lead to the final funding decision. The field visit will determine:

- a) whether information in the application corresponds to information provided by a physical site visit, by interviewing company management and reviewing company records; and
- b) whether the site meets the needs of the company at the current time based upon the current and anticipated operational needs of the company; and
- c) the extent to which information provided in the application is correct based upon research into the company's industry, market, technology, project and management team.

Section 545.190 Allowable Leverage

- a) Allowable leverage will include funds expended by the business after the date which the Department receives a complete application provided that:
 - 1) the business can provide purchase orders, receipts or other documentation to substantiate that the funds were expended after the date the Department received the complete application;
 - 2) documentation clearly indicates that expenditures are for expenses or assets directly related to, and under the control of, the business applicant, (i.e., receipts, property control records, documents evidencing the scope of signature authority of an applicant's employees);
 - 3) the business provides the Department with a resolution by the business proprietor, President, Chairman and/or Board of Directors, attesting that the documentation provided for proof of matching funds accurately represents the money spent and period during which the funds were expended.
- b) Forms of leverage not allowable will include:
 - 1) funds expended by the business prior to the date which the Department received a complete application;
 - 2) existing in-state equipment, land, buildings, furnishings,

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- iii) Failure to protect inventory;
- iv) Misuse of equipment purchased with the Department's funds;
- v) Evidence of fraud and abuse; and/or
- vi) Consistent failure to meet performance standards set forth in the agreements.

B) The Department shall promptly notify the recipient in writing of the Department's determination to terminate, the reasons for such termination and the effective date of the termination. Payments made to the recipient of recoveries made to the Department shall be made in accordance with the legal rights and liabilities explained in the agreement (e.g., payment schedules, default rates of return, late payment penalties).

3) Termination by Agreement - The Department and the recipient shall terminate the investment in whole or in part when the Department and the recipient agree that continuation of the program and the investment's objectives would not produce beneficial results commensurate with any future expenditure of funds. Both parties shall agree upon termination conditions, including the effective date, and in the case of a partial termination, the portion to be terminated.

c) Events of Default - The entire amount of the investment or the amount of unpaid balance owed to the Department shall be due and payable to the Department if any one of the following events shall occur and be continuing at the time of such demand by the Department, whether voluntarily or involuntarily, or without limitation, occurring or brought by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, provided, however that such sum shall not be payable if recipient's payments have been deferred. The Department will make deferrals based upon a case by case review of the recipient's financial statements and projections to determine if the recipient can make such payments at a future date or dates.

1) Non-payment of indebtedness - If the recipient shall fail to make payment of any amount owed to the Department when due.

2) Incorrect Representation or Warranty - If any

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- 3) Lines of credit; inventory already owned and being utilized;
- 4) post-project costs (such as operation expenses);
- 5) debt refinancing.

Section 545.195 Administrative Requirements

a) Equity - Equity investments shall contain provisions for selling (existing) the equity position, which may include provisions requiring the company to repurchase the state's equity shares at fair market value at a point in the future, possibly within four to eight years from the date of the investment. Fair market value of the state's equity shares to be determined by mutual agreement or arbitration.

b) Termination of the Investment - The Department's investment shall be terminated for the following reasons:

1) Termination Due to Loss of Funding - In the absence of state funding for the investment fund for a year, all investments committed to for that year will be terminated in full. In the event of a partial loss of state funding, the Department will make proportionate cuts to all recipients. In the event that the Department suffers such a loss of funding in full or in part, the Department will give the recipient written notice setting forth the effective date of full or partial termination, or if a change in funding is required setting forth the change in funding and changes in the approved budget.

2) Termination for Cause

A) If the Department determines that the recipient has failed to comply with the terms of the agreements it has made with the Department (royalty agreement, loan agreement, stock purchase agreement, etc.) the Department shall terminate the investment in whole or in part at any time. Circumstances, explained in the appropriate agreements, which will result in the right of termination by the Department include, but are not limited to the following:

1) Consistent failure to submit required reports;

ii) Failure to maintain required records;

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representation or warranty contained in, or made in connection with the execution and delivery of the agreement, or in any certificate furnished hereto shall prove to have been incorrect.

- 3) Default in Covenants - If the recipient shall default in the performance of any other term, covenant or agreement contained in the agreements and such default shall remain unremedied for thirty (30) days after either:
 - A) It becomes known to an executive officer of the recipient; or
 - B) Written notice thereof shall have been given to the recipient by the Department.
- 4) Voluntary Insolvency - If the recipient shall cease to pay its debts as they mature or shall voluntarily file a petition seeking reorganization of, or the appointment of a receiver, trustee, or liquidation of its assets or to effect a repayment plan with its creditors, or shall be adjudicated bankrupt, or shall make a voluntary assignment for the benefit of creditors.
- 5) Involuntary Insolvency - If an involuntary petition shall be filed against the recipient under any bankruptcy or insolvency law seeking the reorganization of or the appointment of any receiver, trustee or liquidator for the recipient, or the property of the recipient, or a writ or warrant of attachment shall be issued against the property of the recipient and such petition shall not be dismissed, released or bonded within 30 days after filing or levy.
- d) Notice of Default - The recipient agrees to give the Department written notice of any event, within 15 days of the event, which constitutes an event of default.
- e) Monitoring and Evaluation - Recipients must permit any agent authorized by the Department, upon presentation of credentials to, in accordance with the constitutional limitation on administrative searches, have full access to and the right to examine any documents, papers, and records of the recipient involving transactions related to the Department's investment.
- f) Audits -- For the term of the Agreement:
 - 1) The Department shall have the right to require the company to obtain audited financial statements including a statement of profit and loss, balance sheet, and cash flow

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statement, which have been prepared by an independent certified public accountant, licensed by the State of Illinois, pursuant to the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500 et seq.) in accordance with generally accepted accounting principles consistently applied.

- 2) The Department reserves the right to conduct at any time during normal working hours, special audits, including, but not limited to, an agency wide audit of funds expended by the company relating to the Department's investment.
- g) Reporting -- for the term of the Agreement:
 - 1) The recipient shall provide the Department with quarterly financial reports which include statements of profit and loss, balance sheets and statements of sources and uses of cash, certified as true and correct by the Company's Board of Directors.
 - 2) The recipient shall provide the Department with quarterly narrative progress reports summarizing new jobs created, business activities and technological developments, certified as true and correct by the Company's Board of Directors.
- h) Nondiscrimination - The recipient shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (Ill. Rev. Stat. 1987, ch. 68, pars. 1-101 et seq.).
- i) Financial Management - The recipient's financial accounting system shall be structured under the accounting standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (AICPA) (September 19, 1987) to maintain accountability over its business transactions.

SUBPART C: BUSINESS MODERNIZATION RETOOLING LOAN PROGRAM

Section 545.210 Purpose

Through the Business Modernization Retooling Loan Program (Program) the Department of Commerce and Community Affairs (Department) will provide long term, fixed-rate, low-interest (i.e., more than three years at below the prime rate current in the major money centers) LOANS TO MATURE, SMALL OR MEDIUM SIZED BUSINESSES IN ILLINOIS IN COOPERATION WITH PRIVATE SECTOR LENDERS, FOR THE PURPOSE OF MODERNIZATION AND INSTALLATION OF ADVANCED

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of the Department determines that a waiver of these limits in accordance with Section 545.245 is required to meet the purposes of the Act.

Section 545.230 Application Documentation

Applications under the Business Modernization Retooling Loan Program will be accepted on an ongoing basis. The Department will supply interested businesses with an application upon request. Upon reasonable request, representatives of the Department shall provide assistance to businesses in completing the application. During the application process, business applicants shall provide the Department representatives access to the place of business and site where the business project will be undertaken. The Department shall provide notice to the business prior to requesting such access and shall request access only during the business's normal working hours. The application must include documentation of the following:

- a) Description of the Project -- A summary description of the project including a description of what the company plans to do with the proceeds of the loan.
- b) Company History -- A brief history of the applicant, past employment growth, and other facts detailing the past and present condition and structure of the company, as well as identification of the common name of the company if different from the legal name.
- c) Market Information -- A description of the primary business of the company, types of products and services offered, information on the applicant's present and future market prospects, and identification of existing and potential major customers and competitors.
- d) Actual and Pro Forma Financial Statements -- Financial statements must be submitted by the company. Audited financial statements are preferred; prepared financial statements are the minimum which is acceptable. Prepared statements must be certified by the applicant's chief executive officer as being prepared from the books and records of the company, fairly reflecting the operations and financial position of the company. Financial statements shall include:
 - 1) Historical corporate financial statements for the past three years, including Profit and Loss Statements, Balance Sheets, and disclosure of contingent liabilities;
 - 2) Interim financial statements (Profit and Loss Statements and Balance Sheets) dated not more than ninety days prior to application; and

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- 3) Three-year projections of the Profit and Loss Statement and Balance Sheet and a Monthly Cash Flow Projection for the first year.
- e) Management Qualifications --
 - 1) A listing of those people who are responsible for the management of the applicant firm, their positions, and percentage of ownership;
 - 2) Personal resumes for senior staff at the proposed project site; and
 - 3) Personal financial statement(s) for each principal owning more than 20 percent of the applicant firm.
- f) Site Map -- If appropriate, an outline of the general location of the business project on a site map, including the location of any flood plain or prime farmland areas.
- g) Need for Funds -- A statement and proof (justification) of a need for state supported low-interest, long term funds, such as:
 - 1) Demonstration that the applicant's operation is at a competitive disadvantage with industry located outside the state, or
 - 2) Demonstration that funds are not available internally or rate of return does not justify investment, or
 - 3) Demonstration of a financing gap such that funding from private sources is not available at affordable costs.
- h) Use of Funds -- A detailed explanation of the use of funds including:
 - 1) Description of Machinery and Equipment -- Major equipment or classes of equipment to be acquired with the Department's program funds; for the acquisition of new machinery and equipment, attachments showing reliable vendor cost estimates; for moving and installation costs, attachment of written estimates; for used machinery and equipment acquisition, an appraisal demonstrating that the fair market value is in line with the purchase price.
 - 2) Description of Working Capital (if applicable) -- A detailed explanation of the need for and use of funds; for acquisition of new inventory, written estimates of cost must be provided from the vendor.

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545.235(b)-(d). This review and evaluation process will be completed within 60 calendar days of the receipt of a complete application.

Technical Evaluation Component -- Each application will be reviewed to assure compliance with the technical program requirements. The technical evaluation will address the following criteria:

- 1) Project Implementation Readiness -- The applicant must demonstrate project readiness, including identification of loans and investments from all lenders and investors on letterhead, signed and dated; time schedule for immediate project initiation; and written cost estimates from contractors, suppliers, and architects which support project costs.
- 2) Information Verification -- Department staff will conduct phone interviews or field visitations as necessary to evaluate and verify information.
- 3) Case Performance -- Desk audits will analyze the case performance of the applicant under previous Departmental programs, if applicable (e.g., success in previous projects and the level of compliance with previous agreements).

Evidence of Need and Benefit Component -- Each application will be reviewed to determine if sufficient need exists for public assistance.

- 1) Retooling/Modernization Focus -- The applicant must demonstrate that the project will involve the purchase of advanced technology and other expenditures integral to documented plan of retooling or adaptation to competition including such plans as may be prepared under the Business Modernization Assessment Grant Program.
- 2) Project Benefit -- The applicant must demonstrate

- A) the project will have a public benefit of providing a net increase or net retention of jobs for Illinois citizens and
- B) the project will have a private benefit of improving productivity, effectiveness, or efficiency of the firm's production activities or will increase revenues or reduce expenses.

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Land and Building Information (allowable only if it is an integral but subordinate part of the project) -- For land and/or building rehabilitation, a contractor's or architect's cost estimates; for land purchase, a copy of the purchase option and evidence of completion of environmental due diligence review conducted in accordance with Section 5 of the Responsible Property Transfer Act of 1988 (Ill. Rev. Stat. 1988 Supp., ch. 30, par. 905).

- 1) Letters of Commitment -- Commitment letters documenting all sources of leveraging of outside funds. Loans from financial institutions must have language indicating the loan amount, the specified term and interest, collateral, conditions attendant to the loan, and the fact that the loan is approved.
- 2) Economic Development/Competitiveness Results -- A statement of results expected which shall include:

- 1) Number, type and, if possible, wages of new jobs to be created or existing jobs saved, greater continuity of employment, or greater number of hours worked; and either
- 2) Expected reduction in the business's operating costs, increased company products/sales, or elimination/prevention of company losses; or
- 3) Expected increases in the business's capacity per employee, improved quality of product(s), improved timing of delivery, etc.

- k) Project Implementation Schedule -- A list of the timelines for major project milestones and/or activities including the start date and end date of each activity.
- l) Subsidiaries and Parents -- Name and identification of relationship to parent companies, subsidiaries, or affiliates.
- m) Articles of Incorporation -- Copy of the Articles of Incorporation and bylaws or partnership agreement as appropriate.

Section 545.235 Application Evaluation

- a) Application Screening -- The Department shall screen all applications to determine that all requirements of the application package have been addressed. Applicants will be notified of deficiencies in applications and given one opportunity to correct such deficiencies through resubmission. Department staff will conduct a technical, need/benefit, and financial evaluation of each application as provided in Section

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- 3) Need for Funds -- The applicant must demonstrate the need for program funds including an indication of alternative funding sources pursued. Additionally, the firm must provide evidence
- A) of a financing gap such that adequate project financing (rates or terms) cannot be obtained from conventional sources, or
 - B) evidence of rate of return problems such that the project is not viable or return is not satisfactory without Department participation at a low interest rate and long term, or
 - C) business demonstrates its operation is at a competitive disadvantage with industry located outside the state.
- d) Financial Evaluation Component -- The applicant's financial statements, including annual Balance Sheets and Profit and Loss Statements for the past three years as well as the most recent ninety days; a three year projected Balance Sheet and Profit and Loss Statement as well as a one-year monthly Cash Flow Statement, will be reviewed through a standard credit analysis. Data and statistics on sales, liquidity ratios, working capital, profit after taxes, margins, overhead, operating cycle, company wealth, officer commitment, projections and project leverage will be analyzed.
- 1) Indicators -- Company statistics will be compared to similar data for companies in the same industry using "Robert Morris Associates Annual Statement Studies" published by Robert Morris Associates, P.O. Box 8500, S-1140, Philadelphia, Pa., 19178 (1988), if such industry is evaluated by this source. In addition, these statistics are examined for improvement over time.
 - 2) Projections -- Projections provided by applicants will be reviewed for reasonableness, in light of past performance and the anticipated project investment.
 - 3) Financial Stability -- If cash flow exceeds debt service, and if the Department is satisfied that working capital is adequate, quality of debt is sufficient, and trends and projections are consistent and supportive, the applicant will be determined financially stable.
 - 4) Project Leverage -- The applicant must demonstrate that OTHER FINANCING WITH RESPECT TO THE BUSINESS PROJECT IS

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PROVIDED. OTHER FINANCING MAY BE IN THE FORM OF ANY LOAN, EQUITY POSITION, CONVERTIBLE PREFERRED STOCK, LETTER OF CREDIT, GUARANTEE, BOND PURCHASE OR ANY OTHER FORM APPROVED BY THE DEPARTMENT (Section 3002(a) of the Act) except funds provided through other Departmental programs. The investment from private sources, which shall comprise the majority of the business project funding, and the owner's equity to be contributed, which shall be a significant part of the business project funding, shall be verified as available and/or committed to the project.

Section 545.240 Selection for Funding

Applications that best meet the objectives of the Act and satisfy the evaluation criteria of Section 545.235 will receive funds, until all available funds are expended. The amount of funds made available will be based upon:

- a) COSTS OF THE EXPECTED RETOOLING OR MODERNIZATION EFFORT AND THE LIKELIHOOD THE WORK WILL RESULT IN SUBSTANTIAL IMPROVEMENT IN THE APPLICANT'S PRODUCTION LEVELS, QUALITY OF OUTPUT, OR TIMELINESS OF DELIVERY (Section 3004(b) of the Act) in the maximum of 25 percent of the total project costs up to a maximum amount of \$500,000 of public funds, unless such ratio or amount is waived by the Director in accordance with Section 545.245.
- b) JOB CREATION OR RETENTION WHICH WILL RESULT IN RELATION TO THE VALUE OF THE FUNDS REQUESTED AND TYPES OF JOBS CREATED OR RETAINED (Section 3004(b) of the Act) at a minimum ratio of one job created or retained for each \$15,000 in public funds, unless such ratio is waived by the Director in accordance with Section 545.245.

Section 545.245 Funding Waivers

In accordance with Section 3004 (b) of the Act, the Director may waive limitations governing the amount of the loan, percentage of leverage, or the jobs/dollar ratio when it is determined that these funding limitations would prohibit an otherwise approved business project, and subsequent job creation/retention, from occurring. A business project with a higher ratio will be considered for funding if the application demonstrates severe need, including but not limited to:

- a) Distressed community or county with an unemployment rate which is 25 percent higher than the state average, or a per capita income which is less than the state average;
- b) Area with limited economic development as evidenced by absence of development activities within the last two years or as evidenced

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- a) Loans primarily utilized for machinery and equipment will generally vary from 7 to 10 years; loans primarily intended for short term working capital needs will normally extend for 3 to 5 years.
- b) Working capital loans may require personal guarantees from all individuals owning or controlling 20 percent or more of the applicant company. For small companies without major identifiable principals (e.g., no one owns 20 percent or more of the company), the amount of the loan may be limited to 80 percent of the value of the fixed assets securing the loan. Asset-based loans not secured by a lien on the fixed asset may require personal guarantees. The Department shall require personal guarantees in any loan transaction in which the loan to evaluated collateral ratio is less than one to one.
- c) Monthly installments shall be due and payable to the Department at a time specified in the loan agreement.

Section 545.265 Loan Security

FINANCIAL ASSISTANCE SHALL BE SECURED BY FIRST OR SECOND MORTGAGE POSITIONS ON REAL OR PERSONAL PROPERTY, BY ROYALTY PAYMENTS, BY PERSONAL NOTES OR GUARANTEES, OR BY ANY OTHER SECURITY SATISFACTORY TO THE DEPARTMENT TO SECURE REPAYMENT, IF REQUIRED, BY THE FINANCIAL ASSISTANCE AGREEMENT (Section 3002(b) of the Act). Security for Department loans may include, but is not limited to, any or all of the following:

- a) First or second lien security interest in favor of the Department on all personal property of the borrower.
- b) First or second position real estate mortgage in favor of the Department on real estate of the borrower.
- c) Personal guarantees and/or corporate guarantees in the amount of the loan.
- d) Irrevocable letter of credit.
- e) First or second security interest in negotiable securities of the borrower or business principle owners.

Section 545.270 Maintenance and Insurance of Property

- a) The borrower shall at all times maintain the property provided as security for the loan in such condition and repair as a reasonably prudent person would who held full title to the property.

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- b) The borrower shall maintain, during the term of the loan, hazard (e.g., tornado, hail, acts of God) and fire insurance policies at least covering the amount of the loan and extended coverage for all such other hazards issued by an insurance company authorized to do business in the State of Illinois, as evidenced by a certificate of authority issued by the Illinois Department of Insurance pursuant to the Insurance Code of 1937 (Ill. Rev. Stat. 1987, ch. 73, pars. 613 et seq.), with an endorsement naming the Department as loss payee.
- c) The borrower shall, if at any time during the life of the loan the business's property is declared to be within a flood hazard area, purchase federal flood insurance if available. Such insurance shall be equal to the amount of the loan.
- d) The borrower shall maintain liability and workers' compensation insurance. The borrower shall provide written notice to the Department of any public hearing or meeting before any administrative or other public agency which may, in any manner, affect the chattel, personal property or real estate securing the loan.

Section 545.275 Administrative Requirements

- a) Farmland Preservation (if applicable) -- The borrower shall certify that the proposed business project is compatible with established state policy regarding farmland preservation pursuant to the Farmland Preservation Act (Ill. Rev. Stat. 1987, ch. 5, par. 1301 et seq.).
- b) Nondiscrimination -- The borrower shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (Ill. Rev. Stat. 1987, ch. 68, pars. 1-101 et seq.).
- c) Financial Management -- The borrower's financial management system shall be structured under the Accounting Standards of the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (AICPA) (September 19, 1987) to maintain control and accountability over the loan funds.
- d) Reporting -- The borrower shall provide, no more often than semi-annually, information and reports on job creation/retention, production levels and company financial statements.
- e) Department Monitoring and Evaluation -- Borrowers must permit any agent authorized by the Department, upon presentation of

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Section 545.285 Termination of Loan

A loan shall be terminated for the following reasons:

- a) Termination Due to Loss of Funding -- In the absence of state funding for a specific year, all loans for that year will be terminated in full. In the event of a partial loss of state funding, the Department will make proportionate cuts to all recipients.
- b) Termination for Cause -- If the Department determines that the borrower has failed to comply with the terms and conditions of the loan, the Department shall terminate the loan in whole, or in part, in accordance with Section 545.290, at any time before the date of completion.
- c) Termination by Agreement -- The Department and the borrower shall terminate the loan in whole, or in part, when the Department and the borrower agree that the continuation of the project objectives would not produce beneficial results commensurate with the future expenditures of funds.

Section 545.290 Events of Default

- a) The entire unpaid principal of the loan and the interest accrued thereon, shall become and be immediately due and payable upon the written demand of the Department, without any other notice or demand of any kind or any presentation of protest, if any one of the following events (hereinafter an "event of default") shall occur and be continuing at the time of such demand, whether voluntarily or involuntarily, or without limitation occurring or brought about by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order:

- 1) Non-payment of loan -- If the borrower shall fail to make payment when due of any installment of principal on the loan, or interest accrued thereon and if the failure to make payment shall remain unremedied for fifteen (15) calendar days.
- 2) Non-payment of Other Indebtedness -- If default shall be made in the payment when due of any installment of principal or of interest on any of the borrower's other indebtedness (any creditor the borrower owes) and if such default shall remain unremedied for fifteen (15) calendar days.
- 3) Incorrect Representation or Warranty -- If any representation or warranty contained in, or made in

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credentials, to have full access to and the right to

- 1) inspect, examine or audit any documents, papers, and records involving transactions related to a loan from the Department, including making copies thereof, and
- 2) inspect or appraise any of the borrower's business assets.

- f) Authorizations -- The borrower shall, upon written request by the Department issue any necessary authorization to the appropriate Federal, State or Local Authority or Private Person or Entity for the release of information concerning a business or business project financed under the provisions of this Act, with the information requested to include, but not be limited to, financial reports, returns, or records relating to that business or business project (Section 1004(1) of the Act).
- g) Confidentiality -- Documentary materials or data, consisting of trade secrets, commercial or financial information regarding the operation of any enterprise conducted by an applicant applying for funding under this Act, or regarding the competitive position of such enterprise in a particular field of endeavor, shall be deemed to be confidential and shall not be deemed public records (Section 4002 of the Act).

Section 545.280 Audits

- a) The borrower shall be responsible for securing an audit of all loan records and such audit must be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500 et seq.). The audit must be conducted in accordance with generally accepted auditing standards adopted by the AICPA (1989).
- b) The borrower shall work cooperatively with the audit firm selected; actively work with both the audit firm and the Department to resolve any and all audit findings; and work cooperatively with the Department's staff in preparing for, conducting, and resolving audits.
- c) The Department reserves the right to conduct special audits of funds expended under Department loans, at any time during normal working hours.
- d) Any independent public accounting firm that provides consultant services to a borrower is prohibited from conducting an audit of that borrower for the period during which services were rendered.

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connection with the execution and delivery of, the loan agreement, or in any certificate furnished pursuant hereto, shall prove to have been incorrect.

- 4) Default in Covenants -- If the borrower shall default in the performance of any other term, and such default shall continue unremedied for thirty (30) calendar days after, either:
 - A) It becomes known to an executive officer of the borrower; or
 - B) Written notice thereof shall have been given to the borrower by the Department.
- 5) Voluntary Insolvency -- If the borrower shall cease to pay its debts as they mature or shall voluntarily file a petition seeking reorganization of, or the appointment of a receiver, trustee, or liquidation of its assets or to effect a repayment plan with creditors, or shall be adjudicated bankrupt, or shall make a voluntary assignment for the benefit of creditors.
- 6) Involuntary Insolvency -- If an involuntary petition shall be filed against the borrower under any bankruptcy or insolvency law or seeking the reorganization of or the appointment of any receiver, trustee or liquidator for the borrower, or the property of the borrower, or a writ or warrant of attachment shall be issued against the property of the borrower and such petition shall not be dismissed or such writ or warrant of attachment shall not be released or bonded within thirty (30) calendar days after filing or levy.
- 7) Judgements -- If any final judgement for the payment of money that is not fully covered by liability insurance shall be rendered against the borrower, and within thirty (30) calendar days, shall not be discharged, or an appeal therefrom taken and execution thereon effectively stayed pending such appeal, and, if such judgement be affirmed on such appeal, the same shall not be discharged within thirty (30) calendar days.
 - b) Notice of Default -- The borrower agrees to give written notice to the Department of any event, within fifteen (15) calendar days of the event, which constitutes an event of default.
 - c) Deferrals -- The Department may make deferrals based upon a case by case review of the borrower's financial statements and

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projections to determine if the borrower anticipates it may be able to make payments at a future date. The Department's review shall be based on the factors listed in Sections 545.230(g),(h),(j) and (k).

SUBPART D: BUSINESS MODERNIZATION ASSESSMENT GRANT PROGRAM

Section 545.310 Program Purpose and Mission

The purpose of the Business Modernization Assessment Grant Program is to provide Grants to small, medium-size and mature firms to help them improve quality and delivery and reduce costs of their business to meet market demands and thereby create or retain jobs in the state. Competitive Base Analyses (diagnosis of the firm's problems which will suggest the possible role of manufacturing technology in the solution) and Productivity Improvement Services projects (selection of the appropriate type and level of technology and implementation of the technology according to short and long range strategic plans) can serve to:

- a) Assist companies in relating business needs to technological needs, as a part of continual corporate analysis and adaptation to changing markets and competition, to assure continued operation of the Illinois based firm.
- b) Identify productivity improvement or cost reduction opportunities and thus solve particular problems facing the company and its employees.
- c) Assist companies in learning about and selecting new/improved systems required to improve product quality and delivery time and reduce costs of the company's operation.
- d) Assure successful integration of human development and work force training with implementation of technological modernization.
- e) Research, analyze and evaluate the cost/benefit and appropriateness of technology prior to its implementation and thus minimize risks involved in implementing modern systems and new equipment.

Section 545.315 Definitions

"Application" -- A request for program funds including the required statistical and narrative information and attachments.

"Department" -- The Illinois Department of Commerce and Community Affairs.

"Grant" -- Funds provided from the Department through this

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sources of financing for retooling and modernization implementation.

- b) "Productivity Improvement Services" means problem solving services including the analysis, design, planning, introduction, and assistance in implementation of appropriate technological innovations to improve productivity and profitability (and thus, competitiveness). These problem solving services could serve one firm or a group of firms which is aware of one or more particular productivity issues that must be addressed, generally as the result of a Competitive Base Analysis. Productivity Improvement Services shall include any or all of the following, as applicable:
- 1) Identification of alternative strategies -- Identification of exemplary strategies currently in use in comparable industries or companies, for example, machinery, equipment, manufacturing processes or designs, and operational or organizational procedures.
 - 2) Selection criteria -- For determining and focusing appropriate type and level of technologies, for example, based on return on investment and significance of benefit, current and future cost impact versus current budget constraints or capital availability schedules, project length and timing issues, and short range and long range strategic business goals.
 - 3) Cost and benefit analysis -- Identification of the expected costs of technological innovations (capital outlay, finance charges, training maintenance, etc.), and an associated financial return and benefit analysis to the company (job creation/retention, revenue gains, production level improvements).
 - 4) Improvement plans -- Development plans including project descriptions, detailed milestones, time schedules and targeted completion dates for the implementation of advanced machinery or equipment, manufacturing processes or designs, or operational or organizational procedures.
 - 5) Operations management services -- Assistance in improving organizational or operations management procedures such as production scheduling and control, material requirements management, capacity requirements planning, quality control systems, etc. This would generally include engaging appropriate consultants with expertise in the procedures and techniques selected, and education and orientation of the company's management and project team to the key

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principles, technical knowledge, or skills required to implement the management procedures.

- 6) Manufacturing technology selection or modification -- Assistance in altering, automating or integrating manufacturing technologies in design and engineering; fabrication/machining and assembly; and material handling, inspection and testing, etc. This could include general and specialized engineering consultation audits; assessments of manufacturing technologies in place at the facility and technologies currently available in the marketplace; and technical and engineering assistance with identification, evaluation, selection, installation, and performance testing of the altered manufacturing technology.
- 7) Assessment of capital investments -- Assistance in selecting capital investments for machinery and equipment. This would generally include assessment of manufacturing equipment currently available, assistance with identification of available vendors, and review of vendor support and warranties; development of specific engineering and operational requirements for the equipment; and evaluation of the expected performance of the product.
- 8) Improvement monitoring and feedback -- Including advice and consultation during the conversion to the updated procedure or methodology, assistance with pilot runs and debugging, post-conversion evaluation of the improved organizational or operational procedures, and evaluation and comparison of the company's performance as a result of investment in the productivity improvements.

Section 545.325 Eligible Businesses

- a) Small, medium-sized and mature firms are eligible to apply for and receive funds under the provisions of this program, provided that:
 - 1) the firm is located in Illinois or the benefit of the program serves an Illinois based plant or branch and
 - 2) the firm (or its predecessor organization) has been in operation for two years or more or has a meaningful operating history.
- b) To be eligible, a firm must show a need for Productivity Improvement Services or Competitive Base Analysis because it:

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the economic benefits created by their continued operation in the state; and firms in industries which have suffered the greatest loss in employment in recent years, which have the potential to regain lost markets.

Section 545.330 Application Requirements

Applications for Grants shall be submitted by firms or may be submitted by second parties upon specific written approval of a firm on forms provided by the Department. Any page with proprietary information, trade secrets, or other confidential information must be marked "Confidential." Applications shall include the following:

a) Company information shall include the following, if applicable:

- 1) Application Cover Sheet -- The Applicant's name, address, and telephone number, and the names of the Applicant's Chief Executive Officer or other authorized officer, and a contact person.

- 2) Company History -- A very brief description of the Applicant's business including type of business, year founded, organizational structure, and significant events in the company's history.

- 3) Company Management and Capabilities -- A listing of officers, directors and management, their positions (titles and/or responsibility for operation of the company), and percentage of ownership.

- 4) Goods and Services -

- A) a description of the goods and services produced by the company in Illinois; any significant changes in the products or goods produced by the firm; the markets served by the firm;

- B) identification of which of the articles produced are being adversely affected; three year trends in unit price, unit volume and gross margins; and two year projections in the same categories;

- C) number, location and nature of manufacturing/production and distribution/sales facilities, domestic (in-state), foreign (out-of-state), and alien (outside the U.S.); and

- D) number and types of production, management and sales employees.

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- 1) Has the potential to "Improve Productivity" such as

- A) reduce high warranty costs, high rework and modification costs, or repeated machine down-time or

- B) improve production to a level (output per worker, sales per employee, etc.) that equals or exceeds the average or norms for the industry; or

- 2) Has the potential to reverse an actual or expected "Decline in Production" which is a decline in the number of hours of employment and a decline in sales value or quantity, in comparison with previous monthly, quarterly, or annual statistics for the same period of the previous year for reasons such as

- A) steady, long term structural deterioration of the industry,

- B) success of foreign competition in capturing domestic and international markets, etc., or

- C) limited opportunity for market share which is directly attributable to industry located outside of the state or outside of the nation; or

- 3) Has a need or potential to "Improve Competitive Advantage"

- A) by improving product cost, design, quality, or cycle time to meet a consumer demand for which the current product is not competitive,

- B) because the company is required to improve productivity to meet quality standards of its primary customers, or

- C) because the company requires greater flexibility in its manufacturing process to ease product changes and to assure sensitivity to customer needs.

No firm shall be excluded from participating in this program by reason of amount of sales or income or number of employees. If funds are available, the Department may target assistance through this program, based on the following factors: medium-sized (50 to 500 employees) businesses in major industrial groups including: firms in industries in which Illinois is an acknowledged leader, to assist them in maintaining their dominant national market position; Illinois' core industries, those industries concentrated in the state and employing 20,000 or more, due to

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5) Corporate Financial Statements --

- A) historical statements (or equivalent federal tax forms) for the past three years, including Profit and Loss Statements, Balance Sheets, Cash Flow Statements, and disclosure of contingent liabilities and
- B) no more than two years of projections of the Profit and Loss Statements, Balance Sheets, and Cash Flow Statements. Audited financial statements are preferred; prepared financial statements are the minimum which is acceptable.

b) A statement and description of the project for which funds are being sought:

1) Justification for Productivity Improvement Services or Competitive Base Analysis --

- A) a description of the Applicant's past and present efforts to analyze its competitive condition and productivity structure,
- B) a justification of need for improvement in productivity/competitiveness such as to "Improve Productivity," reverse a "Decline in Production" or "Improve Competitive Advantage," and
- C) a demonstration that adequate resources are not available internally, for example, by describing what will be done that would not be done if the Grant were not available.

2) Identification of the Consultant --

- A) The name and qualifications of the consultant,
- B) total consultant hours to be provided and a time schedule listing start and end dates and key benchmarks,
- C) the objective and scope of the assignment, the nature of the final report and interim progress reports, and consultant and client responsibilities during the project to assure its success, and
- D) the anticipated charges, expenses, basis of charges (consultant cost per hour and per day) and terms of

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payment.

- 3) Budget -- Indicate the costs of the Productivity Improvement Services or Competitive Base Analysis, and the source of funds to finance the costs. The budget may be submitted on forms provided by the Department and shall include information such as the cost of contractual services, the cost of materials and supplies, any travel costs, etc.
- 4) Economic Development/Competitiveness Results -- A statement of the potential results and improvements expected which shall include "Jobs," "Level of Employment," and "Revenue and Expenses"; and may include "Productivity," "Effectiveness," "Efficiency," or "General Capacity."
- 5) Labor/Management Relations -- If the purpose or result of the study is subject to a collective bargaining agreement, evidence of participation/sign off by appropriate bargaining agents.

Section 545.335 Application Process

- a) Technical Assistance -- Upon reasonable request, representatives of the Department shall provide assistance to Applicants in completing the application and budget.
- b) On-Site Inspection -- During the application process, the Department shall undertake an on-site visit if the Department cannot verify application information through other means. Applicants shall provide representatives of the Department access to the Applicant's place of business and site where the Productivity Improvement Services or Competitive Base Analysis will be conducted. The Department shall provide reasonable prior notice to the Applicant to gain such access and shall request access only during normal business hours.
- c) Submittal of Application -- Applications may be submitted by an eligible business or group of similar eligible businesses. In addition, applications may be submitted by a trade association, non-profit organization, educational institution, research organization, or consultant organization on behalf of an eligible business or group of similar eligible businesses.
- d) Additional Information -- During the evaluation process, the Department reserves the right, where it may serve the Department's best interests, to request additional information or clarification from the Applicant, or to allow corrections of errors or omissions.

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The waiver will be documented and kept on file by the Department. In determining whether to waive the funding limitation, the Director shall consider the following:

- 1) The Applicant demonstrates to the Department through a financial analysis that the 50 percent funding limitation would prohibit an otherwise approved project, in accordance with Section 545.340, from occurring;
- 2) The Applicant demonstrates an extraordinary community benefit such as
 - A) to determine feasibility of a corporate restructuring or corporate turnaround or to prevent a bona fide corporate relocation to another state,
 - B) project affects a substantial number of employees, or
 - C) community in which the project is located is distressed or has limited economic development opportunities; or
- 3) The total request for State funds to serve a specific eligible business does not exceed \$10,000 and
 - A) the purpose of the request is to conduct a Competitive Base Analysis; or
 - B) the work to be performed is undertaken by a public or proprietary institution of higher education, a state Technology Center, a Small Business Development Center, or a non-profit organization.

Section 545.350 Grant Limitations

- a) Eligible Costs -- The costs of an Applicant incurred directly as a Productivity Improvement Services or Competitive Base Analysis expense, including contractual services, consultant fees, commodities, materials and supplies, travel and other project related direct expenses necessitated by the Productivity Improvement Services or Competitive Base Analysis are eligible costs which may be reimbursed with Grant proceeds. Grant funds may not be used to purchase tangible personal property having a useful life of more than one year and an acquisition cost of \$500 or more per unit.
- b) Competitive Base Analysis Grant Amounts -- The Department shall approve Grants in amounts necessary to pay a percent share of Eligible Costs as defined in subsection (a), incurred by or on

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behalf of an eligible business for a Competitive Base Analysis up to a maximum of \$10,000, unless the Director waives the percent share or maximum amount in accordance with Section 545.345(c).

- c) Productivity Improvement Services Grant Amounts -- The Department shall approve Grants in amounts necessary to pay up to 50 percent of Eligible Costs, as defined in subsection (a) incurred by or on behalf of an eligible business for Productivity Improvement Services, up to a maximum of \$100,000, unless the Director waives the percent share or maximum amount in accordance with Section 545.345(c).
- d) Cost Share Limitations -- The Department reserves the right to limit its share of project costs, for example, the Department's share of consultant cost per hour or consultant cost per day and to limit to no less than 25 percent of total project costs the amount of indirect and/or in kind expenses of the project to be considered in the computation of matching share.

Section 545.355 Administrative Standards for Grant Recipients

- a) Grant Agreement -- The Department will have discussions with the applicant as needed to negotiate the Grant Agreement. The Grant Agreement will set out the scope of work of the grant, the terms and conditions of the grant, and the period of the Grant Agreement.
- b) Grant Period -- Any Productivity Improvement Services or Competitive Base Analysis Grant shall have period of completion as determined by the Department.
- c) Non-Discrimination -- The Recipient shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (Ill. Rev. Stat. 1987, ch. 68, pars. 1-101 et seq.).
- d) Complaint Process -- In the event of a Recipient complaint, the Department will follow the procedures outlined in 47 Ill. Adm. Code 10 (Review and Appeal Procedures).
- e) Confidentiality -- Any proprietary documentary materials or data received by the Department, consisting of trade secrets, or commercial or financial information regarding the operation of any enterprise conducted by an Applicant applying for funding under this Act, or regarding the competitive position of such enterprise in a particular field of endeavor, shall be deemed to be confidential and shall not be deemed public records.

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f) Fund Availability -- Payments pursuant to a grant are subject to the availability of funds appropriated to the Department by the Illinois General Assembly. Grant funds must be expended or obligated within the period of the grant agreement and liquidated within the period of time in accordance with the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1987, ch. 127, pars. 2301 et seq.).

g) Disbursement of Funds -- Upon approval of an application for a grant and execution of a grant agreement, and subject to the provisions of this program, funds to be provided by the Department to the Applicant may be immediately disbursed, may be disbursed based on work in progress, and may be disbursed subject to receipt of final or interim progress reports. Payments to the Recipient are subject to the initiation of an invoice voucher and receipt of an expenditure summary or documentation of expenses. Examples of the categories of disbursements follow:

- 1) Advance Payment - Applicant is a governmental unit or nonprofit entity.
- 2) Work in Progress Payment - Project requires reimbursement to facilitate cash flow, project term is more than one month or more than one report is to be submitted.
- 3) Single Payment - Project end report is received prior to disbursement by the Department.

h) Financial Management -- The Recipient is accountable for funds received under this grant and shall maintain effective control and accountability over all funds and other assets under the grant. The Recipient shall keep records which detail and accurately document the Recipient's expenditures of grant funds for a period of two years from the end of the Grant Agreement.

i) Interest on Grant Funds -- In accordance with Section 10 of the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1988 Supp., ch. 127, par. 2310), all interest earned on funds held by the Recipient under the grant shall become part of the grant when earned. Any interest earned under the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department.

j) Overpayments and Recovery of Funds -- If the grant Recipient expends grant funds contrary to the provisions of the Grant agreement, such action shall require the repayment of those funds if the expenditure violated the Recipient's assurances or the statutory provisions. The Department shall also require repayment of Recipient expenditures that do not conform to the

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provisions of the Grant Agreement but do not violate statutory provisions. An overpayment of grant funds (unliquidated balance) shall promptly be refunded to the Department which shall be not later than 45 days after the expiration of the Grant Agreement. In addition, the Recipient agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the Grant agreement. Examples of the categories of disbursements follow:

- 1) Advance payments - applicant is a governmental unit or non-profit entity.
- 2) Work and progress payment - project requires reimbursement to facilitate cash flow, project term is more than one month or more than one report is to be submitted.
- 3) Single payment - project end report is received prior to disbursement by the Department.

k) Department Monitoring and Evaluation -- Recipients and their subcontractors, if any, must permit any agent authorized by the Department, upon presentation of credentials to have full access to and the right to examine any documents, papers, and records of the Recipient involving transactions related to a grant from the Department.

l) Special Audits -- The Department reserves the right to conduct special audits at any time during normal working hours, of funds expended under the program.

Section 545.360 Project Reporting

a) General Reports -- The Department reserves the right to require interim reports to document progress in accomplishing the objectives of a grant. The Recipient shall provide, within 30 calendar days of a request, such interim reports on progress as may be required by the Department including consultants reports, narrative analyses, reports on job creation/retention and production level improvements and summaries of expenditures. Examples of circumstances in which interim progress reports shall be required include, but are not limited to:

- 1) applicant has failed to provide a report required by the grant agreement;
- 2) reports to address inquiries from Department auditors, and;
- 3) reports requested by the Department for year end budget and program planning purposes.

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- b) Consultant Report -- The Recipient will provide to the Department within 30 calendar days of the end of the Grant agreement, a written copy of the documents and/or reports of its Competitive Base Analysis or Productivity Improvement Services Grant including any consultant digest report or letter report.
- c) Recipient Narrative Analysis -- Upon review of the Consultant's report, the business shall determine and report to the Department within 30 calendar days of the end of the Grant agreement:
 - 1) Whether the consultant's cost and time estimates were accurate and whether the assignment was completed and meets the expectations of the business.
 - 2) Whether the analysis adequately identifies and diagnoses problems, and provides recommendations for corrective action.
 - 3) Whether the plan contains a sound and detailed strategy for action to be undertaken to enhance the business's success.
 - 4) If appropriate, the extent to which the recommendations were or will be installed and the timetable for such action.
 - 5) Whether a reasonable prospect exists that the implementation of the plan will allow the firm to become competitive, profitable and successful and create or retain jobs in the state.
- d) Productivity Status Report -- The Recipient of a Grant shall provide the Department with a narrative statistical progress report on the status of job creation/retention, production level improvements, and revenues and expenses at the Recipient's plant/operation. The report shall be due 30 calendar days after the one-year anniversary date of the signature of the Grant. Additionally, any Recipient of a Productivity Improvement Services Grant shall provide a similar status report due 30 calendar days after the two-year anniversary date of the signature of the Grant. The Productivity Status Report shall include, but not be limited to:
 - 1) Job Creation/Retention -- The Recipient must provide information on the net job creation/retention which has occurred as a result of the project, including:
 - A) Jobs Impact -- Identification of the number and types (production, management, sales, etc.) of jobs to be created or existing jobs to be saved and retained.

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- B) Level of Employment -- The increase in hours of employment offered to employees, reduction of layoff periods, etc.
- 2) Revenue and Expense Measures -- The Recipient must show the financial benefit to the firm, which shall be determined by:
 - A) Revenue Measures -- Increased sales revenues, increased profit after tax, increased sales contracts.
 - B) Expenses -- Elimination/prevention of company losses, reduced production costs, reduced total company expenses, etc.
- 3) Production Level Improvements -- The Recipient must report the extent to which the project (as opposed to outside factors) has changed production levels, quality of output, timeliness of delivery, or other general measures of increased capacity. This shall include a review of:
 - A) Productivity Measures -- For example, increased sales value per labor or machine hour, increased production volume (units or sales value) per labor or machine hour, increased gross income per employee, increased ratio of sales to production costs, etc.
 - B) Effectiveness -- For example, decreased defects per total products, decreased returns per products shipped, decreased late orders compared to total orders, reduced product warranty costs, etc.
 - C) Efficiency -- For example, reduced lead time, reduced cycle time, reduced work in progress inventory, increased total production compared to budgeted or actual costs, decreased non-production labor hours per total labor hours, reduced capital investment per unit of product produced, etc.
 - D) General Capacity Measures -- For example, increased capacity to capture contracts, increased product longevity, change in market share, etc.
- e) Expenditure Summary -- Each Recipient funded shall maintain and provide to the Department appropriate and accurate documents and records of actual Grant related obligations and expenses and appropriate documents and records (such as books of accounts, warrants, receipts for payment, reports of in-kind expenditures,

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"BUSINESS PROJECT" MEANS ANY SPECIFIC ECONOMIC DEVELOPMENT ACTIVITY OF A COMMERCIAL, INDUSTRIAL, MANUFACTURING, AGRICULTURAL, SCIENTIFIC, FINANCIAL, SERVICE OR OTHER NATURE, WHICH IS EXPECTED TO YIELD AN INCREASE IN JOBS OR TO RESULT IN THE RETENTION OF JOBS OR AN IMPROVEMENT IN "PRODUCTION EFFICIENCY" (Section 1003(c) of the Act).

"BUSINESS PROJECT EXPENSE" INCLUDES COSTS INCURRED FOR RESEARCH AND DEVELOPMENT; AMORTIZABLE ORGANIZATIONAL COSTS; WORKING CAPITAL FINANCING, THE PURCHASE OR LEASE OF MACHINERY AND EQUIPMENT AND TOOLING, OR THE LEASE OR PURCHASE OF REAL PROPERTY, INCLUDING CONSTRUCTION, RENOVATION, OR LEASEHOLD IMPROVEMENTS, BUT DOES NOT INCLUDE REFINANCING DEBT (Section 1003(b) of the Act).

"Development Corporation" means any public or private Development Corporation whose mission or mandate includes promoting, encouraging or financing business modernization and retooling or adoption and implementation of new production equipment, process or technologies, including banks and bank holding companies, community development corporations, state development credit corporations, regional development authorities authorized to do business by an act of this state, or other financial intermediary.

"FINANCIAL ASSISTANCE" MEANS A LOAN OR A GRANT OR THE PURCHASE OF QUALIFIED SECURITIES OR OTHER MEANS WHEREBY FINANCIAL AID IS MADE TO OR ON BEHALF OF A DEVELOPMENT CORPORATION (Section 1003(f) of the Act).

"QUALIFIED SECURITY INVESTMENTS" MEANS ANY STOCK, CONVERTIBLE SECURITY, TREASURY STOCK, LIMITED PARTNERSHIP INTEREST, CERTIFICATE OF INTEREST OR PARTICIPATION IN ANY PROFIT SHARING AGREEMENT, PREORGANIZATION CERTIFICATE OR SUBSCRIPTION, TRANSFERABLE SHARE, INVESTMENT CONTRACT, CERTIFICATE OF INTEREST OR PARTICIPATION IN A PATENT OR APPLICATION OR, IN GENERAL, ANY INTEREST OR INSTRUMENT COMMONLY KNOWN AS A "SECURITY" OR ANY CERTIFICATE FOR, RECEIPT FOR, GUARANTEE OF, OR OPTION, WARRANT OR RIGHT TO SUBSCRIBE TO OR PURCHASE ANY OF THE FOREGOING, BUT NOT INCLUDING ANY INSTRUMENT WHICH CONTAINS VOTING RIGHTS OR WHICH CAN BE CONVERTED TO CONTAIN VOTING RIGHTS IN THE POSSESSION OF THE DEPARTMENT (Section 1003(i) of the Act).

Section 545.430 Applications

a). Application Availability

- 1) Applications for financial assistance will be made available on an annual basis if sufficient monies are

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allocated for the program. Upon request, the Department will supply potential applicants with an application package.

- 2) Any Development Corporation as defined in Section 545.420 is eligible to apply for financial assistance to set up and operate a Development Corporation under this program. Such applicants must submit an application on forms provided by the Department. A standard application form will be used statewide.
- 3) Public notice of the availability of applications and the application due date will be published in the state recognized newspaper. Applications will be due on the deadline as determined by the Department. The due date will be no sooner than 45 calendar days after the public notice.

b) Program Application -- Applications for financial assistance from the Department must address the following items:

- 1) History of Applicant -- Provide a brief history of the Development Corporation, legal status (i.e., stock corporation, not-for-profit, general unit of government, etc.), board structure, office location, etc., as a separate attachment. Provide proof of authority to operate including, as appropriate, articles of incorporation, bylaws, and a resolution of the Board to participate.
- 2) Mission and Goals -- Fully describe the public purpose being served by the Development Corporation which must include financing and promoting the adoption of advanced technologies, the major objectives of the proposed Development Corporation and how it will meet these objectives.
- 3) Local Market Needs -- Identify the geographic area to be served by the Development Corporation and the typical borrowers to be served (beneficiaries of the Development Corporation's lending). Identify problems or weaknesses in the ability of conventional lenders to serve the Development Corporation's typical borrower and the primary business financing needs that will be addressed. Include a profile of the Development Corporation's target area, for example county, multi-county area, statewide, etc.
- 4) Financial Products and Services -- Describe the specific financial products and financial services to be offered. This should include the type of lending and equity to be

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type of funding requested (loan, grant or security investment), how it will be secured and repaid, and how it will be used (direct lending, etc.) and the anticipated schedule (timing) for using Department funds. If Departmental monies are to be used for organizational or administrative costs, the amount should be noted, and justification should be provided.

Section 545.440 Application Review Process

a) Department staff will screen all applications to determine that all minimum requirements of the application package have been addressed. Applications will be reviewed in accordance with Department review criteria listed in subsection (b).

b) A request for financial assistance to set up and operate a Development Corporation will be evaluated on in accordance with the requirements of this Part. The review of applications will begin after the application due date and take no more than 75 working days, with financial assistance awards being announced at the end of that period. Applications will be evaluated on the basis of:

1) The extent of economic distress and unemployment in the area to be served; the nature of financial needs of the area and the geographic diversity of the applicants;

2) The capability of the applicant and its staff as demonstrated by existing or past experience in managing similar work activities to those proposed to be undertaken; Time schedule for project initiation, etc. indicating the level of project readiness;

4) Actual or anticipated amount of capitalization, extent of leveraging of other financial resources and consistency of proposed items of expenditure with the requirements of the Act;

5) The merits of the proposed work plan and consistency of proposed activities with requirements of Section 545.495;

6) The level of economic development results expected in terms of development financing, retooling or modernization, jobs created or retained, private funds leveraged, etc. and level of other significant benefits or impacts;

7) Evidence of direct linkages or coordination between the proposed program and private financial institutions and

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offered, term of lending to be provided, minimum and maximum amounts, if any, on loans outstanding to individual firms, etc. If the Development Corporation is recently formed, include the timetable for implementation.

5) Results Expected -- Describe anticipated public benefits resulting from the Department's financial assistance in terms of retooling or modernization, jobs created or retained, etc.

6) Staffing and Management -- Provide a description of how and by whom the Development Corporation will be managed and staffed including specific information on board membership. Describe anticipated federal or state agency regulatory oversight activities of the Development Corporation's activities.

7) Operating Procedures and Strategies -- Describe how the Development Corporation will be operated, proposed location of offices and/or facilities, marketing of corporate services, etc. Describe the corporate decisionmaking process for making business loans and other types of investments, due diligence process and credit analysis procedures to be used, and application procedures to assure prudent operation of the lending and investment activity. Minimally, these service delivery strategies must be adequate to address lending requirements outlined in Section 545.495.

8) Coordination and Community Involvement -- Provide a description of the primary working relationships with public and private entities, such as local state and federal financial institutions, venture capital partnerships, public or non-profit development agencies, etc. Describe community involvement in the Development Corporation referral process (if any).

9) Capitalization -- Provide a summary of financial projections, anticipated sources of operating income, the amount of Development Corporation capitalization and the expected funding needs of the Development Corporation. Specifically, include the nature and amount of bank and other corporate investments, and major stockholders or shareholders and percent of ownership. For a new Development Corporation, include a detailed timetable for securing all initial corporate financing.

10) Budget Request -- Identify the amount of funds being sought from the Department. The request should also detail the

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public investment/loan/guarantee programs;

- 8) The anticipated financial feasibility of the project and its ability to maintain continuous operation beneficial to the public as determined by anticipated operational costs of less than or equal to anticipated income or the availability of equity to cover any shortfalls based on the company's historical and projected financial statements; and
 - 9) Level of performance by applicant under previous Departmental programs, if applicable.
- c) Upon selection, the Department will notify applicants of the amount of financial assistance, if any, which may be used to set up and operate the Development Corporation. During formal negotiation discussions held with the Department, the Department and the applicant will agree to the scope of work of the agreement and the period of the agreement. The Department will issue an award letter and will issue an agreement, for signature by the applicant. Subject to negotiation, the Department may limit the amount of time such funds which will be available for the use by the Applicant.

Section 545.450 Financial Assistance

a) Financial Assistance Limits --

- 1) A Department Financial Assistance to a Development Corporation in the form of a loan shall not be made for more than \$500,000 or for more than 25 percent of the amount of actual or anticipated initial capitalization unless the Director of the Department determines that a waiver of these limits in accordance with subsection (b) is required to meet the purposes of the Act.
- 2) Department Financial Assistance to a Development Corporation in the form of qualified security investments for an eligible applicant shall not be made for more than \$500,000 and shall not be made for more than 25 percent of the amount of initial capitalization unless the Director of the Department determines that a waiver of these limits (in accordance with subsection (b) is required to meet the purpose of the Act.
- 3) Department Financial Assistance to a Development Corporation in the form of a grant shall not be made for more than \$500,000 unless the Director of the Department determines a waiver is required to meet the purposes of the

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Act.

- b) Funding Waivers -- The Director shall waive limitations governing the amount of the financial assistance and percentage of leverage when it is determined that these funding limitations would prohibit an otherwise approved project, and subsequent job creation/retention, from occurring. A project with a higher ratio will be considered for Financial Assistance if the application demonstrates severe need, including, but not limited to a demonstration that:
 - 1) The Development Corporation serves a distressed community, county, or multi-county area with an unemployment rate which is 25 percent higher than the state's average;
 - 2) The area to be served has limited economic development potential without support as evidenced by new job growth rate less than the state or national average;
 - 3) Funding would support a Development Corporation which has provided assurance the project will generate business growth and job creation in the community as a result of spinoff businesses and thus evidence that additional jobs will be created or retained.

Section 545.460 Administrative Standards

- a) Financial Assistance Agreement -- During formal negotiations and discussions held with the Department, the Department and the applicant will agree to the scope of work of the agreement and the period of the agreement which shall be no longer than two years.
- b) Nondiscrimination -- The Development Corporation shall refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination in accordance with the Illinois Human Rights Act (Ill. Rev. Stat. 1987, ch. 68, pars. 1-101 et seq.).
- c) Complaint Process -- In the event of a Development Corporation complaint, the Department will follow the procedures outlined in 47 Ill Adm. Code 10 (Review and Appeal Procedures)
- d) Financial Statements -- The Development Corporation will provide, at least annually, information and reports required by the Department, including the Corporation's balance sheet, profit and loss statement, and other financial reports due within 45 calendar days of the end of the state fiscal year.

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independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act (Ill. Rev. Stat. 1987, ch. 111, pars. 5500 et seq). The audit must be conducted in accordance with generally accepted auditing standards adopted by the American Institute of Certified Public Accountants (AICPA).

- b) The Development Corporation shall work cooperatively with the audit firm selected; actively work with both the audit firm and the Department to resolve any and all audit findings; and work cooperatively with the Department's staff in preparing for, conducting, resolving audits.
- c) The Department reserves the right to conduct special audits, including but not limited to, an agency-wide audit, at any time during normal working hours of funds expended under Department loans.
- d) Any independent public accounting firm that provides consultant services to a Development Corporation is prohibited from conducting an audit of that Development Corporation for the period during which services were rendered.

Section 545.490 Modification, Suspension and Termination of Financial Assistance

- a) Modification and Amendment of the Financial Assistance Award -- The award of financial assistance is subject to revision as follows:
 - 1) Modifications by Operation of Law -- The award of financial assistance is subject to such modifications as may be required by changes in state law or regulations. Any such required modification shall be incorporated into and made a part of the financial assistance within the provisions of the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1987 and 1988 Supp., ch. 127, pars. 2301 et seq.). The Department shall notify in writing the Development Corporation of any amendment to such regulations.
 - 2) Modifications in Budget -- Development Corporations requests for budget variations in the amount or line item costs shall be in writing by registered letter and shall give justifications for the requested variations. The Department may approve modification requests, if, in the Department's sole determination, such is necessary to achieve program objectives of the grant award criteria set out in Section 545.430. Any changes in cost categories or line items shall not alter the activities or deliverables

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for the project. If the Department approves the modification request, the Development Corporation will be notified in writing of the change and effective date.

- 3) Other Modifications by Department or Development Corporation -- If either the Department or the Development Corporation desires to modify the terms of the financial assistance other than as set forth in subsections (a)(1) and (2) above, written notice of the proposed modification shall be given to the other party. No modification shall take effect unless agreed to in writing by both the Department and the Development Corporation.
- b) Suspension --
 - 1) If the Department determines that a Development Corporation has failed to perform the terms and conditions of the scope of work of the project, then the Department shall, after notice and an opportunity to correct has been provided to the recipient, suspend the financial assistance and withhold further payments until the financial assistance is terminated, or the Development Corporation's failure has been corrected.
 - 2) The Department will determine that a Development Corporation has failed to faithfully perform the terms and conditions of the scope of work of the project when:
 - A) the Department has notified the Development Corporation in writing of the existence of circumstances such as repeated failure to submit required reports, misapplication of Department funds, evidence of fraud and abuse, repeated failure to meet performance timelines or standards, or failure to resolve negotiated points of the agreement; and
 - B) the Development Corporation fails to develop and implement a corrective action plan satisfactory to the Department within 30 calendar days of the Department's notice.
- c) Financial assistance shall be terminated for the following reasons:
 - 1) Termination Due to Loss of Funding -- In the absence of state funding for a specific year, all financial assistance for that year will be terminated in full. In the event of a partial loss of state funding, the Department will make proportionate cuts to all Development Corporations.

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2) Termination for cause -- If the Department determines that the Development Corporation has failed to comply with the terms and conditions of the financial assistance has failed to observe, or perform or cause the observance or performance of any covenant contained in the agreement, or any statement, certification, representation or warranty made by or on behalf of the Development Corporation shall prove to have been untrue or incorrect in any material respect when made. The Department shall terminate the loan in whole, or in part, at any time before the date of completion.

3) Termination by Agreement -- The Department and the Development Corporation shall terminate the financial assistance agreement in whole, or in part, when the Department and the Development Corporation agree that the continuation of the project objectives would not produce beneficial results commensurate with the future expenditures of funds.

Section 545.495 General Terms Governing Lending

When financial assistance provided by the Department is used by the Development Corporation for lending to or direct investments in Illinois based firms, the Corporation shall meet the following standards:

- a) Applications -- An application for a loan or a security investment submitted to the Development Corporation may require facts about the company's history, job opportunities, stability of employment, past and present condition and structure, actual and pro-forma income statements, present and future market prospects and management qualification, and any other facts deemed material to the financing request. The Development Corporation shall obtain and such additional information concerning the application as it deems necessary and diligent (Section 3003 of the Act).
- b) Financial Analysts -- The Development Corporation shall, on the basis of the application, and any other information, prepare a report concerning the credit-worthiness of the proposed borrower, the financial commitment of other investors, the manner in which the proposed business project will advance the economy of the state, and the soundness of the proposed financial assistance agreement (Section 3003 of the Act).
- c) Other financing -- Assistance shall be awarded only if other financing with respect to the business project is provided. OTHER FINANCING MAY include, but shall not be limited to ANY LOAN, EQUITY POSITION, CONVERTIBLE PREFERRED STOCK, LETTER OF

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d) Adequate Security -- Loans or security investment may be secured by first or second positions on real or personal property, by royalty payments, by personal notes or guarantees, or by any other security satisfactory to the (Section 3002(b) of the Act) Development Corporation.

e) Terms and Provisions -- Loans or security investments shall be in such principal amount and form, and contain such terms and provisions with respect to the property, insurance, repairs, alteration, payment of taxes and assessments, delinquency charges, default remedies, additional security as shall be determined adequate (Section 3002(c) of the Act).

f) Loans -- In determining if a loan is to be provided, the Development Corporation shall determine whether there will be an expected improvement in production levels, quality of output or timeliness of delivery and that the number of jobs to be created or retained is reasonable in relation to the loan funds requested (Section 3004(b) of the Act).

g) Qualified Security Investments -- In determining if a qualified security investment is to be made, the Development Corporation shall find that there is a likelihood of commercial feasibility given the state of development of the proposed product, process, or technical device, and that there is a likelihood of increased job opportunities in the near term as a result of the security investment (Section 3004(a) of the Act).

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Payment Of Benefits
- 2) Code Citation: 56 Ill. Adm. Code 2830
- 3)

<u>Section Number:</u>	<u>Adopted Action:</u>
2830.10	New Section
2830.300	New Section
2830.305	New Section
2830.310	New Section
2830.315	New Section
2830.320	New Section
2830.325	New Section
2830.330	New Section
2830.335	New Section
2830.340	New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 48, pars. 400, 404, 610 and 611.
- 5) Effective Date of the Amendment: May 23, 1990.
- 6) Does this rulemaking contain an automatic repeal date? No.
- 7) Does this Rule contain an incorporation by reference? No.
- 8) Date filed in Agency's Principal Office: May 13, 1990.
- 9) Notice of Proposal published in Illinois Register:
February 16, 1990 at 14 Ill. Reg. 2423.
- 10) Has JCAR issued a Statement of Objection to these Rules? No.
- 11) Difference between proposal and final version: In subsection (a) of Section 2830.325 "The special agent" is changed to "A special agent other than the special agent who conducted the investigation" and in (b)(1) of Section 2830.300, "indorser" is changed to "endorser."
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR?
Yes.
- 13) Will this replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of the rules: These amendments provide the public with the procedures for requesting the replacement of a previously issued benefit check. They also provide recourse when the Agency refuses to reissue such a check.
- 16) Information and Questions regarding these Adopted Amendments may be addressed to:

Stella Adams Cuthbert, Commissioner
 Illinois Department of Employment Security
 401 South State Street - 2 South
 Chicago, Illinois 60605
 312/793-4240

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

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DEPARTMENT OF EMPLOYMENT SECURITY

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3) If the original check has not been processed by the depository bank, the Agency will submit a stop payment order to the bank. After acknowledgment of the stop payment order is returned by the depository bank, a replacement check will immediately be issued.

b) Requests by a second endorser for replacement of a benefit check which has not already been processed by the depository bank shall be made in writing to Accounting Services Division, Trust Fund Subdivision, 401 S. State St., Chicago, IL 60605.

1) If the original benefit check was lost, mutilated or stale-dated after receipt by the second endorser, and if proof of such action is provided to the Agency, disbursement of the funds to cover the check will be made to the second endorser.

2) If the original benefit check was subject to a stop payment order initiated by the claimant pursuant to subsection (a)(3), the matter will be sent to the Benefit Payment Control Division for an interview pursuant to Section 2830.310.

(Source: Added at 14 Ill.Reg. 9101, effective May 23, 1990)

Section 2830.305 Where Original Benefit Check Has Been Processed By The Depository Bank

a) Where a request for reissuance of a benefit check is made by a claimant pursuant to Section 2830.300 and it is determined that the check has already been processed by the depository bank, such claimant will be sent a copy of the check and a form, BIS-0097, "Affidavit of Non-Endorsement." If the claimant believes that neither he nor his authorized agent endorsed the check or that he did not receive the proceeds of such check, then, within 30 days of the mailing of the copy of the check, the claimant must file the completed "Affidavit of Non-Endorsement" at the local office where he last filed a claim for benefits.

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b) Where a request for reissuance of a benefit check is made by a second endorser and the original benefit check has been processed by the depository bank, such request must be made within 90 days after the date that such check was paid by the depository bank.

(Source: Added at 14 Ill.Reg. 9101, effective May 23, 1990)

Section 2830.310 Check Forgery Investigation

a) Where a forgery investigation is to be conducted because the claimant claims non-payment of the proceeds of a benefit check, all materials relevant to the matter shall be forwarded to the Agency's Benefit Payment Control Subdivision where a special agent shall investigate the matter and prepare a recommendation as to whether to reissue the benefit check to the claimant.

b) If the recommendation of the special agent is not to reissue the original benefit check, the special agent shall set the matter for a forgery interview pursuant to Section 2830.315.

c) Prior to the forgery interview provided in Section 2830.315, the special agent who conducted the initial investigation shall prepare a form, SI-1F, Report of Forgery Investigation, and record the results of the following in chronological order:

- 1) Any contact with the second endorser or payor of the check. Any relevant information or evidence such as check cashing registration cards should be noted and included in the file;
- 2) Contact with additional witnesses as might be deemed necessary by the special agent;
- 3) Any contact with the claimant, including any background information which might have been discovered; and
- 4) A summary of all relevant facts and the basis for the decision not to reissue the benefit check.

(Source: Added at 14 Ill.Reg. 9101, effective May 23, 1990)

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- 3) If the second endorser is present, take any testimony that he can offer on the cashing of the benefit check;
- 4) Provide the claimant with an opportunity to explain any reasons or to present any evidence which would show that the signature on the benefit check is not his and then allow the claimant to cross-examine any witnesses at the hearing or rebut any other evidence presented; and
- 5) Issue his decision on the available facts, even if the claimant does not appear at the interview (there shall be no defaults for want of prosecution, though the claimant may withdraw his request for reissuance).

(Source: Added at 14 Ill. Reg. 9101, effective May 23, 1990)

Section 2830.330 The Record

A complete record shall be maintained of the interview before the special agent. The record will consist of the special agent's written summary of the testimony of the parties and their witnesses and copies of all documents, reports, briefs, motions and findings in the matter.

(Source: Added at 14 Ill. Reg. 9101, effective May 23, 1990)

Section 2830.335 Decision

- a) A decision shall be made in writing, shall separately state findings of fact and conclusions of law and shall be mailed to the parties thereto;
- b) A decision to allow or deny a claim for reissuance of a benefit check under this Subpart shall be based on the testimony and evidence in the record and not solely on an analysis of the claimant's handwriting. The formal rules of evidence shall not, however, apply in these matters;
- c) No decision shall be based solely on unobjectioned to hearsay testimony where the claimant has testified to the contrary under oath unless the special agent finds that the claimant's testimony is incredible, inconsistent or inherently improbable.

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- a) Written notice of the date, time and place of the forgery interview will be mailed to the claimant at least 10 days prior to the date of the interview.
 - b) The notice of interview shall identify the facts and issues to be covered by the interview.
 - c) The notice of interview shall be sent to the claimant at the address shown on the Affidavit of Non-Endorsement.
- (Source: Added at 14 Ill. Reg. 9101, effective May 23, 1990)
- Section 2830.320 Continuances

The special agent to whom the matter is assigned shall grant continuances only for good cause shown. When a continuance is granted, the interview shall be rescheduled at the earliest possible time convenient to all parties. All parties shall be informed of the date, time and place of the rescheduled interview either orally or in writing.

(Source: Added at 14 Ill. Reg. 9101, effective May 23, 1990)

Section 2830.325 Check Forgery Interview

- a) A special agent other than the special agent who conducted the investigation will control the interview which will be limited to the issues set forth in the notice of interview;
- b) All testimony at the interview shall be made under oath or affirmation;
- c) At the interview, the special agent shall:

- 1) Inform the parties of the purpose of the interview and of their rights under the Act and the rules promulgated thereunder;
- 2) Present to the claimant all relevant material obtained during the investigation;

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- d) No decision shall be based on evidence which the claimant has not had an opportunity to review and rebut. The claimant shall be deemed to have waived his right to review and rebut when he fails to appear at the scheduled hearing.

(Source: Added at 14 Ill.Reg. 9101, effective May 23, 1990)

Section 2830.340 Appeals

The decision of the special agent shall constitute a final administrative decision, subject to review under the State's Administrative Review Law.

(Source: Added at 14 Ill.Reg. 9101, effective May 23, 1990)

DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF ADOPTED RULES

- 1) Heading of Part: Illinois Development Credit Corporation Act
- 2) Code Citation: 38 Ill. Adm. Code 195
- 3) Section Number: Adopted Action:
 195.100 New Section
 195.120 New Section
 195.140 New Section
 195.160 New Section
 195.180 New Section
 195.200 New Section
- 4) Statutory Authority: Ill. Rev. Stat. 1987, Ch.32. Par. 1001 et seq.
- 5) Effective Date of Rules: June 1,1990
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: June 1,1990
- 9) Notices of Proposal Published in Illinois Register:
 January 26, 1990, 14 Ill. Reg. 1558
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:
 The following changes were made in response to comments received during the first notice or public comment period:
 Section 195.180 a)2) - Changed numbered sentences from (i), (ii), (iii) to A), B), and C).
 The following changes were made in response to comments and suggestions of the Joint Committee on Administrative Rules:
 Deleted "state-wide" from second sentence of Section 196.120(a).
 Added "in accordance with the purposes set forth in Section 4 of the Act" at the end of Section 195.120(a)(1).
 Added "(e.g. bank lending officer, venture capitalist, self-employed businessman)" at the end of Section 195.120(b).

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DEPARTMENT OF FINANCIAL INSTITUTIONS

NOTICE OF ADOPTED RULES

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER V: DEPARTMENT OF FINANCIAL INSTITUTIONSPART 195
ILLINOIS DEVELOPMENT CREDIT CORPORATION ACT

Section	
195.100	General
195.120	Articles of Incorporation
195.140	Member Obligations
195.160	State Funds
195.180	Reports and Examinations
195.200	Hearing Procedures

AUTHORITY: Implementing and authorized by the Illinois Development Credit Corporation Act (Ill. Rev. Stat. 1987, Ch.32. Par. 1001 et seq.)

SOURCE: Adopted at 14 Ill. Reg. 9110, effective June 1, 1990.

Section 195.100 General

The provisions of Article 1 through Article 16 of the Business Corporation Act of 1983 (Ill. Rev. Stat. 1987, ch. 32, par. 1.01 et seq.) shall apply to Development Credit Corporations providing that in the event of a conflict the provision of the Illinois Development Credit Corporation Act (the "Act") (Ill. Rev. Stat. 1987, ch. 32, par. 1001 et seq.) shall apply.

Section 195.120 Articles of Incorporation

- a) A statement of the purpose for which a Development Credit Corporation is formed, as required in the Articles of Incorporation, will include the boundaries of the region within which that corporation intends to pursue that purpose. The initial corporation to be approved will operate throughout the State of Illinois in order to maximize the availability of financing and business expertise.
 - 1) Subsequent corporations may be approved to operate within a specific region of the State of Illinois providing the Director of Financial Institutions is satisfied of the need and the availability of adequate financing and business expertise in accordance with the purposes set forth in Section 4 of the Act.
 - 2) The statement of purpose will further include the intention to pursue that purpose throughout the entire region defined and without prejudice or discrimination.

DEPARTMENT OF FINANCIAL INSTITUTIONS

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- b) The requirement for the Director's approval of the Articles of Incorporation that the incorporators have the confidence of their respective communities includes the requirement of appropriate business and financial experience (e.g. bank lending officer, venture capitalist, self-employed businessman).

Section 195.140 Member Obligations

- a) When called upon by a development credit corporation, a member shall make a reasonable loan to further the purpose of the corporation and subject to the maximum amount specified in Section 15 of the Act, but the corporation may not require a member to lend that maximum amount.
- b) In accordance with Section 19 of the Act, a development credit corporation is required to maintain an earned surplus equal to the total of the outstanding capital and paid in capital. An increase in earned surplus may only be derived from net earnings and not by contribution from members or others.

Section 195.160 State Funds

The Board of Directors of a development credit corporation may accept grants or loans from, or sell non-voting stock to, a State agency but such agency will not become a voting stock holder or member of the corporation. The Director of the Department of Commerce and Community Affairs or its successor shall be given advance notice of all meetings of the Board of Directors for the purpose of suggesting prospects deserving financial help consistent with the purpose of the Act.

Section 195.180 Reports and Examinations

- a) A Development Credit Corporation shall submit to the Director annually on or before May 1st a complete statement of its financial condition in accordance with generally accepted accounting principles, under the accounting standards of the Financial Accounting Standard Board of the American Institute of Certified Public Accountants, Stanford, Connecticut (1989) as of the preceding December 31st as audited by a certified public accountant, and attached thereto a brief summary of the status of each active project with outstanding loans including but not limited to the following:
 - 1) information on the cost and sources of funds and capital and the total allowable maximum amount available from members, the maximum amount committed by each individual member, and the corporation's outstanding liabilities to members;
 - 2) classification of firms in the corporation's portfolio by standard industrial code, including a breakdown of:
 - A) size of firms by sales and number of employees;

NOTICE OF ADOPTED RULES

- b) The Director shall notify the petitioner by registered or certified mail, return receipt requested, of the date, time and place of the hearing.
- c) The Director shall designate in writing, a Hearing Officer who shall have the authority to:

- B) number and percentage of loans to manufacturing, service and wholesale businesses; and
- C) number and percentage of loans to traditional industries and to high technology firms within the manufacturing sector;

- 1) Examine or permit examination of any witness under oath;
- 2) Determine the order of appearance of all parties;
- 3) Receive all evidence and testimony and rule on its admissibility as well as require the production of any relevant document or witness;
- 4) Rule on objections to evidence;
- 5) Require any party or his attorney to provide proposed findings of fact or conclusions of law for consideration in his report; and
- 6) Make a written report with recommendations to the Director which shall include findings of fact and conclusions of law with respect to the claim. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

- 3) information on the types of financing provided by the corporation, including guaranteed loans, the size and term of loans, and a breakdown of investments by senior debt, subordinated debt and equity financings;
- 4) information on interest rates of loans, including percentage of fixed rate and variable rate loans;
- 5) information on the use of capital provided by the corporation, including number of working capital loans, loans to assist leveraged buyouts by employees, management or others, and secured mortgages for plant expansion or new production facilities;
- 6) information on resources and actions taken to advance the corporation's marketing program; and
- 7) information on the corporation's regional offices, including a description of the volume of business and the nature of loan activity at each office.

- b) The records of the corporation's regional offices shall be examined annually to determine:
 - 1) compliance with the provisions of the Act; and
 - 2) the accuracy of the information contained in each corporation's annual report.
- c) The fee for the annual examination shall be charged \$200.00 per examiner, per day or part thereof.
- d) The Director shall, for good cause, initiate additional investigation of the corporation at any time.

Section 195.200 Hearing Procedures

- a) Pursuant to Section 28 of the Act, request for a hearing subsequent to suspension of operation of a Development Credit Corporation shall be accompanied by a surety in which the applicant shall be the obligor in the amount of \$1,000 guaranteeing payment of costs of such hearing. This surety may be in the form of a bond, deposit in cash, or certified check payable to the Director of Financial Institutions, and shall be returned to the petitioner on proof of payment of costs. If the costs are not paid within 20 days of the conclusion of the hearing, the Director may authorize their payment from the surety returning any balance to the petitioner.

NOTICE OF ADOPTED RULES

- 1) Examine or permit examination of any witness under oath;
- 2) Determine the order of appearance of all parties;
- 3) Receive all evidence and testimony and rule on its admissibility as well as require the production of any relevant document or witness;
- 4) Rule on objections to evidence;
- 5) Require any party or his attorney to provide proposed findings of fact or conclusions of law for consideration in his report; and
- 6) Make a written report with recommendations to the Director which shall include findings of fact and conclusions of law with respect to the claim. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

- 3) information on the types of financing provided by the corporation, including guaranteed loans, the size and term of loans, and a breakdown of investments by senior debt, subordinated debt and equity financings;
- 4) information on interest rates of loans, including percentage of fixed rate and variable rate loans;
- 5) information on the use of capital provided by the corporation, including number of working capital loans, loans to assist leveraged buyouts by employees, management or others, and secured mortgages for plant expansion or new production facilities;
- 6) information on resources and actions taken to advance the corporation's marketing program; and
- 7) information on the corporation's regional offices, including a description of the volume of business and the nature of loan activity at each office.

- b) The records of the corporation's regional offices shall be examined annually to determine:
 - 1) compliance with the provisions of the Act; and
 - 2) the accuracy of the information contained in each corporation's annual report.
- c) The fee for the annual examination shall be charged \$200.00 per examiner, per day or part thereof.
- d) The Director shall, for good cause, initiate additional investigation of the corporation at any time.

Section 195.200 Hearing Procedures

- a) Pursuant to Section 28 of the Act, request for a hearing subsequent to suspension of operation of a Development Credit Corporation shall be accompanied by a surety in which the applicant shall be the obligor in the amount of \$1,000 guaranteeing payment of costs of such hearing. This surety may be in the form of a bond, deposit in cash, or certified check payable to the Director of Financial Institutions, and shall be returned to the petitioner on proof of payment of costs. If the costs are not paid within 20 days of the conclusion of the hearing, the Director may authorize their payment from the surety returning any balance to the petitioner.

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NOTICE OF ADOPTED RULES

1) Heading of Part: Affordable Housing Program

2) Code Citation: 47 Ill. Adm. Code 360

3) Section Numbers: Adopted Action:

- 360.101 New Section
- 360.102 New Section
- 360.103 New Section
- 360.104 New Section
- 360.105 New Section
- 360.106 New Section
- 360.107 New Section
- 360.108 New Section
- 360.109 New Section
- 360.110 New Section
- 360.111 New Section
- 360.112 New Section
- 360.113 New Section
- 360.114 New Section

- 360.201 New Section
- 360.202 New Section
- 360.203 New Section

- 360.301 New Section
- 360.302 New Section
- 360.303 New Section
- 360.304 New Section
- 360.305 New Section
- 360.306 New Section
- 360.307 New Section
- 360.308 New Section
- 360.309 New Section
- 360.310 New Section

- 360.401 New Section
- 360.402 New Section

- 360.501 New Section
- 360.502 New Section
- 360.503 New Section
- 360.504 New Section
- 360.505 New Section
- 360.506 New Section
- 360.507 New Section

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- 360.601 New Section
- 360.602 New Section
- 360.603 New Section
- 360.604 New Section
- 360.605 New Section
- 360.606 New Section

- 360.701 New Section

- 360.801 New Section
- 360.802 New Section
- 360.803 New Section
- 360.804 New Section

- 360.901 New Section
- 360.902 New Section
- 360.903 New Section
- 360.904 New Section
- 360.905 New Section

- 360.1001 New Section

- 360.1101 New Section
- 360.1102 New Section

4) Statutory Authority: Sections 4 and 7(e) of the Illinois Affordable Housing Act (P.A. 86-925, effective September 15, 1989) and Sections 7.19 and 7.25 of the Illinois Housing Development Act (Ill.Rev.Stat. 1987, ch. 67 1/2, pars. 307.19 and 307.25).

5) Effective Date of Rules: May 24, 1990

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

7) Do these rules contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: May 1, 1990

9) Notice of Proposal Published in Illinois Register:

February 2, 1990 14 Ill. Reg. 1726

10) Has JCAR issued a Statement of Objections to these Rules? No

11) Differences between proposal and final version:

Based upon comments received from the Joint Committee on Administrative Rules and the Secretary of State's Administrative Code Unit, changes

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SUBPART J: ENERGY EFFICIENCY

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SUBPART K: CERTIFICATIONS

360.1101 Environmental Assessment
 360.1102 Environmental Barriers

AUTHORITY: Sections 4 and 7(e) of the Illinois Affordable Housing Act (P.A. 86-925, effective September 15, 1989) and Sections 7.19 and 7.25 of the Illinois Housing Development Act (Ill.Rev.Stat. 1987, ch. 67 1/2, pars. 307.19 and 307.25).

SOURCE: Emergency rules adopted at 14 Ill. Reg. 2094, effective January 22, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 9117, effective May 24, 1990.

NOTE: Boldface type denotes statutory language.

SUBPART A: GENERAL RULES

Section 360.101 Authority

This Part is authorized by and made pursuant to Public Act 86-925 and shall govern the Program.

Section 360.102 Purpose and Objectives

This Part is established to accomplish the general purposes of the the Affordable Housing Act and in particular the making of grants, mortgages or other loans to acquire, construct, rehabilitate, develop, operate, insure and retain affordable single-family and multi-family housing for low-income and very low-income households.

Section 360.103 Definitions

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

"Act": The Illinois Housing Development Act (Ill. Rev. Stat. 1987 ch. 67 1/2, pars. 301 et seq.).

"Advisory Commission": The Affordable Housing Advisory Commission.

"Affordable housing": Residential housing that, so long as the

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its initial disbursement.

"Low-income household": A single person, family or unrelated persons living together whose adjusted income is more than 50%, but less than 80%, of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437) (Section 3 of the Act).

"Members": The Members of the Authority.

"Moderate income household": A single person, family or unrelated persons living together whose adjusted income is more than 80% but less than 120% of the median income of the area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437) (Section 3 of the Act).

"Mortgage": The mortgage, together with any supplements thereto and amendments or modifications thereof, executed as security for a mortgage loan.

"Mortgage Loan": The loan from the Authority to a Mortgagee to be used for the acquisition of the Real Estate or for the planning, construction, rehabilitation, development, completion, or financing of a Development.

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

"Mortgagor": The person or entity holding legal title to a Development or Single-family Development and who has executed and delivered to the Authority the Mortgage and Mortgage Note.

"Multi-family Housing": A building or buildings providing housing to 5 or more households.

"Nonprofit Corporation": A nonprofit corporation incorporated pursuant to the provisions of the Illinois General Not for Profit Corporation Act of 1986 (Ill. Rev. Stat. 1987, ch. 32, pars. 101.55 et seq.) and having articles of incorporation which, in addition to meeting other requirements of law, meet the requirements of the Act and the Affordable Housing Act.

same is occupied by low-income households or very low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than 30% of adjusted income.

"Affordable Housing Act": The Illinois Affordable Housing Act, Public Act 86-925, effective September 15, 1989.

"Applicant": The person or entity applying for an allocation of monies from the Trust Fund.

"Authority": The Illinois Housing Development Authority.

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

"Clearinghouse": The person in the Office of the Governor designated by the Governor to provide notice to appropriate State and local agencies of proposed Developments.

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

"Cost Certification Cutoff Date": The last day of the month in which the Construction Completion Date falls.

"Congregate housing": A building or structure in which 2 or more households, inclusive, share common living areas and may share child care, cleaning, cooking and other household responsibilities.

"Development": A multifamily housing project consisting of the Real Estate, together with all improvements, buildings, equipment, and personal property appurtenant thereto.

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

"Director": The Director of the Authority.

"Final Closing Date": The date on which the Authority issues its final disbursement.

"Initial Closing Date": The date on which the Authority issues

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"Notes": The notes issued by the Authority from time to time to finance the Program.

"Owner": The person or entity holding legal title to a Development or Single-family Development or, when the Real Estate is held in an Illinois land trust, the entity owning the beneficial interest in a Trust.

"Part": This Part 360.

"Program": The Illinois Affordable Housing Program.

"Real Estate": The real property upon which a Development is to be or has been constructed.

"Recipient": The proprietorship, partnership, for-profit corporation, not-for-profit corporation or unit of local government which receives Trust Fund monies from the Authority.

"Rules": The rules and regulations of the Authority as supplemented and amended from time to time.

"Single-family Development": A single-family housing project consisting of the Real Estate together with all improvements, buildings, equipment, and personal property appurtenant thereto.

"Single-family Housing": A building containing one to 4 dwelling units, including a mobile home as defined in subsection (b) of Section 203 of the Mobile Home Landlord and Tenant Rights Act (Ill. Rev. Stat. 1987 ch. 80, pars. 201 et seq.)

"Staff": The Director and the employees of the Authority.

"State": The State of Illinois.

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

"Tenant Selection Plan": The tenant selection plan approved by the Authority for a Development.

"Trust": The Illinois land trust which holds legal title to a Development or Single-family Development.

"Trustee": The trustee of an Illinois land trust holding legal title to a Development.

"Trust Fund": The Illinois Affordable Housing Trust Fund.

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"Utility allowance": The cost of utilities, except telephone, based on reasonable consumption of these utilities.

"Very low-income household": A single person, family or unrelated persons living together whose adjusted income is not more than 50% of the median income of their area of residence, adjusted for family size, as such adjusted income and median income for the area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437) (Section 3 of the Act).

Section 360.104 Borrowing by the Authority

To the extent allowed by the Act and the Affordable Housing Act, the Authority may borrow funds with which to make Mortgage Loans under the Program.

Section 360.105 Compliance with Federal Law

Notwithstanding anything herein to the contrary, this Part shall be construed in conformity and compliance with applicable Federal law.

Section 360.106 Standards-Criteria

In administering the Program, the Authority, the Director, and the Staff shall in the exercise of discretion consider, in addition to the criteria specifically set forth in this Part;

- a) the purposes of the Program to provide affordable, decent, safe, and sanitary housing;
- b) the requirements of applicable State and Federal law;
- c) the financial condition and previous experience of the Applicant;
- d) local government and community support for the Development;
- e) suitability of Development location;
- f) cost efficiency;
- g) energy efficiency;
- h) affordability to low-income and very low-income households;

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completed application form prescribed by the Authority together with a nonrefundable application fee in the amount of \$250.

Section 360.302 Form

The Authority shall develop an application form to be used by all applicants.

Section 360.303 Review

Upon receipt of a completed application the Staff shall determine whether the application meets the requirements of Subpart B of this Part; and, whether all other requirements of this Part and the Affordable Housing Act are met. If the Staff determines that the application fails to meet any of these requirements, the Authority shall notify the Applicant in writing within twenty days after receipt of the application by the Authority.

Section 360.304 Initial Meeting

If the Authority determines that the application meets the requirements of this Part and the Affordable Housing Act, the Staff shall meet with the Applicant to establish what additional information, if any, is required in order to allow Staff to make a recommendation on the application to the Advisory Commission.

Section 360.305 Site and Market Study

The Staff may conduct a site and market study to assist in the preparation of the feasibility determination discussed in Section 360.306. The Authority shall conduct a site study when the Applicant seeks funds for new construction. The Authority shall conduct a market study when the Applicant's proposed rent structure is not in conformity with the rental market rates known to the Authority within a one half mile radius of the Development.

Section 360.306 Feasibility Determination

The Staff, after reviewing the application, any additional information submitted by the Applicant and any information generated by Staff, shall determine whether the proposed development is economically feasible. The Authority shall determine feasibility by comparing the rental income for the Development with all expenses, including debt service, for the Development.

Section 360.307 Staff Recommendation

After making the feasibility determination, the Staff shall prepare a recommendation for presentation to the Advisory Commission. The Staff shall inform the Advisory Commission, as to each application, whether an application is being recommended for funding, not recommended for funding or

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rejected due to being ineligible for funding.

Section 360.308 Advisory Commission

The Staff will present its recommendation on each application to the Advisory Commission, together with a summary of the application, the feasibility determination and any other information provided by Staff in response to the Advisory Commission's requests.

Section 360.309 Authority Determination

The Staff shall present all recommendations to distribute Trust Fund monies, together with the recommendations of the Advisory Commission, to the Members. Funds from the Trust Fund can only be allocated pursuant to resolution by the Members.

Section 360.310 Conditional Commitment

After approval of an application by the Members, the Staff shall prepare and deliver to the Applicant a conditional commitment which contains the Authority's commitment to allocate Trust Fund monies conditioned upon the applicant meeting the requirements of the conditional commitment and the availability of funds in the Trust Fund. The conditional commitment may remain in effect for only one year.

SUBPART D: NOTICE

Section 360.401 Notification by Authority

a) Notice of Allocation

Prior to the presentation of an application to the Members, the Authority shall give written notice of the proposed allocation to the following persons and agencies:

- 1) the chairman of the county board of the county in which the proposed Development is to be located;
- 2) the mayor or other chief executive of the municipality, if any, in which the proposed Development is to be located;
- 3) the appropriate Clearinghouses; and
- 4) each member of the General Assembly from the legislative district in which the proposed Development is to be located. If the application does not request Trust Fund monies for a specific Development, the notice will be sent based on the location of the Applicant.

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Section 360.502 Land Trusts

Whenever title to the Real Estate is held in an Illinois land trust, the agreement creating the Trust and establishing the respective rights, powers, and duties of the Trustee and Owner shall be in a format approved by the Authority. The Authority shall approve such format if it meets the legal requirement necessary to create a valid Illinois land trust and complies with the Act and this Part as determined by the Authority. The deed in Trust and Trust agreement shall be in compliance with the Act and this Part, as determined by the Authority. Any Trust agreement shall not be amended or revoked without the prior written approval of the Authority. Upon either the request of the Owner or the Authority, the Trustee shall furnish the Authority with copies of the Trust agreement and all records in its possession relating to the Trust agreement, the Real Estate, and the Development. The Authority shall request such documents when it believes there is non-compliance with the Act or this Part. The Trust agreement and the Mortgage Loan documents shall require such Authority approvals of, and impose such restrictions on, the conveyance, assignment, leasing, mortgaging, pledging or other transfer, directly or indirectly, by operation of law (for example, bankruptcy proceedings), or otherwise, of the Development, and the beneficial interest in and power of direction over the Trust, or any partnership interest or stock ownership interest in the beneficiary of the Trust.

Section 360.503 Books and Records

The books and records of the Development shall be subject to inspection, examination, and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires for the purpose of determining compliance with the Rules, the Act, the Affordable Housing Act and all contracts and agreements relating to the Program. The books and records of the Owner, if separate from the books and records of the Development, shall be subject to inspection, examination, and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires. If the allocation is made to a Recipient to be disbursed or used for more than one Development or single-family Development, the books and records of the Recipient shall be subject to inspection, examination and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires.

Section 360.504 Audits

The Development and offices, architectural plans and specifications, apparatuses, devices, books and records, contracts, documents, and other papers relating thereto shall at all times be maintained in reasonable condition for proper audit and shall be subject to inspection, examination, and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires. All audits, certifications,

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If the application does not request Trust Fund monies for a specific Development, the notice will be sent based on the location of the Applicant.

- b) Forms
Notice under this section shall be made on forms prepared by the Authority.
- c) Contents
The notice shall set forth the name and address of the Applicant; the estimated amount of the allocation; if applicable, the name and address of the proposed Development; type of any subsidies; the total number of units; and the type of Development (for example, elderly, family, or handicapped).

Section 360.402 Comments and Responses

- a) Comments
The persons and agencies receiving notice pursuant to Section 360.401 shall have 30 days from the date of mailing to submit written comments to the Applicant.

b) Applicant's Response

The Applicant shall respond in writing to all comments received under this Section, as well as to any other written comments received by the Applicant, and shall provide copies of all comments and responses to the Authority.

- c) The Members shall consider all comments received pursuant to this Section when making their determination.

SUBPART E: OWNER

Section 360.501 Eligible Mortgagors

The Authority may make Mortgage Loans under the Program to Applicants eligible under Section 360.201 and Trustees. The Owner of the Development shall at all times be an Applicant eligible under Section 360.201 or a Trustee. If the Authority learns that an Owner is not an Applicant eligible under Section 360.201 or a Trustee, then the Authority shall take the action, if any, specified in the Mortgage Loan documents.

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and financial reports which the Recipient is required by contract with the Authority to allow, undertake, or prepare shall be made by an independent certified public accountant acceptable to the Authority.

Section 360.505 Annual Financial Report

Within sixty days of the end of the calendar year, the Owner shall furnish the Authority with a complete annual financial report based upon the books and records of the Development and the Owner, prepared in accordance with Authority requirements, and certified by the Owner and an independent certified public accountant acceptable to the Authority. If the allocation is made to a Recipient to be disbursed or used for more than one Development or Single-family Development, the Authority shall require the Recipient to submit a complete annual financial report prepared in accordance with Authority requirements.

Section 360.506 Furnishing Information

The Owner or Recipient shall furnish such reports, projections, certifications, analyses, budget, operating report and tax returns as required by applicable Federal or State statutes, regulations, or subsidy or assistance programs or by the Authority, and shall furnish specific answers to the Authority's questions about the Owner's or applicant's income, assets, liabilities, and contracts and, if applicable, about the administration, operation, maintenance, occupancy, financial soundness, and physical condition of the Development.

Section 360.507 Standards for Approval of Conveyance

In determining whether to approve and/or impose restrictions on the conveyance, assignment, leasing, mortgaging, pledging or other transfer of the Development; and the beneficial interest in and power of direction over the Trust, or any partnership interest or stock ownership interest in the beneficiary of the Trust as provided under Section 360.502; the Authority shall grant such approval, with any necessary restrictions, if the Authority determines that such action will not have an adverse impact upon the financial stability of the Development or tax-exempt status of the Bonds.

SUBPART F: MORTGAGE LOAN AND GRANTS

Section 360.601 Maximum Mortgage Loan Amount

Mortgage Loans shall not exceed \$500,000.00 for each application.

Section 360.602 Maximum Grant Amount

Grants to any single very low-income family by an Applicant shall not exceed \$5,000. Grants to a single low-income family by an Applicant shall not

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exceed \$2,500. Grants to organizations or corporations are limited to \$500,000.00 for each application. Grants are not available to for-profit entities. All other provisions of this Part apply to grants made by the Authority.

Section 360.603 Increase Above Maximum Mortgage Loan Amount

Nothing contained in this section shall prohibit the Authority from increasing the amount of a Mortgage Loan above the limitations specified herein if the Authority, in its sole discretion, determines that such increase is necessary to meet the purposes of the Affordable Housing Act. In deciding whether to approve a Mortgage Loan increase, the Authority shall consider the physical condition of the Development, the value of the Development as security for the Mortgage Loan, the Authority's ability to provide such Mortgage Loan increase, the ability of the Owner to repay the Mortgage Loan and Mortgage Loan increase out of gross Development income, the financial status of the Development and any other relevant factors.

Section 360.604 Amortization

The maximum term of a Mortgage Loan to be made by the Authority under this Program shall not exceed 40 years and may be shorter at the sole discretion of the Authority.

Section 360.605 Recapture of Assistance

Within each set of Mortgage Loan documents the Authority shall establish requirements regarding use, occupancy and rent levels as required by the Act and this Part. Such requirements shall provide that if the Recipient violates any of these requirements, such violation shall be deemed a default under the Mortgage Loan documents.

Section 360.606 Prepayment of Mortgage Loan

The Authority shall prohibit the prepayment of a Mortgage Loan for a Development if such prepayment shall result in the Development becoming unaffordable for low-income or very low-income households such that the rent charged to such households exceeds 30% of the households' income.

SUBPART G: CONSTRUCTION

Section 360.701 Design and Construction Standards

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

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the Tenant commences occupancy after the Applicant's application for Trust Fund monies or Applicant's control of the site, whichever comes later, provided such Tenant receives written notice of the impending rehabilitation and possible relocation or displacement prior to executing the lease; the Tenant has his/her tenancy terminated for violations of the terms and conditions of the lease, a violation of applicable Federal, State or local law, or other good cause; the Tenant is rejected for continued occupancy by the Applicant for reasons stated in the Development's Tenant Selection Plan; moves from the Development of his/her own accord, moves from the Development after receiving written notice of the impending rehabilitation; or other good cause exists to deny benefits as determined by the Authority. However, Tenants who are rejected by Applicant for continued occupancy in the Development for reasons concerning family size restrictions or inability to afford rent levels charged after rehabilitation shall be eligible for permanent displacement benefits under the relocation plan.

- c) Contents of the Relocation Plan. The relocation plan shall set forth the policies and procedures to be used by the Applicant in temporarily relocating or permanently displacing Tenants of the Development including, but not limited to: provisions detailing the responsibilities of the Authority, the Applicant and, if applicable, its managing agent; the basic actions to be taken in the relocation program; the acceptance and rejection criteria for determining eligibility for temporary relocation and permanent displacement benefits; the information to be provided to Tenants regarding the relocation program; provisions providing for determining Tenants' relocation needs; a description of relocation benefits; and, provisions detailing the implementation of the relocation program, including a timetable for activities under the program.
- d) Enforcement of Relocation Plan. The Recipient is responsible for assuring that all the relocation requirements are met. The Authority, except in those cases where another governmental agency has a regulatory requirement to do so, will monitor the relocation activities to determine compliance with the requirements of this Section. To enforce the provisions of this Section, the Authority may take whatever action is available under this Subpart or the Mortgage Loan documents, including the withholding of any Trust Fund monies due Owner.

Section 360.903 Tenant Selection Plan

Before making a Mortgage Loan, grant or any other allocation under the Program, the Authority shall approve, where applicable, a Tenant Selection Plan submitted by the Applicant and setting forth the income limits for Tenants of the Development. In approving the Tenant Selection Plan, the

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Authority shall consider whether the selection procedures will: be equitable, considering the family size and circumstances of the Tenant; maintain the financial stability of the Development; meet the requirements of Section 360.905; and, comply with the Authority's Rules.

Section 360.904 Income and Rent Limits

- a) A Tenant's initial occupancy of a unit held available for rental to persons and families of low and very low income as defined herein shall be limited to persons and families initially meeting the income limits set for in subsection (b). If a Tenant meeting income requirements at the time of initial occupancy subsequently fails to continue to meet such requirements, that failure shall not constitute non-compliance by that Tenant.
- b) Determination of Income Limits
- 1) For all units reserved for low-income households, the income limits shall be equal to 80% of the median family income with adjustments for family size, for the area in which the Development or Single-Family Development is located, as such median income is determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437) (Section 3 of the Act). The median income of the area of residence shall be attached to each application provided by the Authority and additionally shall be available upon request.
 - 2) For all units reserved for very low-income households, the income limits shall be equal to 50% of the median family income with adjustments for family size, for the area in which the Development or Single-family Development is located, as such median income is determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437) (Section 3 of the Act). The median income of the area of residence shall be attached to each application provided by the Authority and additionally shall be available upon request.
 - 3) The Owner shall obtain from each prospective Tenant intending to occupy a unit held available for rental to persons and families of low or very low-income and on an annual basis thereafter a certification of income. The Owner shall submit such certification to the Authority by mail.

c) Determination of Rent Limits

- 1) For all units reserved for low income persons or families,

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Tenant(s) occupying such units shall not be charged, including a utility allowance, rent in excess of 30% of the household's adjusted income. The amount allocated for the utility allowance shall be determined by the Recipient and approved by the Authority.

2) For all units reserved for very low-income persons or families, Tenant(s) occupying such units shall not be charged, including a utility allowance, rent in excess of 30% of the household's adjusted income. The amount allocated for the utility allowance shall be determined by the Recipient and approved by the Authority.

3) The Owner shall submit on an annual basis the rent schedule for the Development reflecting the actual rents being charged at the Development.

4) No person or family shall be required to vacate or move from a unit reserved for low or very low income persons or families due to an increase in income exceeding the income limitations contained in this Subpart. The Owner may increase the rent for such units, for so long as the person or family's income exceeds such limits, to an amount not to exceed the fair market rent as determined by the Authority, determined by a market study of comparable rental units within a one half mile radius of the Development.

Section 360.905 Non-Discrimination

Developments receiving Affordable Housing monies shall not refuse to accept Tenants for occupancy solely because the Tenant receives governmental rental assistance, nor based on a prospective Tenant's race, national origin, religion, creed, sex, age, familial status or disability.

SUBPART J: ENERGY EFFICIENCY

Section 360.1001 Standards

All Developments receiving assistance from the Trust Fund for construction and rehabilitation shall comply with the provisions of 47 Ill. Adm. Code 310. Subpart I.

SUBPART K: CERTIFICATIONS

Section 360.1101 Environmental Assessment

Prior to Initial Closing Date, the Authority shall require the applicant to have an environmental assessment review of the proposed Development

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undertaken by an environmental consultant approved by the Authority if the applicant requests a first lien mortgage loan. The environmental assessment shall consist of a review of historic activities on and current conditions of the Real Estate which identifies potential problem areas. If its review of the results of an environmental assessment disclose the presence of any hazardous substance as described at Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(14)), the Authority shall have conducted a more comprehensive environmental assessment by an environmental consultant approved by the Authority. This assessment may consist of sampling, lab analysis and an estimate of the magnitude of environmental problems, as well as costs involved in site cleanup. The Applicant shall pay the costs of such assessments, and may, at the sole discretion of the Authority, be payable out of Mortgage Loan proceeds.

Section 360.1102 Environmental Barriers

All Developments receiving assistance from the Trust Fund for construction and rehabilitation shall comply with the provisions of the Environmental Barriers Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 3711 et seq.) and the Illinois Accessibility Code (71 Ill. Adm. Code 400).

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- 1) The Heading of the Part: Definitions and General Provisions
- 2) The Code Citation: 35 Ill. Adm. Code 211
- 3) Section Number: 211.122 Adopted Action: Amendments
- 4) Statutory Authority: Environmental Protection Act at Ill. Rev. Stat. 1987 and 1988 Supp. ch. 111 1/2, pars. 1010 and 1027
- 5) Effective Date of Rule(s) (Amendments, Repealer): May 23, 1990
- 6) Does this rulemaking contain an automatic repeal date?: No
- 7) Does this rule (amendment, repealer) contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: May 10, 1990
- 9) Notice(s) of Proposal Published in Illinois Register: 13 Ill. Reg. 16285, October 20, 1989.
- 10) Has JCAR issued a Statement of Objections to this (these) Rule(s)? No
- 11) Difference(s) between proposal and final version:
The Board did not proceed with the following definitions which were proposed at first notice:
 - (a) Can Coating
 - (b) Coating Applicator
 - (c) Coating Line
 - (d) Coil Coating
 - (e) Large Appliance Coating
 - (f) Paper Coating
 - (g) Prime Coat
 - (h) Prime Surface Coat
 - (i) Top Coat
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR?

Yes

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- 13) Will this rule (amendments, repealer) replace an emergency rule currently in effect? No

- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Ill. Reg. Citation:</u>
211.122	Amendment	14 Ill. Reg. 2766
211.122	Amendment	13 Ill. Reg. 16257

- 15) Summary and Purpose of Rule(s):

A complete description of these rules is contained in the Board's Opinion and Order of May 10, 1990 in R89-16(A) on pages 30-46. Copies of this Opinion and Order are available from the Clerk's Office or by contacting the Board at the address below. Generally, these amendments were proposed by the Illinois Environmental Protection Agency (Agency) to the Board on September 29, 1989 along with amendments to 35 Ill. Adm. Code 215. The Agency certified these rules as "federally required" pursuant to Section 28.2 of the Act. Amendments to this Part should be read in conjunction with the amendments to that Part, which also appear in today's Illinois Register. This adopted rule contains amendments to the RACT regulation for certain sources of volatile organic materials. The adopted rule responds to various deficiencies in the Illinois State Implementation Plan identified by the United State Environmental Protection Agency (USEPA). The USEPA has indicated that if these rules are adopted by May 24, 1990 its intent is to approve these state regulations as a SIP revision in lieu of federal promulgation of these RACT rules. These amendments include a definition for "Volatile Organic Material Content" and "Automobile Light Duty Truck Refinishing". Also the definition of "Fabric Coating" has been expanded to include operations where the coating impregnates the substrate.

- 16) Information and questions regarding this adopted rule shall be directed to:

Marie E. Tipsord
100 W. Randolph Street
State of Illinois Center
Suite 11-500
Chicago, IL 60601
(312) 814-4925

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SUBPART B: DEFINITIONS

Section 211.122 Definitions

"Accumulator": The reservoir of a condensing unit receiving the condensate from a surface condenser.

"Acid Gases": For the purposes of Section 9.4 the Environmental Protection Act (the Act) (Ill. Rev. Stat. 1987, ch. 111 $\frac{1}{2}$, par. 1009.4), hydrogen chloride, hydrogen fluoride and hydrogen bromide, which exist as gases, liquid mist, or any combination thereof.

"Actual Heat Input": The quantity of heat produced by the combustion of fuel using the gross heating value of the fuel.

"Aeration": The practice of forcing air through bulk stored grain to maintain the condition of the grain.

"Afterburner": A device in which materials in gaseous effluents are combusted.

"Air Dried Coating": Coatings that dry by the use of air or forced air at temperatures up to 363.15° K (194° F).

"Annual Grain Through-Put": Unless otherwise shown by the owner or operator, annual grain through-put for grain-handling operations, which have been in operation for three consecutive years prior to June 30, 1975, shall be determined by adding grain receipts and shipments for the three previous fiscal years and dividing the total by 6. The annual grain through-put for grain-handling operations in operation for less than three consecutive years prior to June 30, 1975, shall be determined by a reasonable three-year estimate; the owner or operator shall document the reasonableness of his three-year estimate.

"Architectural Coating": Any coating used for residential or commercial buildings or their appurtenances, or for industrial buildings which is site applied.

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"Asphalt": The dark-brown to black cementitious material (solid, semisolid or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

"Asphalt Prime Coat": A low-viscosity liquid asphalt applied to an absorbent surface as the first of more than one asphalt coat.

"Automobile": Any first division motor vehicle as that term is defined in the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 $\frac{1}{2}$, pars 1-100 et seq.).

"Automobile or Light-Duty Truck Manufacturing Plant": A facility where parts are manufactured or finished for eventual inclusion into a finished automobile or light-duty truck ready for sale to vehicle dealers, but not including customizers, body shops and other repainters.

"Automobile or Light Duty Truck Refinishing": the repainting of used automobiles or light duty trucks.

"Batch Loading": The process of loading a number of individual parts at the same time for degreasing.

"Bead-Dipping": The dipping of an assembled tire bead into a solvent-based cement.

"British Thermal Unit": The quantity of heat required to raise one pound of water from 60° F to 61° F (abbreviated btu).

"Bulk Gasoline Plant": Any gasoline storage and distribution facility that receives gasoline from bulk gasoline terminals by delivery vessels and distributes gasoline to gasoline dispensing facilities.

"Bulk Gasoline Terminal": Any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, and distributes gasoline to bulk gasoline plants or gasoline dispensing facilities.

"Can Coating": The application of a coating material to a single walled container that is manufactured from metal sheets thinner than 29 gauge (0.0141 in).

"Coal Refuse": Waste products of coal mining, cleaning and coal preparation operations containing coal, matrix material, clay and other organic and inorganic material.

"Coating": For purposes of this part, a coating includes a material applied to a substrate for decorative, protective or other functional purposes. Such material include, but are not limited to paints, varnishes, sealers, adhesives, diluents and thinners.

"Coating Applicator": Equipment used to apply a surface coating.

"Coating Line": An operation where a surface coating is applied to a material and subsequently the coating is dried and/or cured.

"Coating Plant": Any building, structure or installation that contains a coating line and which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

"Coil Coating": The application of a coating material to any flat metal sheet or strip that comes in rolls or coils.

"Cold Cleaning": The process of cleaning and removing soils from surfaces by spraying, brushing, flushing or immersion while maintaining the organic solvent below its boiling point. Wipe cleaning is not included in this definition.

"Complete Combustion": A process in which all carbon contained in a fuel or gas stream is converted to carbon dioxide.

"Component": Any piece of equipment which has the potential to leak volatile organic material including, but not limited to, pump seals, compressor seals, seal oil degassing vents, pipeline valves, pressure relief devices, process drains and open ended valves. This definition excludes valves which are not externally regulated, flanges, and equipment in heavy liquid service. For purposes of 35 Ill. Adm. Code 215, Subpart 0 this definition also excludes bleed ports of gear pumps in polymer service.

"Certified Investigation" A report signed by Illinois Environmental Protection Agency (Agency) personnel certifying whether a grain-handling operation (or portion thereof) or grain-drying operation is causing or tending to cause air pollution. Such report must describe the signatory's investigation, including a summary of those facts on which he relies to certify whether the grain-handling or grain-drying operation is causing or threatening or allowing the discharge or emission of any contaminant into the environment so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board (Board) under the Environmental Protection Act (Act). The certified investigation shall be open to a reasonable public inspection and may be copied upon payment of the actual cost of reproducing the original.

"Choke Loading": That method of transferring grain from the grain-handling operation to any vehicle for shipment or delivery which precludes a free fall velocity of grain from a discharge spout into the receiving container.

"Cleaning and Separating Operation": That operation where foreign and undesired substances are removed from the grain.

"Clear Coating": Coatings that lack color and opacity or are transparent using the undercoat as a reflectant base or undertone color.

"Closed Purge System": A system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow inducing devices that transport liquid or vapor from a piece or pieces of equipment to a control device, or return the liquid or vapor to the process line.

"Closed Vent System": A system that is not open to the atmosphere and that is composed of piping, connections, and, if necessary, flow inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device, or return the gas or vapor to the process line.

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"Concentrated Nitric Acid Manufacturing Process": Any acid producing facility manufacturing nitric acid with a concentration equal to or greater than 70 percent by weight.

"Condensate": Hydrocarbon liquid separated from its associated gasses which condenses due to changes in the temperature or pressure and remains liquid at standard conditions.

"Control Device": For purposes of Subpart Q, an enclosed combustion device, vapor recovery system, flare, or closed container.

"Conveyorized Degreasing": The continuous process of cleaning and removing soils from surfaces utilizing either cold or vaporized solvents.

"Crude Oil": A naturally occurring mixture which consists of hydrocarbons and sulfur, nitrogen or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

"Crude Oil Gathering": The transportation of crude oil or condensate after custody transfer between a production facility and a reception point.

"Custody Transfer": The transfer of produced petroleum and/or condensate after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

"Cutback Asphalt": Any asphalt which has been liquified by blending with petroleum solvents other than residual fuel oil and has not been emulsified with water.

"Degreaser": Any equipment or system used in solvent cleaning.

"Delivery Vessel": Any tank truck or trailer equipped with a storage tank that is used for the transport of gasoline to a stationary storage tank at a gasoline dispensing facility, bulk gasoline plant or bulk gasoline terminal.

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"Distillate Fuel Oil": Fuel oils of grade No. 1 or 2 as specified in detailed requirements for fuel oil A.S.T.M. D-369-69 (1971).

"Dry Cleaning Facility": A facility engaged in the cleaning of fabrics using an essentially nonaqueous solvent by means of one or more solvent washes, extraction of excess solvent by spinning and drying by tumbling in an airstream. The facility includes, but is not limited to, washers, dryers, filter and purification systems, waste disposal systems, holding tanks, pumps and attendant piping and valves.

"Dump-Pit Area": Any area where grain is received at a grain-handling or grain-drying operation.

"Effective Grate Area": That area of a dump-pit grate through which air passes, or would pass, when aspirated.

"Effluent Water Separator": Any tank, box, sump or other apparatus in which any organic material floating on or entrained or contained in water entering such tank, box, sump or other apparatus is physically separated and removed from such water prior to outfall, drainage or recovery of such water.

"Emission Rate": Total quantity of any air contaminant discharge into the atmosphere in any one-hour period.

"End Sealing Compound Coat": A compound applied to can ends which functions as a gasket when the end is assembled on the can.

"Excess Air": Air supplied in addition to the theoretical quantity necessary for complete combustion of all fuel and/or combustible waste material.

"Excessive Release": A discharge of more than 295g (0.65 pounds) of mercaptans and/or hydrogen sulfide into the atmosphere in any five minute period.

"Existing Grain-Drying Operation": Any grain-drying operation the construction or modification of which was commenced prior to June 30, 1975.

"Existing Grain-Handling Operation": Any grain-handling operation the construction or modification of which was commenced prior to June 30, 1975.

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equipment, one-turn storage space, and excluding flour mills and feed mills) are performed: receiving, shipping, transferring, storing, mixing or treating of grain or other processes pursuant to normal grain operations.

"Green Tire Spraying": The spraying of green tires, both inside and outside, with release compounds which help remove air from the tire during molding and prevent the tire from sticking to the mold after curing.

"Green Tires": Assembled tires before molding and curing have occurred.

"Gross Heating Value": Amount of heat produced when a unit quantity of fuel is burned to carbon dioxide and water vapor, and the water vapor condensed as described in A.S.T.M. D-2015-66, D-900-55, D-1826-64 and D-240-64.

"Heavy Liquid": Liquid with a true vapor pressure of less than 0.3 kPa (0.04 psi) at 294.3° K (70° F) or 0.1 Reid Vapor Pressure as determined by A.S.T.M. method D-323; or which when distilled requires a temperature of 300° F or greater to recover 10% of the liquid as determined by A.S.T.M. method D-86.

"Heavy Metals": For the purposes of Section 9.4 of the Act, elemental, ionic, or combined forms of arsenic, cadmium, mercury, chromium, nickel and lead.

"Heavy, Off-Highway Vehicle Products": For the purposes of Section 215.204(k), heavy off-highway vehicle products shall include: heavy construction, mining, farming or material handling equipment; heavy industrial engines; diesel-electric locomotives and associated power generation equipment; and the components of such equipment or engines.

"Hot Well": The reservoir of a condensing unit receiving the condensate from a barometric condenser.

"Housekeeping Practices": Those activities specifically defined in the list of housekeeping practices developed by the Joint EPA - Industry Task Force and included herein under 35 Ill. Adm. Code 212.461.

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"Incinerator": Combustion apparatus in which refuse is burned.

"Indirect Heat Transfer": Transfer of heat in such a way that the source of heat does not come into direct contact with process materials.

"In-Process Tank": A container used for mixing, blending, heating, reacting, holding, crystallizing, evaporating, or cleaning operations in the manufacture of pharmaceuticals.

"In-situ Sampling Systems": Nonextractive samplers or in-line samplers.

"Interior Body Spray Coat": A coating applied by spray to the interior of a can after the can body has been formed.

"Internal Transferring Area": Areas and associated equipment used for conveying grain among the various grain operations.

"Large Appliance Coating": The application of a coating material to the component metal parts (including but not limited to doors, cases, lids, panels and interior support parts) of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners and other similar products.

"Light-Duty Truck": Any second division motor vehicle, as that term is defined in the Illinois Vehicle Code, (Ill. Rev. Stat. 1987, ch. 95½, pars. 1-100 et seq.) weighing less than 3854 kilograms (8500 pounds) gross.

"Liquid-Mounted Seal": A primary seal mounted in continuous contact with the liquid between the tank wall and the floating roof edge around the circumference of the roof.

"Liquid Service": Means that the equipment or component contains process fluid that is in a liquid state at operating conditions.

"Liquids Dripping": Any visible leaking from a seal including spraying, misting, clouding and ice formation.

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"Load-Out Area": Any area where grain is transferred from the grain-handling operation to any vehicle for shipment or delivery.

"Low Solvent Coating": A coating which contains less organic solvent than the conventional coatings used by the industry. Low solvent coatings include water-borne, higher solids, electro-deposition and powder coatings.

"Magnet Wire Coating": The application of a coating of electrically insulating varnish or enamel to conducting wire to be used in electrical machinery.

"Major Dump Pit": Any dump pit with an annual grain through-put of more than 300,000 bushels, or which receives more than 40% of the annual grain through-put of the grain-handling operation.

"Major Metropolitan Area (MMA)": Any county or group of counties which is defined by the following Table:

MAJOR METROPOLITAN AREAS IN ILLINOIS (MMA'S)

COUNTIES INCLUDED IN MMA

Champaign-Urbana	Champaign
Chicago	Cook, Lake, Will, DuPage, McHenry, Kane, Grundy, Kendall, Kankakee
Decatur	Macon
Peoria	Peoria, Tazewell
Rockford	Winnebago
Rock Island -- Moline	Rock Island
Springfield	Sangamon
St. Louis (Illinois)	St. Clair, Madison
Bloomington -- Normal	McLean

"Major Population Area (MPA)": Areas of major population concentration in Illinois, as described below:

The area within the counties of Cook, Lake, DuPage, Will; the townships of Burton, Richmond, McHenry, Greenwood, Nunda, Door, Algonquin, Graton and the municipality of Woodstock, plus a zone extending two miles beyond the boundary of said municipality

The area within the municipalities of Rock Island, Moline, East Moline, Carbon Cliff, Milan, Oak Grove, Silvis, Hampton, Greenwood and Coal Valley, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Galesburg and East Galesburg, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Bartonville, Peoria and Peoria Heights, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Pekin, North Pekin, Marquette Heights, Creve Coeur and East Peoria, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Bloomington and Normal, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Decatur, Mt. Zion, Harrisstown and Forsyth, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the municipalities of Springfield, Leland Grove, Jerome, Southern View, Grandview,

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Sherman and Chatham, plus a zone extending two miles beyond the boundaries of said municipalities.

The area within the townships of Godfrey, Foster, Wood River, Fort Russell, Chouteau, Edwardsville, Venice, Nameoki, Alton, Granite City and Collinsville located in Madison County; and the townships of Stites, Canteen, Centreville, Caseyville, St. Clair, Sugar Loaf and Stookey located in St. Clair County.

"Manufacturing Process": A process emission source or series of process emission sources used to convert raw materials, feed stocks, subassemblies or other components into a product, either for sale or for use as a component in a subsequent manufacturing process.

"Metal Furniture Coating": The application of a coating material to any furniture piece made of metal or any metal part which is or will be assembled with other metal, wood, fabric, plastic or glass parts to form a furniture piece including, but not limited to, tables, chairs, wastebaskets, beds, desks, lockers, benches, shelving, file cabinets, lamps and room-dividers. This definition shall not apply to any coating line coating metal parts or products that is identified under the Standard Industrial Classification Code for Major Groups 33, 34, 35, 36, 37, 38, 39, 40 or 41.

"Miscellaneous Fabricated Product Manufacturing Process":

A manufacturing process involving one or more of the following applications, including any drying and curing of formulations, and capable of emitting volatile organic material:

Adhesives to fabricate or assemble non-furniture components or products

Asphalt solutions to paper or fiberboard

Asphalt to paper or felt

Coatings or dye to leather

Coatings to plastic

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Coatings to rubber or glass

Curing of furniture adhesives in an oven which would emit in excess of 10 tons of volatile organic material per year if no air pollution control equipment were used

Disinfectant material to manufactured items

Plastic foam scrap or "fluff" from the manufacture of foam containers and packaging material to form resin pellets

Resin solutions to fiber substances

Rubber solutions to molds

Viscose solutions for food casings

The storage and handling of formulations associated with the process described above.

The use and handling of organic liquids and other substances for clean-up operations associated with the process described above.

"Miscellaneous Formulation Manufacturing Process":

A manufacturing process which compounds one or more of the following and is capable of emitting volatile organic material:

Adhesives

Asphalt solutions

Caulks, sealants or waterproofing agents

Coatings, other than paint and ink

Concrete curing compounds

Dyes

Friction materials and compounds

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causes obstruction of an observer's view. For the purposes of these regulations, the following equivalence between opacity and Ringelmann shall be employed:

Opacity Percent	Ringelmann
10	0.5
20	1.
30	1.5
40	2.
60	3.
80	4.
100	5.

"Open Top Vapor Degreasing": The batch process of cleaning and removing soils from surfaces by condensing hot solvent vapor on the colder metal parts.

"Operator of Gasoline Dispensing Facility": Any person who is the lessee of or operates, controls or supervises a gasoline dispensing facility.

"Organic Material": Any chemical compound of carbon including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, but excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbonic acid, metallic carbide, metallic carbonates and ammonium carbonate.

"Organic Materials": For the purposes of Section 9.4 of the Act, any chemical compound of carbon, including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, and polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans and polynuclear aromatic hydrocarbons are organic materials, methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbonic acid, metallic carbide, metallic carbonates and ammonium carbonate are not organic materials.

"Organic Vapor": Gaseous phase of an organic material or a mixture of organic materials present in the atmosphere.

"Overvarnish": A coating applied directly over ink or printing.

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"Owner of Gasoline Dispensing Facility": Any person who has legal or equitable title to a stationary storage tank at a gasoline dispensing facility.

"Packaging Rotogravure Printing": Rotogravure printing upon paper, paper board, metal foil, plastic film and other substrates, which are, in subsequent operations, formed into packaging products or labels for articles to be sold.

"Paint Manufacturing Plant": A plant that mixes, blends, or compounds enamels, lacquers, sealers, shellacs, stains, varnishes or pigmented surface coatings.

"Paper Coating": The application of a coating material to paper or pressure sensitive tapes, regardless of substrate, including web coating on plastic fibers and decorative coatings on metal foil.

"Particulate Matter": Any solid or liquid material, other than water, which exists in finely divided form.

"Petroleum Liquid": Crude oil, condensate or any finished or intermediate product manufactured at a petroleum refinery, but not including Number 2 through Number 6 fuel oils as specified in A.S.T.M. D-396-69, gas turbine fuel oils Numbers 2-GT through 4-GT as specified in A.S.T.M. D-2880-71 or diesel fuel oils Numbers 2-D and 4-D, as specified in A.S.T.M. D-975-68.

"Petroleum Refinery": Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation, cracking, extraction or reforming of unfinished petroleum derivatives.

"Pharmaceutical": Any compound or mixture, other than food, used in the prevention, diagnosis, alleviation, treatment or cure of disease in man and animal.

"Photochemically Reactive Material": Any organic material with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or the composition of which exceeds any of the following individual percentage composition

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"Portland Cement Process": Any facility manufacturing portland cement by either the wet or dry process.

"Power Driven Fastener Coating": The coating of nail, staple, Brad and finish nail fasteners where such fasteners are fabricated from wire or rod of 0.0254 inch diameter or greater, where such fasteners are bonded into coils or strips, such coils and strips containing a number of such fasteners, which fasteners are manufactured for use in power tools, and which fasteners must conform with formal standards for specific uses established by various federal and national organizations including Federal Specification FF-N-105b of the General Services Administration dated August 23, 1977 (does not include any later amendments or editions; U.S. Army, Armament Research and Development Command, Attn: DRDAR-TST, Rock Island, IL 61201), Bulletin UM-25d of the U.S. Department of Housing and Urban Development - Federal Housing Administration dated September 5, 1973 (does not include any later amendments or editions; Department of HUD, 547 W. Jackson Blvd., Room 1005, Chicago, IL 60606), and the Model Building Code of the Council of American Building Officials, and similar standards. For the purposes of this definition, the terms "Brad" and "finish nail" refer to single leg fasteners fabricated in the same manner as staples. The application of coatings to staple, Brad, and finish nail fasteners may be associated with the incremental forming of such fasteners in a cyclic or repetitive manner (incremental fabrication) or with the forming of strips of such fasteners as a unit from a band of wires (unit fabrication).

"PPM (Vol) - (Parts per Million) (Volume)": A volume/volume ratio which expresses the volumetric concentration of gaseous air contaminant in a million unit volumes of gas.

"Pressure Release": The emission of materials resulting from system pressure being greater than set pressure of the pressure relief device.

"Pressure Tank": A tank in which fluids are stored at a pressure greater than atmospheric pressure.

"Prime Coat": The first film of coating material applied in a multiple coat operation.

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limitations. Whenever any photochemically reactive material or any constituent of any organic material may be classified from its chemical structure into more than one of the above groups of organic materials it shall be considered as a member of the most reactive group, that is, the group having the least allowable percent of the total organic materials.

A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic types of unsaturation: 5 percent. This definition does not apply to perchloroethylene or trichloroethylene.

A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: 8 percent.

A combination of ethylbenzene, ketones having branched hydrocarbon structures or toluene: 20 percent.

"Pneumatic Rubber Tire Manufacture": The production of pneumatic rubber tires with a bead diameter up to but not including 20.0 inches and cross section dimension up to 12.8 inches, but not including specialty tires for antique or other vehicles when produced on equipment separate from normal production lines for passenger or truck type tires.

"Polybasic Organic Acid Partial Oxidation Manufacturing Process": Any process involving partial oxidation of hydrocarbons with air to manufacture polybasic acids or their anhydrides, such as maleic anhydride, phthalic anhydride, terephthalic acid, isophthalic acid, trimellitic anhydride.

"Portable Grain-Handling Equipment": Any equipment (excluding portable grain dryers) that is designed and maintained to be movable primarily for use in a non-continuous operation for loading and unloading one-turn storage space, and is not physically connected to the grain elevator, provided that the manufacturer's rated capacity of the equipment does not exceed 10,000 bushels per hour.

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"Prime Surfacer Coat": A film of coating material that touches up areas on the surface not adequately covered by the prime coat before application of the top coat.

"Process": Any stationary emission source other than a fuel combustion emission source or an incinerator.

"Process Unit": Components assembled to produce, as intermediate or final products, one or more of the chemicals listed in 35 Ill. Adm. Code 215. Appendix D. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.

"Process Unit Shutdown": A work practice or operational procedure that stops production from a process unit or part of a process unit. An unscheduled work practice or operational procedure that stops production from a process unit or part of a process unit for less than 24 hours is not a process unit shutdown. The use of spare components and technically feasible bypassing of components without stopping production is not a process unit shutdown.

"Process Weight Rate": The actual weight or engineering approximation thereof of all materials except liquid and gaseous fuels and combustion air, introduced into any process per hour. For a cyclical or batch operation, the process weight rate shall be determined by dividing such actual weight or engineering approximation thereof by the number of hours of operation excluding any time during which the equipment is idle. For continuous processes, the process weight rate shall be determined by dividing such actual weight or engineering approximation thereof by the number of hours in one complete operation, excluding any time during which the equipment is idle.

"Production Equipment Exhaust System": A system for collecting and directing into the atmosphere emissions of volatile organic material from reactors, centrifuges and other process emission sources.

"Publication Rotogravure Printing": Rotogravure printing upon paper which is subsequently formed into books, magazines, catalogues, brochures, directories,

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newspaper supplements or other types of non-packaging printed materials.

"Purged Process Fluid": Liquid or vapor from a process unit that contains volatile organic material and that results from flushing or cleaning the sample line(s) of a process unit so that an uncontaminated sample may then be taken for testing or analysis.

"Reactor": A vat, vessel or other device in which chemical reactions take place.

"Reasonably Available Control Technology (RACT)": The lowest emission limitation that an emission source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

"Refinery Fuel Gas": Any gas which is generated by a petroleum refinery process unit and which is combusted at the refinery, including any gaseous mixture of natural gas and fuel gas.

"Refinery Unit, Process Unit or Unit": A set of components which are a part of a basic process operation such as distillation, hydrotreating, cracking or reforming of hydrocarbons.

"Residual Fuel Oil": Fuel oils of grade No. 4, 5 and 6 as specified in detailed requirements for fuel oils A.S.T.M. D-396-69 (1971).

"Restricted Area": The area within the boundaries of any "municipality" as defined in the Illinois Municipal Code, plus a zone extending one mile beyond the boundaries of any such municipality having a population of 1000 or more according to the latest federal census.

"Ringelmann Chart": The chart published and described in the Bureau of Mines, U.S. Department of Interior, Information Circular 8333 (Revision of IC7718) May 1, 1967, or any adaptation thereof which has been approved by the Agency.

"Roadway": Any street, highway, road, alley, sidewalk, parking lot, airport, rail bed or terminal, bikeway, pedestrian mall or other structure used for transportation purposes.

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the liquid level is 6 inches above the bottom of the tank. When applied to a tank which is loaded from the side, any loading pipe the discharge of which is entirely submerged when the liquid level is 18 inches or two times the loading pipe diameter, whichever is greater, above the bottom of the tank. The definition shall also apply to any loading pipe which is continuously submerged during loading operations.

"Sulfuric Acid Mist": Sulfuric acid mist as measured according to the method specified in 35 Ill. Adm. Code 214.101(b).

"Surface Condenser": A device which removes a substance from a gas stream by reducing the temperature of the stream, without direct contact between the coolant and the stream.

"Synthetic Organic Chemical or Polymer Manufacturing Plant": A plant that produces, as intermediates or final products, one or more of the chemicals or polymers listed in 35 Ill. Adm. Code 215. Appendix D.

"Top Coat": A film of coating material applied in a multiple coat operation other than the prime coat, final repair coat or prime surfacer coat.

"Transfer Efficiency": the weight or volume ratio of the amount of coating adhering to the material being coated divided by the weight or volume deposited onto a part or product to the total amount of coating solids delivered to the coating applicator and multiplied by 100 to equal a percentage used.

"Tread End Cementing": The application of a solvent-based cement to the tire tread ends.

"True Vapor Pressure": The equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss From Floating Roof Tanks" (1962).

"Turnaround": The procedure of shutting down an operating refinery unit, emptying gaseous and liquid contents to do inspection, maintenance and repair work, and putting the unit back into production.

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"Undertread Cementing": The application of a solvent-based cement to the underside of a tire tread.

"Unregulated Safety Relief Valve": A safety relief valve which cannot be actuated by a means other than high pressure in the pipe or vessel which it protects.

"Vacuum Producing System": Any reciprocating, rotary or centrifugal blower or compressor, or any jet ejector or device that creates suction from a pressure below atmospheric and discharges against a greater pressure.

"Valves Not Externally Regulated": Valves that have no external controls, such as in-line check valves.

"Vapor Balance System": Any combination of pipes or hoses which creates a closed system between the vapor spaces of an unloading tank and a receiving tank such that vapors displaced from the receiving tank are transferred to the tank being unloaded.

"Vapor Collection System": All piping, seals, hoses, connections, pressure-vacuum vents, and other possible sources between the gasoline delivery vessel and the vapor processing unit and/or the storage tanks and vapor holder.

"Vapor Control System": Any system that prevents release to the atmosphere of organic material in the vapors displaced from a tank during the transfer of gasoline.

"Vapor-Mounted Primary Seal": A primary seal mounted with an air space bounded by the bottom of the primary seal, the tank wall, the liquid surface and the floating roof.

"Vinyl Coating": The application of a topcoat or printing to vinyl coated fabric or vinyl sheets; provided, however, that the application of an organisol or plastisol is not vinyl coating.

"Volatile Organic Liquid": Any liquid which contains volatile organic material.

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chemicals of water, or any device, such as a flocculation tank or a clarifier, which removes petroleum derived compounds from waste water.

"Weak Nitric Acid Manufacturing Process": Any acid producing facility manufacturing nitric acid with a concentration of less than 70 percent by weight.

"Woodworking": The shaping, sawing, grinding, smoothing, polishing and making into products of any form or shape of wood.

(Source: Amended at 14 Ill. Reg. 9141, effective May 23, 1990)

"Volatile Organic Material" or "Volatile Organic Material Content (VOMC)": the emissions of volatile organic material which would result from the exposure of a coating, printing ink, fountain solution, tire spray, dry cleaning waste or other similar material to the air, including any drying or curing, in the absence of any control equipment. VOMC is typically expressed as kilogram (kg) VOM/liter (lb VOM/gallon) of coating or coating solids, or kg VOM/kg (lb VOM/lb) of coating material.

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Any organic material which participates in atmospheric photochemical reactions unless specifically exempted from this definition. Volatile organic material emissions shall be measured by the reference methods specified under 40 CFR 60, Appendix A (1986) (no future amendments or editions are included), or, if no reference method is applicable, may be determined by mass balance calculations.

For purposes of this definition, the following are not volatile organic materials:

- Chlorodifluoroethane (HCFC-142b)
- Chlorodifluoromethane (CFC-22)
- Chloropentafluoroethane (CFC-115)
- Dichlorodifluoroethane (CFC-12)
- Dichlorotrifluoroethane (HCFC-141b)
- Dichlorotetrafluoroethane (CFC-114)
- Dichlorotrifluoroethane (HCFC-123)
- Ethane
- Methane
- Dichloromethane (Methylene chloride)
- Tetrafluoroethane (HFC-134a)
- 1,1,1-Trichloroethane (Methyl chloroform)
- Trichlorofluoroethane (CFC-11)
- Trichlorotrifluoroethane (CFC-113)
- Trifluoromethane (FC-23)

"Volatile Petroleum Liquid": Any petroleum liquid with a true vapor pressure that is greater than 1.5 psia (78 millimeters of mercury) at standard conditions.

"Wastewater (Oil/Water) Separator": Any device or piece of equipment which utilizes the difference in density between oil and water to remove oil and associated

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- 1) The Heading of the Part: Organic Material Emission Standards and Limitations
- 2) The Code Citation: 35 Ill. Adm. Code 215
- 3) Section Number: Adopted Action:
- | | |
|---------|-------------|
| 215.102 | Amendments |
| 215.104 | Amendments |
| 215.105 | Amendments |
| 215.122 | Amendments |
| 215.124 | Amendments |
| 215.127 | New Section |
| 215.128 | New Section |
| 215.206 | Amendments |
| 215.208 | Amendments |
| 215.241 | Amendments |
| 215.404 | Repeal |
| 215.409 | New Section |
| 215.410 | New Section |
| 215.421 | Amendments |
| 215.445 | Amendments |
| 215.464 | Amendments |
| 215.467 | New Section |
| 215.582 | Amendments |
| 215.584 | Amendments |
| 215.585 | Amendments |
| 215.586 | New Section |
| 215.603 | Amendments |
| 215.614 | New Section |
| 215.615 | New Section |
| 215.886 | Amendments |
- 4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 111^{1/2}, pars. 1010 and 1027
- 5) Effective Date of Amendments: May 23, 1990
- 6) Does this rulemaking contain an automatic repeal date?: No
- 7) Does this rule (amendment, repealer) contain incorporations by reference? Yes

If "yes," was a copy of the approval form issued by JCAR attached to this rulemaking? The incorporations by reference are pursuant to Section 6.02(a) of the Illinois Administrative Procedure Act and do not require JCAR approval.

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- 8) Date Filed in Agency's Principal Office: May 10, 1990
- 9) Notice(s) of Proposal Published in Illinois Register: 13 Ill. Reg. 16445 October 27, 1989.
- 10) Has JCAR issued a Statement of Objections to this (these) Rule(s)? No
- 11) Difference(s) between proposal and final version:
- The Board did not proceed with the following New Sections which were proposed at first notice or with amendments to the following Sections:
- 215.181, 215.211, 215.432, 215.447, 215.581, 215.601, 215.602, 215.606, 215.620, 215.626, 215.636, 215.920, 215.926, 215.928, 215.929, 215.940, 215.946, 215.948, 215.960, 215.966, 215.968
- In addition, the Board made the following changes from first notice to second notice:
- | | |
|-----------------------|---|
| Section 215.102 | The Board amended the language to require approval by the Agency of alternative test methods using data comparing performance. |
| Section 215.122 | "submerged fill" was moved from the end of the Section and existing language was restored. |
| Section 215.124(a)(1) | The phrase "or any other device which controls volatile organic material emissions with an effectiveness equal to or greater than a rim mounted secondary seal" was added |
| Section 215.124(b)(3) | The phrase "or other closure device of equivalent control efficiency approved by the Agency" was added. |
| Section 215.127(b) | "reasonable" was added and "such Person's" replaced "his". |
| Section 215.128(a) | a reference to Section 215.105 |

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pages 30-46. Copies of this Opinion and Order are available from the Clerk's Office or by contacting the Board at the address below. Generally these amendments were proposed by the Illinois Environmental Protection Agency (Agency) to the Board on September 29, 1989 along with amendments to 35 Ill. Adm. Code 211. The Agency certified these rules as "federally required" pursuant to Section 28.2 of the Act. Amendments to this Part should be read in conjunction with the amendments to that Part, which also appears in today's Illinois Register. This adopted rule contains amendments to the RACT regulations for certain sources of volatile organic materials. The adopted rule responds to various deficiencies in the Illinois State Implementation Plan identified by the United States Environmental Protection Agency (USEPA). The USEPA has indicated that if these rules are adopted by May 25, 1990 its intent is to approve these state regulations as a SIP revision in lieu of federal promulgation of these RACT rules. These amendments include specifying what data the Agency will use when comparing test methods as well as minor changes to the section on Gasoline Volatility. The rules also add new test methods.

- 16) Information and questions regarding this adopted rule shall be directed to:

Marie E. Tipsord
100 W. Randolph Street
State of Illinois Center
Suite 11-500
Chicago, IL 60601
(312) 814-4925

The full text of the adopted rule(s) begins on the following page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER C: EMISSIONS STANDARDS AND LIMITATIONS FOR
STATIONARY SOURCES

PART 215
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

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215.100	Introduction
215.101	Clean-up and Disposal Operations
215.102	Testing Methods
215.103	Abbreviations and Conversion Factors
215.104	Definitions
215.105	Incorporations by Reference
215.106	Afterburners
215.107	Determination of Applicability

SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

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215.121	Storage Containers
215.122	Loading Operations
215.123	Petroleum Liquid Storage Tanks
215.124	External Floating Roofs
215.125	Compliance Dates and Geographical Areas
215.126	Compliance Plan
215.127	Emissions Testing
215.128	Measurement of Seal Gaps

SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

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215.141	Separation Operations
215.142	Pumps and Compressors
215.143	Vapor Blowdown
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SUBPART E: SOLVENT CLEANING

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215.181	Solvent Cleaning in General
215.182	Cold Cleaning

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SUBPART N: VEGETABLE OIL PROCESSING

Section 215.340 Hexane Extraction Soybean Crushing
 215.342 Hexane Extraction Corn Oil Processing
 215.344 Recordkeeping for Vegetable Oil Processes
 215.345 Compliance Determination
 215.346 Compliance Dates and Geographical Areas
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SUBPART P: PRINTING AND PUBLISHING

Section 215.401 Flexographic and Rotogravure Printing Exemptions
 215.403 Applicability of Subpart K
 215.404 Testing and Monitoring (Repealed)
 215.405 Compliance Dates and Geographical Areas
 215.406 Alternative Compliance Plan
 215.407 Compliance Plan
 215.408 Heatset Web Offset Lithographic Printing
 215.409 Testing Methods for Volatile Organic Material
 Content
 215.410 Emissions Testing

SUBPART Q: LEAKS FROM SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING EQUIPMENT

Section 215.420 Applicability
 215.421 General Requirements
 215.422 Inspection Program Plan for Leaks
 215.423 Inspection Program for Leaks
 215.424 Repairing Leaks
 215.425 Recordkeeping for Leaks
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 215.428 Compliance Dates
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 215.431 Inspection Program Plan for Leaks
 215.432 Inspection Program for Leaks
 215.433 Repairing Leaks
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 215,185 Compliance Plan

SUBPART F: COATING OPERATIONS

Section 215.202 Compliance Schedules
 215.204 Emission Limitations for Manufacturing Plants
 215.205 Alternative Emission Limitations
 215.206 Exemptions from Emission Limitations
 215.207 Compliance by Aggregation of Emission Sources
 215.208 Testing Methods for Solvent Volatile Organic Material Content

215,209 Exemption from General Rule on Use of Organic Material

215.210 Alternative Compliance Schedule
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 215.212 Compliance Plan
 215.213 Special Requirements for Compliance Plan
 215.214 Roadmaster Emissions Limitations

SUBPART H: SPECIAL LIMITATIONS FOR SOURCES IN MAJOR URBANIZED AREAS WHICH ARE NONATTAINMENT FOR OZONE

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- 215.437 Open-Ended Valves
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- 215.445 Leaks: General Requirements
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- 215.462 Green Tire Spraying Operations
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- 215.467 Testing Methods for Volatile Organic Material Content

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- 215.480 Applicability of Subpart T
- 215.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
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- 215.484 In-Process Tanks
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- 215.488 Monitors for Air Pollution Control Equipment
- 215.489 Compliance Schedule

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- 215.510 Coke By-Product Recovery Plants
- 215.512 Coke By-Product Recovery Plant Leaks
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- 215.582 Bulk Gasoline Terminals
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- 215.584 Gasoline Delivery Vessels
- 215.585 Gasoline Volatility Standards
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SUBPART Z: DRY CLEANERS

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16706, effective September 30, 1987; amended in R85-21(B) at 11 Ill. Reg. 19117, effective November 9, 1987; amended in R86-36, R86-39, R86-40 at 11 Ill. Reg. 20829, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 815, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7311, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7650, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10893, effective June 27, 1989; amended in R88-30(A) at 14 Ill. Reg. 3555, effective February 27, 1990; amended in R88-19 at 14 Ill. Reg. 7596, effective May 8, 1990; amended in R89-16(A) at 14 Ill. Reg. 9173, effective May 23, 1990.

Section 215.102 Testing Methods

a) The total organic material concentrations in an effluent stream shall be measured by a flame ionization detector or by other methods approved by the Illinois Environmental Protection Agency (Agency) according to the provisions of 35 Ill. Adm. Code 201.

a) Volatile organic material or organic material concentrations in a stream is measured by Method 18, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105, Measurement of Gaseous Organic Compounds incorporated by reference in 215.105 except as follows. ASTM D-4457, incorporated by reference in Section 215.105, may be used for halogenated organic compounds. Method 25, 25A or 25B, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105 may be substituted for Method 18 provided the source owner or operator submits calibration data and other proof that this method provides the information in the emission units of the applicable standard. The volumetric flow rate and gas velocity is determined in accordance with Methods 1, 1A, 2, 2A, 2C, 2D, 3 and 4, 40 CFR Part 60, Appendix A, incorporated by reference in 215.105. Any other alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

b) Measurement of Vapor Pressures

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1) For a single-component, the actual vapor pressure shall be determined by ASTM (American Society of Testing and Materials) Method D-2789-83 (Approved 1983), incorporated by reference in Section 215.105, or the vapor pressure may be obtained from a published source such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973), Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984), CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-1987), Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

2) For a mixture, the actual vapor pressure shall be determined by ASTM Method D-2879-83 (Approved 1983), incorporated by reference in Section 215.105, or the vapor pressure may be taken as either:

A) If the vapor pressure of the volatile organic liquid is specified in the applicable rule, the lesser of the sum of the actual vapor pressure of each component or each volatile organic material component, as determined in accordance with subsection 215.102(b)(1), weighted by its mole fraction; or

B) If the vapor pressure of the organic material or volatile organic material is specified in the applicable rule, the sum of the actual vapor pressure of each such component as determined in accordance with subsection 215.102(b)(1) weighted by its mole fraction.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.104 Definitions

The definitions of 35 Ill. Adm. Code 201 and 211 apply to this Part, as well as the definitions contained in this Section. Where the definition contained in this Section is more specific than that found in 35 Ill. Adm. Code 201 or 211, it shall take precedence in application of this Part.

"Light Oil": A liquid condensed or absorbed from coke oven gas composed of benzene, toluene, and xylene.

"Material Recovery Section": Any equipment designed to transport and recover styrene monomer and other impurities from other products and by-products in a polystyrene plant, including but not limited to the styrene devolatilizer unit and styrene recovery unit.

"Offset": Use of a blanked cylinder to transfer ink from the plate cylinder to the surface to be printed.

"Opaque Stains": All stains containing pigments not classified as semi-transparent stains including stains, glazes and other opaque material to give character to wood.

"Open-Ended/Valve": Any valve, except pressure relief devices, having one side of the valve in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

"Pigments Coatings": Opaque coatings containing binders and colored pigments which are formulated to conceal the wood surface either as an undercoat or topcoat.

"Polystyrene Plant": Any plant using styrene to manufacture polystyrene resin.

"Polystyrene Resin": A substance consisting of styrene polymer and additives which is manufactured at a polystyrene plant.

"Reid vapor pressure": Is the standardized measure of the vapor pressure of a liquid in pounds per square inch absolute (kpa) at 100° F (37.8° C).

"Repair Coatings": Coatings to correct imperfections or damage to furniture surface.

"Repaired": For the purposes of Subpart Q, Sections 215.430 through 215.438 equipment component which is adjusted, or otherwise altered, to eliminate a leak.

"Retail Outlet": means any gasoline dispensing facility at which gasoline is sold or offered for sale for use in motor vehicles.

"Binders": Organic materials and resins which do not include volatile organic materials.

"Clear Topcoat": The final coating which contains binders, but not opaque pigments, and is specifically formulated to form a transparent or translucent solid protective film.

"Continuous Process": A method of manufacture of polystyrene resin in which the styrene raw material is delivered on a continuous basis to the reactor in which the styrene is polymerized to polystyrene.

"Conventional Soybean Crushing Source": Any hexane extraction soybean crushing equipment that uses direct contact steam for desolventizing and producing toasted soy meals.

"Ethanol blend gasoline" means a mixture of gasoline and at least 9% ethanol by volume.

"Furniture Coating Application Line": The combination of coating application equipment, flash-off area, spray booths, ovens, conveyors, and other equipment operated in a predetermined sequence for purpose of applying coating materials to wood furniture.

"Heatset": A class of web offset lithography which requires a heated dryer to solidify the printing inks.

"Heavy Liquid": Liquid with a true vapor pressure of less than 0.3 kpa (0.04 psi) at 294.3° K (70° F) established in a standard reference text or as determined by ASTM method D-2879; or which has 0.1 Reid Vapor Pressure as determined by ASTM method D-323; or which when distilled requires a temperature of 421.95K (300° F) or greater to recover 10% of the liquid as determined by ASTM method D-86.

"In Vacuum Service": For the purposes of Subpart Q, Sections 215.430 through 215.438 equipment which is operating at an internal pressure that is at least 5 kpa (0.73 psia) below ambient pressure.

"Light Liquid": Volatile organic material in the liquid state which is not defined as heavy liquid.

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"Sealer": Coating containing binders which seals the wood prior to application to subsequent coatings.

"Semi-transparent Stains": Stains containing dyes or semi-transparent pigments which are formulated to enhance wood grain and change the color of the surface but not to conceal the surface, including, but not limited to, sap stain, toner, non-grain raising stains, pad stain, spatter stain.

"Specialty Soybean Crushing Source": Any hexane extraction soybean crushing equipment using indirect steam heat in flash or vapor desolventizers as the primary method of desolventizing and producing specialty solvent extracted soy flakes, grits or flour.

"Styrene Devolatilizer Unit": Equipment performing the function of separating unreacted styrene monomer and other volatile components from polystyrene in a vacuum devolatilizer.

"Styrene Recovery Unit": Equipment performing the function of separating styrene monomer from other less volatile components of the styrene devolatilizer unit's output. The separated styrene monomer may be reused as a raw material in the polystyrene plant.

"Wash Coat": Coating containing binders which seals wood surfaces, prevents undesired staining and controls penetration.

"Web": A substrate which is printed in continuous roll-fed presses.

"Wholesale Purchaser-Consumer": means any person or organization that purchases or obtains gasoline from a supplier for ultimate consumption or use in motor vehicles and receives delivery of the gasoline into a storage tank with a capacity of at least 550 gallons (2082 liters) owned and controlled by that person.

"Wood Furniture": Room furnishings including cabinets (kitchen, bath and vanity), tables, chairs, beds, sofas, shutters, art objects, wood paneling, wood flooring, and any other coated furnishings made of wood, wood composition or fabricated wood materials.

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(Source: Amended at 14 Ill. Reg. 9173, effective May 23, 1990)

Section 215.105 Incorporation by Reference

The following materials are incorporated by reference:

- a) American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103:
- 1) ASTM D 1644-59 Method A
 - 2) ASTM D 1475-60
 - 3) ASTM D 2369-7381
 - 4) ASTM D 2879-83 (Approved 1983)
 - 5) ASTM D 323-82 (Approved 1982)
 - 6) ASTM D 86-82 (Approved 1982)
 - 7) ASTM E 260-73 (Approved 1973), E 168-67 (Reapproved 1977), E 169-63 (Reapproved 1981), E 20 (Approved 1985)
 - 8) ASTM D 97-66
 - 9) ASTM D 1946-67
 - 10) ASTM D 2382-76
 - 11) ASTM D 2504-83
 - 12) ASTM D 2382-83
 - 13) ASTM D 4057-81 (Approved 1981)
 - 14) ASTM D 4177-82 (Approved 1982)
 - 15) ASTM D 4953-89
 - 16) ASTM D-4457-85
- b) Federal Standard 141a, Method 4082.1.

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- 4) Openings are equipped with projections into the tank which remain below the liquid surface at all times;
 - 5) Inspections are conducted prior to May 1 of each year to insure compliance with subsection 215.124(a);
 - 6) The secondary seal gap is measured prior to May 1 of each year; in accordance with methods or procedures approved by the Agency;
 - 7) Records of the types of volatile petroleum liquid stored, the maximum true vapor pressure of the liquid as stored, the results of the inspections and the results of the secondary seal gap measurements are maintained and available to the Agency, upon verbal or written request, at any reasonable time for a minimum of two years after the date on which the record was made;
 - 8) Upon a reasonable request by the Agency, the owner or operator of a volatile organic material source required to comply with Section 215.124(a), at his own expense, demonstrates compliance by methods or procedures approved by the Agency; and
 - 9) A person planning to conduct a volatile organic material emission test to demonstrate compliance with Sections 215.123 and 215.124 notifies the Agency of that intent not less than 30 days before the planned initiation of the tests so that the Agency may observe the test.
- b) The requirements of Section 215.124(a) Subsection (a) shall not apply to any stationary storage tank equipped with an external floating roof:
- 1) Exempted under Section 215.123(a)(2) through 215.123(a)(6)
 - 2) Of welded construction equipped with a metallic type shoe seal having a secondary seal from the top of the shoe seal to the tank wall (shoe-mounted secondary seal);

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- 3) Of welded construction equipped with a metallic type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled-type seal, or other closure device of equivalent control efficiency approved by the Agency in which a petroleum liquid with a true vapor pressure less than 27.6 kPa (4.0 psia) at 294.3° K (70° F) is stored; or
- 4) Used to store crude oil.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.127 Emissions Testing

- a) Any tests of organic material emissions, including tests conducted to determine control equipment efficiency, shall be conducted in accordance with the methods and procedures specified in Section 215.102.
- b) Upon a reasonable request by the Agency, the owner or operator of an organic material emission source required to comply with this Subpart shall conduct emissions testing, at such person's own expense, to demonstrate compliance.
- c) A person planning to conduct an organic material emission test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

(Source: Added at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.128 Measurement of Seal Gaps

- a) Any measurements of secondary seal gaps shall be conducted in accordance with the methods and procedures specified in 40 CFR 60, Subpart Kb incorporated by reference in Section 215.105.
- b) A person planning to conduct a measurement of seal gaps to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned performance of the tests so the Agency may observe the test.

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miscellaneous metal parts and products at those facilities do not exceed 35 tons per year.

Notwithstanding the limitations of Section 215.204(k)(2), the John Deere Harvester-Moline Works of Deere and Company, Moline, Illinois, shall not cause or permit the emission of volatile organic material from its existing green and yellow floccating operations to exceed a weekly average of 6.2 lb/gal.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.208 Testing Methods for Solvent Volatile Organic Material Content

a) The following methods of analyzing the solvent content of coatings, as revised from time to time or any other equivalent procedure approved by the Agency, shall be used as applicable:

1) ASTM D 1644 59 Method A

2) ASTM D 1475 60

3) ASTM D 2269 73

4) Federal Standard 482-1 Method 4082-1

The VOM content of coatings shall be determined by Method 24, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105 except for glues and adhesive coatings, two component reactive coatings forming volatile reaction products, coatings requiring energy other than heat to initiate curing, and coatings requiring high temperature catalysis for curing, providing the person proposing testing of the material submits to the Agency proof that the Method 24 results would not be representative and proof that a proposed alternative test method gives representative, accurate test results. For printing inks, the volatile organic material content shall be determined by Method 24A, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the

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(Source Added at 14 Ill. Reg. 9173 effective May 23, 1990)

SUBPART E: SOLVENT CLEANING

Section 215.206 Exemptions from Emission Limitations

a) The limitations of this Subpart shall not apply to:

1) Coating plants whose emissions of volatile organic material as limited by the operating permit will not exceed 22.7 Mg/year (25 T/year), in the absence of air pollution control equipment; or.

2) Sources used exclusively for chemical or physical analysis or determination of product quality and commercial acceptance provided that:

A) The operation of the source is not an integral part of the production process;

B) The emissions from the source do not exceed 363 kg (800 lbs) in any calendar month; and,

C) The exemption is approved in writing by the Agency.

3) Interior body spray coating material for three-piece steel cans used by National Can Corporation at its Rockford can manufacturing plant in Loves Park, Illinois, provided that:

A) The emission of volatile organic material from the interior body spray coating line shall not exceed 0.70 kg/t (5.8 lb/gal) of coating material, excluding water, delivered to the coating applicator; and

B) The emission of volatile organic material shall comply with the provisions of Section 215.204 by use of the internal offset provisions of Section 215.207 computed on a weekly weighted average basis.

b) The limitations of Section 215.204(j) shall not apply to the Waukegan, -- Illinois, facilities of the Outboard Marine Corporation, so long as the emissions of volatile organic material related to the surface coating of

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proposed alterantive will acheive results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

- b) Transfer efficiency shall be determined by a method, procedure or standard approved by the USEPA, under the applicable new source performance standard or until such time as USEPA has approved and published such a method, procedure or standard, by any appropriate method, procedure or standard approved by the Agency.

(Source: Amended at 14 Ill. Reg. 9173, effective May 23, 1990)

Section 215.241 External Floating Roofs

The requirements of subsection 215.124(a) shall not apply to any stationary storage tank equipped with an external floating roof:

- a) Exempted under Section 215.123(a)(2) through (a)(6);
- b) Of welded construction equipped with a metallic-type shoe seal having a secondary seal from the top of the shoe seal to the tank wall (shoe-mounted secondary seal);
- c) Of welded construction equipped with a metallic type shoe seal, a liquid-mounted foam seal, a liquid-mounted liquid-filled-type seal, or other closure device of equivalent control efficiency approved by the Agency in which a petroleum liquid with a true vapor pressure less than 27.6 kPa (4.0 psia) at 294.3°K (70°F) is stored; or
- d) Used to store crude oil with a pour point of 50°F or higher as determined by ASTM Standard D97-66 incorporated by reference in Section 215.105.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.404 Testing and Monitoring (Repealed)

- a) Upon a reasonable request of the Agency, the owner or operator of a volatile organic material source subject to this Subpart shall at his own expense demonstrate compliance by methods or procedures approved by the Agency.

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- b) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

(Source: Repealed at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.409 Testing Methods for Volatile Organic Material Content

The volatile organic material content of fountain solution and all coatings shall be determined by Method 24, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. The volatile organic material content of printing inks shall be determined by Method 24A, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the approved test methods(s), the Agency shall approve the proposed alternative.

(Source: Added at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.410 Emissions Testing

- a) Any tests of volatile organic material emissions, including tests conducted to determine control equipment efficiency or control device destruction efficiency, shall be conducted in accordance with the methods and procedures specified in Section 215.102.
- b) Upon a reasonable request by the Agency, the owner or operator of a volatile organic material emission source required to comply with the limits of this Subpart shall conduct emissions testing, at his own expense, to demonstrate compliance.
- c) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

(Source: Added at 14 Ill. Reg. 9173 effective May 23, 1990)

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- c) A person planning to conduct a volatile organic material emission test to demonstrate compliance shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.467 Testing Methods for Volatile Organic Material Content

The volatile organic material content for all VOM emitting materials except printing inks shall be determined by Method 24, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates that the proposed alternative will achieve results equivalent to the the approved test method(s), the agency shall approve the proposed alternative.

(Source: Added at 14 Ill. Reg. 9173 effective May 23, 1990)

SUBPART Y: GASOLINE DISTRIBUTION

Section 215.582 Bulk Gasoline Terminals

- a) No person may shall cause or allow the transfer of gasoline into any delivery vessel from any bulk gasoline terminal unless:
- 1) The bulk gasoline terminal is equipped with a vapor control system that limits emission of volatile organic material to 80 mg/l (0.00067 lbs/gal) of gasoline loaded;
 - 2) The vapor control system is operating and all vapors displaced in the loading of gasoline to the delivery vessel are vented only to the vapor control system;
 - 3) There is no liquid drainage from the loading device when it is not in use;

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- 4) All loading and vapor return lines are equipped with fittings which are vapor tight; and
 - 5) The delivery vessel displays the appropriate sticker pursuant to the requirements of Section 215.584(b) or (d); or, if the terminal is driver-loaded, the terminal owner or operator shall be deemed to be in compliance with this Section when terminal access authorization is limited to those owners and/or operators of delivery vessels who have provided a current certification as required by Section 215.584(c)(3).
- b) Emissions of organic material from bulk gasoline terminals shall be determined by the procedure described in EPA-450/2-77-026, Appendix A, as revised from time to time, or by any other equivalent procedure approved by the Agency.
- b)e) Bulk gasoline terminals were required to take certain actions to achieve compliance which are summarized in Appendix C.
- c)d) The operator of a bulk gasoline terminal shall:
- 1) Operate the terminal vapor collection system and gasoline loading equipment in a manner that prevents:
 - A) Gauge pressure from exceeding 18 inches of water and vacuum from exceeding 6 inches of water as measured as close as possible to the vapor hose connection; and
 - B) A reading equal to or greater than 100 percent of the lower explosive limit (LEL measured as propane) when tested in accordance with the procedure described in EPA 450/2-78-051 Appendix B; and
 - C) Avoidable leaks of liquid during loading or unloading operations.
 - 2) Provide a pressure tap or equivalent on the terminal vapor collection system in order to allow the determination of compliance with 215.582(d)(1)(A); and

B) A vacuum drop of no more than three inches of water in five minutes.

b) Any delivery vessel meeting the requirements of subsection (a) shall have a sticker affixed to the tank adjacent to the tank manufacturer's data plate which contains the tester's name, the tank identification number and the date of the test. The sticker shall be in a form prescribed by the Agency, and shall be displayed no later than December 31, 1987.

c) The owner or operator of a delivery vessel shall:

1) Maintain copies of any test required under subsection (a)(6) for a period of 3 years;

2) Provide copies of these tests to the Agency upon request; and

3) Provide annual test result certification to bulk gasoline plants and terminals where the delivery vessel is loaded.

d) Any delivery vessel which has undergone and passed a test in another state which has a USEPA-approved leak testing and certification program will satisfy the requirements of subsection (a). Delivery vessels must display a sticker, decal or stencil approved by the state where tested or comply with the requirements of subsection (b). All such stickers, decals or stencils shall be displayed no later than December 31, 1987.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.585 Gasoline Volatility Standards

a) No person shall sell, offer for sale, dispense, supply, offer for supply, or transport for use in Illinois gasoline whose Reid vapor pressure exceeds the applicable limitations set forth in subsections (b) and (c) during the regulatory control periods, which shall be July 1 to August 31 for retail outlets, wholesale purchaser-consumer facilities, and all other facilities.

b) The Reid vapor pressure of gasoline, a measure of its volatility, shall not exceed 9.5 psi (65.5 kPa) during the regulatory control period in 1990 and each year thereafter.

3) Within 15 business days after discovery of the leak by the owner, operator, or the Agency, repair and retest a vapor collection system which exceeds the limits of subsection (c)(1)(A) or (B).

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.584 Gasoline Delivery Vessels

a) Any delivery vessel equipped for vapor control by use of vapor collection equipment:

1) Shall have a vapor space connection that is equipped with fittings which are vapor tight;

2) Shall have its hatches closed at all times during loading or unloading operations, unless a top loading vapor recovery system is used;

3) Shall not internally exceed a gauge pressure of 18 inches of water or a vacuum of 6 inches of water;

4) Shall be designed and maintained to be vapor tight at all times during normal operations;

5) Shall not be refilled in Illinois at other than:

A) A bulk gasoline terminal that complies with the requirements of Section 215.582 or

B) A bulk gasoline plant that complies with the requirements of Section 215.581(b)(1) and (2).

6) Shall be tested annually in accordance with the pressure-vacuum test procedure described in BPA 450/2-78-057 Appendix A- Method 27, 40 CFR 60, Appendix A, incorporated by reference in Section 215.105. Each vessel must be repaired and retested with 15 business days after discovery of the leak by the owner, operator, or the Agency, when it fails to sustain:

A) A pressure drop of no more than three inches of water in five minutes; and

B) A pressure drop of no more than three inches of water in five minutes; and

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- c) The Reid vapor pressure of ethanol blend gasolines shall not exceed the limitations for gasoline set forth in subsection (b) by more than 1.0 psi (6.9 kPa). Notwithstanding this limitation, blenders of ethanol blend gasolines whose Reid vapor pressure is less than 1.0 psi above the base stock gasoline immediately after blending with ethanol are prohibited from adding butane or any product that will increase the Reid vapor pressure of the blended gasoline.
- d) All sampling of gasoline required pursuant to the provisions of this Section shall be conducted by one or more of the following approved methods or procedures which are incorporated by reference in Section 215.105.
- 1) For manual sampling, ASTM D4057;
 - 2) For automatic sampling, ASTM D4177;
 - 3) Sampling procedures for Fuel Volatility, 40 CFR 80 Appendix D.
- e) The Reid vapor pressure of gasoline shall be measured in accordance with either test method ASTM D323 or in the case of gasoline oxygenate blends which contains water extractable oxygenates, a modification of ASTM D323 known as the "dry method" as set forth in 40 CFR 80, Appendix E, incorporated by reference in Section 215.105. For gasoline - oxygenate blends which contain water-extractable oxygenates, the Reid vapor pressure shall be measured using the dry method test.
- f) The ethanol content of ethanol blend gasolines shall be determined by use of one of the approved testing methodologies specified in 40 CFR 80, Appendix F, incorporated by reference in Section 215.105.
- g) Any alternate to the sampling or testing methods or procedures contained in subsections (d), (e), and (f) must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of one or more approved test methods or procedures. Such data shall accompany any request for Agency approval of any alternate test procedure. If the Agency determines that such data demonstrates that the proposed alternative will achieve

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results equivalent to the approved test methods or will achieve results equivalent to the approved test methods or procedures, the Agency shall approve the proposed alternative.

- h) Each refiner or supplier that distributes gasoline or ethanol blends shall:
- 1) During the regulatory control period, document and clearly designate state that the Reid vapor pressure of all gasoline or ethanol blends leaving the refinery or distribution facility for use in Illinois complies with the Reid vapor pressure limitations set forth in Section 215.585(b) and (c). Any facility receiving this gasoline shall be provided with a copy of the accompanying document specifying the Reid vapor pressure on invoice, bill of lading, or other documentation used in normal business practice stating that the Reid vapor pressure of the gasoline complies with the State Reid vapor pressure standard.
 - 2) Maintain records for a period of two one years on the Reid vapor pressure, quantity shipped and date of delivery of any gasoline or ethanol blends leaving the refinery or distribution facility for use in Illinois. The Agency shall be provided with copies of such records if requested.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

Section 215.586 Emissions Testing

- a) Any tests of organic material emissions from bulk gasoline terminals, including tests conducted to determine control equipment efficiency or control device destruction efficiency, shall be conducted in accordance with the Test Methods and Procedures for the Standards of Performance for Bulk Gasoline Terminals, 40 CFR 60.503, incorporated by reference in Section 215.105. Any alternate test method must be approved by the Agency, which shall consider data comparing the performance of the proposed alternative to the performance of the approved test method(s). If the Agency determines that such data demonstrates the the proposed alternative will achieve results equivalent to the approved test method(s), the Agency shall approve the proposed alternative.

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b) Upon a reasonable request by the Agency, the owner or operator of a polystyrene plant subject to this Subpart shall conduct emissions testing, at his own expense, to demonstrate compliance.

c) A person planning to conduct a volatile organic material emissions test to demonstrate compliance with this Subpart shall notify the Agency of that intent not less than 30 days before the planned initiation of the tests so the Agency may observe the test.

(Source: Amended at 14 Ill. Reg. 9173 effective May 23, 1990)

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1) The Heading of the Part: Regulatory and Informational Hearings and Proceedings.

2) The Code Citation: 35 Ill. Adm. Code 102

<u>Section Number:</u>	<u>Adopted Action:</u>
102.100	New Section
102.101	New Section
102.102	New Section
102.103	New Section
102.104	New Section
102.120	New Section
102.121	New Section
102.122	New Section
102.123	New Section
102.140	New Section
102.141	New Section
102.142	New Section
102.160	New Section
102.161	New Section
102.162	New Section
102.163	New Section
102.180	New Section
102.181	New Section
102.182	New Section
102.183	New Section
102.200	New Section
102.201	New Section
102.202	New Section
102.220	New Section
102.221	New Section
102.222	New Section
102.240	New Section
102.241	New Section
102.242	New Section
102.260	New Section
102.261	New Section
102.262	New Section
102.280	New Section
102.281	New Section
102.282	New Section
102.283	New Section
102.284	New Section
102.285	New Section
102.300	New Section
102.301	New Section
102.320	New Section
102.340	New Section
102.341	New Section

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- 102.342 New Section
- 102.343 New Section
- 102.344 New Section
- 102.345 New Section
- 102.346 New Section
- 102.347 New Section
- 102.348 New Section
- 102.350 New Section
- 102.361 New Section
- 102.362 New Section
- 102.363 New Section

4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1026.

5) Effective Date of Rule(s) (Amendments, Repealer): May 24, 1990

6) Does this rulemaking contain an automatic repeal date? No.

If so, please specify the date: _____

7) Does this rule (amendment, repealer) contain incorporations by reference? No.

If "yes," was a copy of the approval form issued by JCAR attached to this rulemaking.

8) Date filed in Agency's Principal Office: May 10, 1990.

9) Notice(s) of Proposal published in Illinois Register: 13 Ill. Reg. 14696, September 22, 1989.

10) Has JCAR issued a statement of objections to this (these) rule(s)? If answer is "yes," please complete the following:

A) Statement of Objection: April 20, 1990, 14 Ill. Reg. 5902.

B) Agency Response: _____, Ill. Reg. _____.

C) Date Agency Response submitted for Approval to JCAR: May 17, 1990.

11) Difference(s) between the proposal and final version: A definition of "quasi-legislative" has been added to Section 102.101.

Section 102.103 has been modified.

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Section 102.104 has been modified to illustrate the types of hearings which the Board may conduct pursuant to this Part.

Section 102.122(b) has been modified and a new subsection (d) has been added to that section.

Subsections (b), (f), and (g) of Section 102.141 have been modified.

Section 102.142(b) has been modified and a new subsection (d) has been added to that section.

Section 102.161 has been revised.

Section 102.182(e) has been modified.

A new subsection (d) has been added to Section 102.202.

The phrase "and this part" has been added to Section 102.220(1).

Section 102.240(a) has been modified.

Section 102.242(c) has been modified.

Subsection (g) of Section 102.280 has been revised to include a reference to Section 102.220(o).

Section 102.284 has been modified.

A reference to Section 28 of the Environmental Protection Act has been added to Section 102.300(b).

Section 102.320 has been revised.

Section 103.340(a) has been modified.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes.

13) Will this rule (amendments, repealer) replace an emergency rule currently in effect? No.

14) Are there any amendments pending on this Part? No.

15) Summary and Purpose of Rule(s):

in response to legislative action, and in order to update

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its regulations, the Board is revising its procedural rules. This Part 102 contains rules governing all rulemakings before the Board. These rules replace the existing rulemaking rules in Part 102. The Board has repealed existing Part 102.

- 16) Information and question regarding this adopted rule shall be directed to:

Elizabeth S. Harvey
Pollution Control Board
100 W. Randolph Street
Suite 11-500
Chicago, Illinois 60601
(312) 814-6921

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARD

PART 102
REGULATORY AND INFORMATIONAL
HEARINGS AND PROCEEDINGS

SUBPART A: GENERAL PROVISIONS

- Section 102.100 Applicability
- 102.101 Definitions
- 102.102 Types Of Regulatory Proposals
- 102.103 Waiver Of Requirements
- 102.104 Other Proceedings

SUBPART B: REGULATIONS OF GENERAL APPLICABILITY

- Section 102.120 Proposal
- 102.121 Contents
- 102.122 Dismissal
- 102.123 Proposal Of RCRA Amendments

SUBPART C: SITE-SPECIFIC REGULATIONS

- Section 102.140 Proposal
- 102.141 Contents
- 102.142 Dismissal

SUBPART D: AUTHORIZATION, SCHEDULING, AND NOTICE OF HEARINGS

- Section 102.160 Authorization Of Hearing
- 102.161 Scheduling Of Hearings
- 102.162 Notice Of Hearing
- 102.163 Notice Of Site-Specific RCRA Proposals

SUBPART E: ECONOMIC IMPACT STUDY DETERMINATIONS

- Section 102.180 Board Determinations
- 102.181 Request For Determination
- 102.182 Basis For Board Determination
- 102.183 Notice Of Board Determination

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quasi-legislative in nature. All testimony shall be sworn. All persons taking part in these hearings are participants, rather than parties as in contested cases.

Section 102.101 Definitions

The following definitions shall apply to this Part:

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1001 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"APA" means the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1001 et seq.).

"Attorney General" means the Office of the Attorney General of the State of Illinois.

"Board" means the Illinois Pollution Control Board.

"Chairman" means the Chairman of the Board.

"Clerk" means the Clerk of the Board.

"Document" means pleading, notice, motion, affidavit, memorandum, brief, petition, or other paper required or permitted to be filed.

"DNS" means the Illinois Department of Nuclear Safety.

"Economic impact study" means the economic impact study performed by ENR pursuant to Board determination under Section 27 of the Act.

"ENR" means the Illinois Department of Energy and Natural Resources.

"Fire Marshal" means the Office of the State Fire Marshal.

"Identical in substance regulations" means STATE REGULATIONS WHICH REQUIRE THE SAME ACTIONS WITH RESPECT TO PROTECTION OF THE ENVIRONMENT, BY THE SAME GROUP OF AFFECTED PERSONS, AS WOULD FEDERAL REGULATIONS IF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ADMINISTERED THE SUBJECT PROGRAM IN ILLINOIS. (Section 7.2 of the Act.)

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"Identical in substance rulemakings" are those proceedings conducted pursuant to specific authorization of the Act, including but not limited to Sections 13(c), 13.3, 17.5, 22.4(a), 22.4(d) and 22.7(d).

"JCAR" means the Joint Committee on Administrative Rules.

"Material" means relating to any substantive issue that is of consequence to the determination of a proceeding.

"Participant" means any person, not including the Board or its staff but including the proponent, who takes part in a regulatory or other quasi-legislative proceeding before the Board. A person becomes a participant in any of several ways, including, but not limited to, filing a comment, being added to the notice list of a particular proceeding or testifying at hearing.

"Peremptory rulemaking" means ANY RULEMAKING WHICH IS REQUIRED AS A RESULT OF FEDERAL LAW, FEDERAL RULES AND REGULATIONS, OR AN ORDER OF A COURT, UNDER CONDITIONS WHICH PRECLUDE COMPLIANCE WITH THE GENERAL RULEMAKING REQUIREMENTS OF SECTION 5.01 OF THE APA AND WHICH PRECLUDE THE EXERCISE BY THE BOARD AS TO THE CONTENT OF THE RULE. (Section 5.03 of the APA.)

"Person" means any entity defined in Section 3.26 of the Act, including but not limited to any individual, partnership, company, corporation, political subdivision, or state agency.

"Proponent" means any person, not including the Board or its staff, who submits a regulatory proposal to the Board for the adoption, amendment, or repeal of a regulation.

"Quasi-legislative proceeding" means any hearing or receipt of information on any subject the Board is authorized to regulate, i.e., public information or inquiry hearings, or rulemaking hearings.

"RCRA" means the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.).

"RCRA rules" means 35 Ill. Adm. Code 702, 703, 720, 721, 722, 723, 724, 725, 726, and 728.

"Relevant" means having any tendency to make the existence of any act that is of consequence to the determination of

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4) Temporary rulemaking pursuant to Section 27(b) of the Act.

c) The provisions of Subpart B of this Part apply to all types of regulatory proposals except identical in substance proposals.

Section 102.103 Waiver of Requirements

The Board may waive any of the non-statutory requirements of this Part upon a showing by a person that a particular requirement would create an undue burden on that person, i.e., the burden of compliance imposes financial costs that would preclude further participation, or compliance would result in provision of information already provided in that proceeding.

Section 102.104 Other Proceedings

The Board may conduct such other noncontested or informational hearings as may be necessary to accomplish the purposes of the Act. Such hearings may include, but are not limited to, inquiry hearings to gather information on any subject the Board is authorized to regulate.

SUBPART B: REGULATIONS OF GENERAL APPLICABILITY

Section 102.120 Proposal

Any person may submit a regulatory proposal for the adoption, amendment, or repeal of a regulation. The original and nine (9) copies of each proposal shall be filed with the Clerk and one copy each with the Attorney General, the Agency and ENR.

Section 102.121 Contents

Each proponent shall provide:

a) The language of the proposed regulation or amendment, including an identification of the existing regulatory language proposed to be amended or deleted. Language being added shall be indicated by underscoring and language being deleted shall be indicated by strike-outs. The proposed rule shall be drafted in accordance with 1 Ill. Adm. Code 100. Subpart C;

b)

A statement of the reasons supporting the proposal, including a statement of the facts which support the proposal, and a statement of the purpose and effect of the proposal. The statement shall discuss the

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the proceeding more probable or less probable that it would be without the information.

"Required rule" means a rule that is needed to fulfill the requirements of the Federal Clean Water Act (33 U.S.C. 1251 ET SEQ.), SAFE DRINKING WATER ACT, (42 U.S.C. 300f ET SEQ.), CLEAN AIR ACT (42 U.S.C. 7401 ET SEQ.), OR RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. 6901 ET SEQ.) OTHER THAN A RULE TO BE ADOPTED UNDER SECTION 13(c), 13.3, 17.5, 22.4(a), 22.4(d), OR 22.7 OF THE ACT. (Section 28.2 of the Act.)

"Site-specific regulation" means a proposed or adopted regulation SPECIFIC TO INDIVIDUAL PERSONS OR SITES.

(Section 27(a) of the Act.)

"Undue delay" means delay which is unwarranted, unjustified, or improper.

"USEPA" means the United States Environmental Protection Agency.

Section 102.102 Types Of Regulatory Proposals

a) The Act provides for three types of regulatory proposals:

1) Identical in substance rulemakings, as defined in Section 102.101;

2) Federally required rules, as defined in Section 102.101; and

3) Other regulatory proposals, both of general applicability and not of general applicability.

b) Regulations arising from these types of proposals may be adopted through four types of rulemaking:

1) General rulemaking pursuant to Section 5.01 of the APA and Sections 26 and 27 of the Act;

2) Emergency rulemaking pursuant to Section 5.02 of the APA and Section 27 of the Act;

3) Peremptory rulemaking pursuant to Section 5.03 of the APA; and

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applicable factors listed in Section 27(a) of the Act. Where the proposal covers more than one substantive point, the statement of reasons shall include statements in support of each point. The statement of reasons shall include a technical and economic justification for the proposal;

- c) Pursuant to Section 27 of the Act, A RECOMMENDATION OF WHETHER AN ECONOMIC IMPACT STUDY IS ADVISABLE. The recommendation shall describe, TO THE EXTENT REASONABLY PRACTICABLE, THE UNIVERSE OF AFFECTED SOURCES AND FACILITIES AND THE ECONOMIC IMPACT OF THE PROPOSED RULE. The recommendation shall also address the questions contained in the Analysis of Economic and Budgetary Effects of Proposed Rulemaking, set forth at 1 Ill. Adm. Code 220.Exhibit B, and identify issues to be addressed by any economic impact study;
- d) A synopsis of all testimony to be presented by the proponent at hearing;
- e) If the Agency is the proponent, and if the Agency believes that the proposed rule is a required rule pursuant to Section 28.2 of the Act, citation to the specific section of the specific federal act;
- f) Copies of any material to be incorporated by reference within the proposed regulation pursuant to Section 6.02 of the APA;
- g) Proof of service upon all persons required to be served pursuant to Section 102.120;
- h) Unless the proponent is the Agency, ENR, or DNS, a petition signed by at least 200 persons, pursuant to Section 28 of the Act and Section 102.160(a); and
- i) Where any information required by this Subpart is inapplicable or unavailable, a complete justification for such inapplicability or unavailability.

Section 102.122 Dismissal

- a) Failure of the proponent to satisfy the content requirements of Section 102.121 or failure to respond to Board requests for additional information will render a proposal subject to dismissal for inadequacy.
- b) Failure of the proponent to pursue disposition of the

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proposal in a timely manner will render a proposal subject to dismissal. In making this determination, the Board shall consider factors including, but not limited to, the history of the proceeding and the proponent's compliance with any Board or hearing officer orders.

- c) Any person may file a motion challenging the sufficiency of a proposal pursuant to 35 Ill. Adm. Code 101.243.
- d) A proposal shall be dismissed for inadequacy in cases in which the Board, after evaluating the proposal, cannot determine the jurisdictional basis upon which the proposal is made. In all such cases, a statement informing the proponent of the Board's basis for dismissal shall be made. Dismissal of a proposal shall not bar a proponent from re-submitting a proposal in the absence of any deadline imposed by the Act or Board regulations.

Section 102.123 Proposal Of RCRA Amendments

In addition to satisfying the requirements of Section 102.121, any proposal to amend the RCRA regulations shall:

- a) Indicate whether it is made pursuant to the provisions of Section 22.4(a), 22.4(b) or 22.4(c) of the Act;
- b) Include a listing of all amendments to the corresponding federal regulations since the period encompassed by the last amendment of the Board's RCRA rules; and
- c) Include a certificate of service indicating that a copy of the proposal has been served on the United States Environmental Protection Agency (USEPA). Service shall be made at the following address:

Director, Waste Management Division
USEPA, Region V
230 South Dearborn Street
Chicago, Illinois 60604

SUBPART C: SITE-SPECIFIC REGULATIONS

Section 102.140 Proposal

Any person may submit a written proposal for the adoption,

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requirements of this Part, THE BOARD WILL SCHEDULE A PUBLIC HEARING FOR CONSIDERATION OF THE PROPOSAL. IF A PROPOSAL IS MADE BY THE AGENCY, ENR, OR DNS, THE BOARD SHALL SCHEDULE A PUBLIC HEARING WITHOUT REGARD TO THE ABOVE CONDITIONS. Pursuant to Section 28 of the Act, THE BOARD MAY ALSO IN ITS DISCRETION SCHEDULE A PUBLIC HEARING UPON ANY PROPOSAL WITHOUT REGARD TO THE ABOVE CONDITIONS. (Section 28 of the Act.) The proponent must cure any inadequacy identified by Board order before the proposal will proceed to hearing.

- b) If the Board determines that a proposal meets the requirements of subsection (a), and if any filing fee required by the Act and 35 Ill. Adm. Code 101.120 has been paid, the Board will issue an order accepting the proposal for hearing. Such an order will be construed as starting the timeclock for purposes of any applicable economic impact study and first notice publication deadlines pursuant to Sections 27 and 28.2 of the Act.
- c) When the Board authorizes a hearing, the Chairman will designate an attending Board member. A member of the Board may serve as hearing officer if otherwise qualified, and such hearing need not be attended by another Board member.
- d) In the case of a proposed regulatory change under the provisions of 35 Ill. Adm. Code 302.211(j) or 304.141(c), the requirement of subsection (d) relating to a requirement of 200 signatures shall not apply. In such case only a single hearing shall be required, to be held in the affected county.
- e) The Board may consolidate proposals for hearing or decision.

Section 102.161 Scheduling Of Hearings

- a) Except as otherwise provided by the Act, no substantive regulation shall be adopted, amended or repealed by the Board until after at least one public hearing. In the case of site-specific rules, a public hearing shall be held in the affected county. In the case of state-wide regulations, public hearings shall be held in at least two counties of the state.

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- b) The Board need not hold a hearing on a procedural regulation, except as provided by Section 5.01 of the APA.
- c) After consideration of the number and complexity of issues involved in a regulatory proposal, the hearing officer will issue an order preliminarily specifying the number of hearings to be held on that proposal.
- d) If the proponent or any participant wishes to request a hearing beyond the number of hearings specified by the hearing officer pursuant to subsection (c), that person must demonstrate, in a motion to the Board, that failing to hold an additional hearing would result in material prejudice to the movant. The motion may be oral, if made at hearing, or written. The movant must show that he or she exercised due diligence in its participation in the proceeding, and why an additional hearing, as opposed to the opportunity to submit written comments pursuant to Section 102.320, is necessary.
- e) Notwithstanding subsection (d), the Board or the hearing officer will schedule an additional hearing or hearings on its own motion, if it finds that additional hearing would aid the Board in its decision on the proposal.

Section 102.162 Notice Of Hearing

- a) The hearing officer will set a time and place for hearing. The Clerk shall give notice of the date of the hearing as follows:
 - 1) By notice in the Board's Environmental Register; and
 - 2) At least 20 days prior to the hearing date, by public advertisement in a newspaper of general circulation in the county in which the hearing is to be held. Where required by federal law, including but not limited to air pollution and RCRA proposals, newspaper notice shall be published at least 30 days prior to the hearing date.
- b) The hearing officer will give notice by mail to the proponent and to all persons who have submitted their

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- 2) Name and address of the proponent and, if different, of the facility for which the site-specific rule is sought;
- 3) A brief description of the business conducted at the facility and the activity described in the petition;
- 4) A description of the relief requested in the petition and the Board's docket number of the proceeding;
- 5) Name, address and telephone number of the Clerk of the Board, from whom interested persons may obtain further information, including copies of the proposal;
- 6) The name, address and telephone number of the Agency's representative in the rulemaking;
- 7) A description of any written comment period or a statement that a comment period will be established in the future;
- 8) A statement that the record in the rulemaking is available at the Board office for inspection, except those portions which are claimed or determined to be trade secrets, and that procedures are available whereby disclosure may be sought by the public pursuant to 35 Ill. Adm. Code 120.
- 9) A statement that site-specific rules may be adopted pursuant to Title VII of the Act and 35 Ill. Adm. Code 102, and a reference to the Board regulations sought to be modified; and
- 10) Any additional information considered necessary or proper.

SUBPART E: ECONOMIC IMPACT STUDY DETERMINATIONS
Section 102.180 Board Determinations

- a) (Within 60 days of the date that the Board accepts a proposal for hearing pursuant to Section 28 of the Act and Section 102.160, the Board shall determine whether an economic impact study should be prepared.

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- a) Public notice of hearings on site-specific RCRA proposals shall be given at least 30 days before the date of the hearing.
- b) In addition to the requirements of Section 28 of the Act and Section 102.211, the Board, at a minimum, will give notice of hearings on a site-specific RCRA proposal to the following persons:
 - 1) Federal agencies as designated by USEPA;
 - 2) Illinois Department of Transportation;
 - 3) Illinois Department of Conservation;
 - 4) Illinois Department of Energy and Natural Resources;
 - 5) Illinois Department of Public Health;
 - 6) The governor of any other state adjacent to the county in which the facility is located; and
 - 7) Elected officials of any counties, in other states, adjacent to the county in which the facility is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility.
- c) Hearings which are continued on the hearing record for a period of 45 days or less do not require notice that complies with subsections (a) and (b).

Section 102.163 Notice Of Site-Specific RCRA Proposals

- a) Public notice of hearings on site-specific RCRA proposals shall be given at least 30 days before the date of the hearing.
- b) In addition to the requirements of Section 28 of the Act and Section 102.211, the Board, at a minimum, will give notice of hearings on a site-specific RCRA proposal to the following persons:
 - 1) Federal agencies as designated by USEPA;
 - 2) Illinois Department of Transportation;
 - 3) Illinois Department of Conservation;
 - 4) Illinois Department of Energy and Natural Resources;
 - 5) Illinois Department of Public Health;
 - 6) The governor of any other state adjacent to the county in which the facility is located; and
 - 7) Elected officials of any counties, in other states, adjacent to the county in which the facility is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility.
- c) In addition to the methods of notice by publication of Section 28 of the Act and Section 102.241, the Board will give notice by radio broadcast in the area of the facility. That notice will include the information required by subsections (d)(2) and (d)(4) through (d)(8) below.
- d) A hearing notice on a site-specific RCRA proposal will include the following information:
 - 1) The address of the Board office;

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- b) THE CLOSE OF THE RECORD DURING THE RULEMAKING PROCEEDING, THE BOARD MAY DETERMINE THAT AN ECONOMIC IMPACT STUDY SHOULD BE PREPARED, IF THE PROPOSAL HAS BEEN SUBSTANTIALLY MODIFIED OR IF INFORMATION IN THE RECORD INDICATES THAT AN ECONOMIC IMPACT STUDY WOULD BE ADVISABLE. (Section 27 of the Act.) However, this subsection is not applicable to proceedings involving required rules pursuant to Section 28.2 of the Act.
- c) IF THE BOARD DETERMINES THAT AN ECONOMIC IMPACT STUDY SHOULD BE CONDUCTED, ENR SHALL CONDUCT SUCH A STUDY IN ACCORDANCE WITH "AN ACT IN RELATION TO NATURAL RESOURCES, RESEARCH, DATA COLLECTION AND ENVIRONMENTAL STUDIES" (Ill. Rev. Stat. 1987, ch. 96 1/2, par. 7401 et seq.). THE BOARD MAY IDENTIFY SPECIFIC ISSUES TO BE ADDRESSED IN THE STUDY. (Section 27 of the Act.)

Section 102.181 Request For Determination

- a) WITHIN 21 DAYS OF THE DATE THAT THE BOARD ACCEPTS A PROPOSAL FOR HEARING PURSUANT TO SECTION 28 OF THE ACT AND SECTION 102.160, ANY PERSON MAY REQUEST THAT THE BOARD DETERMINE THAT AN ECONOMIC IMPACT STUDY SHOULD OR SHOULD NOT BE PREPARED. (Section 27 of the Act.)
- b) Such request shall be made in writing, and shall detail the reasons for the request. The request SHALL DESCRIBE, TO THE EXTENT REASONABLY PRACTICABLE, THE ECONOMIC IMPACT OF THE PROPOSED RULE. (Section 27 of the Act.) The description may include, but is not limited to, the projected cost of compliance, the number of affected persons, and the impact of compliance costs on affected persons. All material facts asserted in the request shall be verified by affidavit.
- c) The person filing the request shall file the original and nine (9) copies with the Clerk, and one copy each with the Agency, ENR, the Attorney General, and the proponent.
- d) No hearing will be held on any request filed pursuant to this Section.

Section 102.182 Basis For Board Determination

In determining whether an economic impact study should be performed, the Board will consider:

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- a) Information in the record furnished by the proponent pursuant to Sections 102.121 and 102.141 and by any person filing a request for determination pursuant to Section 102.231;
- b) ITS ASSESSMENT OF THE POTENTIAL ECONOMIC IMPACT OF THE RULE;
- c) THE POTENTIAL FOR CONSIDERATION OF THE ECONOMIC IMPACT ABSENT SUCH A STUDY;
- d) THE EXTENT, IF ANY, TO WHICH THE BOARD IS FREE UNDER THE STATUTE AUTHORIZING THE RULE TO MODIFY THE SUBSTANCE OF THE RULE BASED UPON THE CONCLUSIONS OF AN ECONOMIC IMPACT STUDY; and
- e) ANY OTHER CONSIDERATIONS THE BOARD DEEMS APPROPRIATE. (Sections 27 and 28.2 of the Act.) Those considerations may include, but are not limited to, statutory deadlines for promulgation of rules and possible impact of the proposal on natural and cultural resources (fish, wildlife, endangered species, archeological resources, etc.).

Section 102.183 Notice Of Board Determination

The Board will issue a written interlocutory order giving the reasons for its determination. The proponent, the Agency, ENR, the Attorney General and any person who has asked to be placed on the notice list for the proposal will be given notice of the Board's determination. Orders entered pursuant to this Section may be appealed only pursuant to 35 Ill. Adm. Code 101.304.

SUBPART F: CERTIFICATION OF REQUIRED RULES

Section 102.200 Agency Certification

WHEN THE AGENCY PROPOSES A RULE WHICH IT BELIEVES TO BE A REQUIRED RULE as defined by Section 28.2(a) of the Act and Section 102.101, THE AGENCY SHALL SO CERTIFY IN ITS PROPOSAL, IDENTIFYING THE FEDERAL LAW TO WHICH THE PROPOSED RULE WILL RESPOND. (Section 28.2(e) of the Act.) Such certification shall include citation to the specific section of the specific federal law to which the proposed rule will respond.

Section 102.201 Challenge To Agency Certification

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Section 102.221 Notice And Service Lists

- a) The hearing officer shall maintain a notice list for each regulatory proceeding. The notice list will consist of those persons who have furnished their names and addresses for inclusion on the notice list for a specific proceeding. Notice of all Board action and hearing officer orders will be given to all persons included on the notice list.
- b) The hearing officer may establish a service list for any regulatory proceeding, in addition to the notice list. The hearing officer may direct participants to serve copies of all documents upon the persons listed on the service list. In deciding whether to establish a service list, the hearing officer will consider factors including but not limited to, the complexity of the proceeding and the number of participants.

Section 102.222 Effect Of Hearing Officer Ruling

All decisions, orders, and rulings made by the hearing officer remain in effect during the pendency of any appeal to the Board of that decision, order, or ruling.

SUBPART H: PRE-HEARING CONFERENCES

Section 102.240 Initiation And Scheduling

- a) TO THE EXTENT CONSISTENT WITH ANY DEADLINE FOR ADOPTION OF ANY REGULATIONS MANDATED BY STATE OR FEDERAL LAW, PRIOR TO INITIATING ANY HEARING ON A REGULATORY PROPOSAL, THE BOARD MAY ASSIGN A QUALIFIED HEARING OFFICER WHO MAY SCHEDULE A PRE-HEARING CONFERENCE BETWEEN THE PROPONENT AND ANY OR ALL OF THE POTENTIALLY AFFECTED PERSONS. (Section 27(e) of the Act.) The hearing officer may schedule a pre-hearing conference on his or her own motion, or on the motion of the proponent or any potentially affected person. A "potentially affected person" is any person, as defined by the Act and Section 102.101, who demonstrates any nexus to the source of the pollutant to be controlled, by the proposal or who shows some impact from the pollutant to be controlled by the proposal. A motion to schedule a pre-hearing conference shall be directed to the hearing officer.

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- b) THE NOTICE REQUIREMENTS OF SECTION 28 of the Act and Section 102.161 SHALL NOT APPLY TO SUCH PRE-HEARING CONFERENCES. (Section 27(e) of the Act). However, the hearing officer will give notice to any person who has requested inclusion on the notice list of that proposal.

Section 102.241 Purpose

The purpose of a pre-hearing conference shall be:

- a) TO MAXIMIZE UNDERSTANDING OF THE INTENT AND APPLICATION OF THE PROPOSAL;
- b) TO REACH AGREEMENT ON ASPECTS OF THE PROPOSAL, IF POSSIBLE; AND
- c) TO ATTEMPT TO IDENTIFY AND LIMIT THE ISSUES OF DISAGREEMENT AMONG THE PARTICIPANTS TO PROMOTE EFFICIENT USE OF THE TIME AT HEARING. (Section 27(e) of the Act.)

Section 102.242 Pre-hearing Order

- a) NO RECORD OF THE PRE-HEARING CONFERENCE NEED BE KEPT, NOR SHALL ANY PARTICIPANT OR THE BOARD BE BOUND BY ANY DISCUSSIONS CONDUCTED AT THE PRE-HEARING CONFERENCE.
- b) Notwithstanding subsection (a), WITH THE CONSENT OF ALL PARTICIPANTS IN THE PRE-HEARING CONFERENCE, THE HEARING OFFICER MAY ENTER A PRE-HEARING ORDER DELINEATING ISSUES TO BE HEARD, AGREED FACTS, AND OTHER MATTERS.
- c) If the participants in the pre-hearing conference agree to having a pre-hearing order entered pursuant to subsection(b), the hearing officer may require that those participants furnish the text of a proposed order setting forth the substance of the agreements reached at the pre-hearing conference. The hearing officer will enter that order if he or she agrees that it sets forth the substance of the agreement. The order shall identify which participants have agreed to the substance of the order.
- d) A PRE-HEARING ORDER SHALL NOT BE BINDING ON NONPARTICIPANTS IN THE PRE-HEARING CONFERENCE. (Section 27(e) of the Act.)

d) All testimony and exhibits shall be submitted in the form required by 35 Ill. Adm. Code 101.103 and labeled with the docket number of the proceeding, the name of the witness submitting the material or exhibit, and the title of the material or exhibit.

e) The proponent and each participant who has pre-submitted testimony shall bring copies of that testimony and any exhibits to the hearing.

f) Testimony submitted prior to hearing will be entered into the record as it read, unless the hearing officer determines that it will aid public understanding to have the testimony read. All persons testifying will be sworn and will be subject to examination. Modifications to previously submitted testimony and exhibits may be allowed by the hearing officer at hearing provided that such modifications are either non-substantive in nature or would not materially prejudice another person's participation at hearing. Objections to such modifications are waived unless raised at hearing.

g) Where pre-hearing submission of testimony is required pursuant to subsection (a) and (b), any testimony which is not pre-submitted in a timely manner will be allowed only as time permits, pursuant to Section 102.220(o).

Section 102.281 Transcript

All testimony shall be recorded stenographically. When the transcript is filed with the clerk, the hearing officer will receive and rule on typographical corrections and reporting errors from any person who may examine the transcript for accuracy. Failure of any witness to correct the transcript within 14 days after its receipt in Board office constitutes a waiver of any right to correct.

Section 102.282 Admissible Information

All information which is relevant and not repetitious or privileged shall be admitted by the hearing officer. The hearing officer will rule on objections.

Section 102.283 Presentation Of Testimony

a) All witnesses at hearings shall be sworn.
b) Testimony shall be in narrative form.

Motion practice in regulatory proceedings is governed by 35 Ill. Adm. Code 101. Subpart H. All motions and responses shall be served upon the proponent, the Agency, ENR, the Attorney General, and all persons on any service list established pursuant to Section 102.221(b).

Section 102.261 Production Of Information
The production of information in regulatory proceedings is governed by 35 Ill. Adm. Code 101.261.

Section 102.262 Subpoenas
The issuance and enforcement of subpoenas in regulatory proceedings is governed by 35 Ill. Adm. Code 101.260(b) through (i).

SUBPART J: REGULATORY HEARINGS

Section 102.280 Pre-hearing Submission Of Testimony And Exhibits

a) The proponent shall submit all written testimony and any related exhibits 21 days prior to the hearing at which the witness testifies, unless the hearing officer directs otherwise to prevent material prejudice or undue delay.

b) The hearing officer may require the pre-hearing submission of testimony and any related exhibits by participants other than the proponent if the hearing officer determines that such a procedure will provide for a more efficient hearing.

c) The original and four (4) copies of pre-submitted testimony and exhibits shall be filed with the clerk. The Agency, ENR, and, if a participant, the Attorney General shall each be served with one copy of each testimony and exhibit. One copy shall also be served upon the proponent and each participant on any service list, unless otherwise specified or limited by the hearing officer. Such service shall be initiated on or before the date that copies are filed with the clerk.

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Section 102.284 Questioning Of Witnesses

All witnesses shall be subject to questioning by any person. Repetitious, irrelevant, harassing, or cumulative questioning will be prohibited by the hearing officer. The Board will not consider as substantive evidence any unsworn information which is presented in the form of a question during questioning of any witness.

Section 102.285 Record For Decision

The record includes the transcript, all written testimony, all exhibits admitted at hearing, and all public comments, briefs and other information timely filed with the Clerk.

SUBPART K: ECONOMIC IMPACT HEARINGS

Section 102.300 Hearings On The Economic Impact Study Of New Proposals

- a) Before the final adoption of any proposal, the Board shall conduct at least one hearing on any economic impact study submitted by ENR on any proposed regulation, or proposed amendment to existing regulation, unless otherwise provided by the Act.
- b) IN THE CASE OF A REQUIRED RULE, IF THE ECONOMIC IMPACT STUDY IS NOT SUBMITTED TO THE BOARD WITHIN SIX (6) MONTHS OF THE BOARD'S DECISION THAT AN ECONOMIC IMPACT STUDY SHOULD BE CONDUCTED, THE BOARD MAY PROCEED TO ADOPT A REQUIRED RULE WITHOUT AN ECONOMIC IMPACT STUDY. However, TO THE EXTENT POSSIBLE CONSISTENT WITH SECTION 28.2(b) OF THE ACT, THE BOARD SHALL CONDUCT A HEARING ON THE ECONOMIC IMPACT OF THE PROPOSED REQUIRED RULE. (Section 28.2 of the Act.) Pursuant to Section 28 of the Act, this requirement may be fulfilled by considering economic impact at any merit hearing on the proposed required rule.
- c) Hearings held pursuant to this Section may be consolidated with any other hearings held pursuant to this Part.

Section 102.301 Hearings On The Economic Impact Study Of Existing Regulations

- a) WITHIN A REASONABLE TIME, BUT NOT MORE THAN 120 DAYS, AFTER EACH ECONOMIC IMPACT STUDY ON EXISTING

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REGULATIONS HAS BEEN FILED BY ENR, THE BOARD SHALL CONDUCT PUBLIC HEARINGS ON SUCH STUDY.

- b) AFTER CONCLUSION OF THE HEARINGS, THE BOARD SHALL PUBLISH ITS FINDINGS AND CONCLUSIONS ON THE AREAS COVERED BY THE STUDY AND THE TESTIMONY RECEIVED BY THE BOARD. The Board will satisfy this requirement by entering a written order.
- c) THE BOARD SHALL ALSO SPECIFICALLY DETERMINE WHETHER, AS A RESULT OF ITS FINDINGS AND CONCLUSIONS, ANY REGULATIONS OF THE BOARD SHALL BE MODIFIED OR REPEALED.
- d) IF THE BOARD CONCLUDES THAT MODIFICATION OR REPEAL MAY BE NECESSARY, IT SHALL PROPOSE SUCH MODIFICATION AS REGULATIONS AND CONDUCT FURTHER HEARINGS ON SAID MODIFICATION.
- e) ANY SUCH PROPOSED MODIFICATIONS SHALL NOT REQUIRE ANY ADDITIONAL ECONOMIC IMPACT STUDY. (Section 4(b) of "AN ACT in relation to natural resources, research, data collection and environmental studies.)

SUBPART L: PUBLIC COMMENTS

Section 102.320 Public Comments

Any person may submit written comments on any proposal within 14 days after the receipt of the transcript in Board offices or within 14 days after regulation revision under Section 102.340, unless otherwise specified by the hearing officer or the Board to prevent material prejudice or undue delay. Comments shall be filed with the Clerk and served upon the Agency, ENR, the Attorney General (if a participant), the proponent, and the participants on any service list established by the hearing officer pursuant to Section 102.221. Comments which are not timely filed will not be considered, except as allowed by the hearing officer or the Board to prevent material prejudice.

SUBPART M: BOARD ACTION

Section 102.340 Revision Of Proposed Regulations

- a) The Board may revise the proposed regulations before adoption upon its own motion, or in response to suggestions made at hearing and in written comments made prior to second notice. No additional hearing on the revisions need be held.

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- b) AFTER CONSIDERATION OF COMMENTS FROM THE USEPA, THE AGENCY, THE ATTORNEY GENERAL AND THE PUBLIC, THE BOARD SHALL ADOPT THE VERBATIM TEXT OF SUCH USEPA REGULATIONS AS ARE NECESSARY AND APPROPRIATE FOR AUTHORIZATION OF THE PROGRAM. EXCEPT AS PROVIDED IN SECTION 7.2 OF THE ACT, THE ONLY CHANGES THAT MAY BE MADE BY THE BOARD TO THE FEDERAL REGULATIONS ARE THOSE CHANGES THAT ARE NECESSARY FOR COMPLIANCE WITH THE ILLINOIS ADMINISTRATIVE CODE, AND TECHNICAL CHANGES THAT IN NO WAY CHANGE THE SCOPE OR MEANING OF ANY PORTION OF THE REGULATIONS. (Section 7.2(a) of the Act.)

Section 102.346 Adoption Of Emergency Regulations

- a) WHEN THE BOARD FINDS THAT A SITUATION EXISTS WHICH REASONABLY CONSTITUTES A THREAT TO THE PUBLIC INTEREST, SAFETY, OR WELFARE, THE BOARD MAY ADOPT REGULATIONS IN ACCORDANCE WITH SECTION 5.02 OF THE APA. (Section 27(c) of the Act.)
- b) WHEN THE BOARD FINDS THAT A SEVERE PUBLIC HEALTH EMERGENCY EXISTS, THE BOARD MAY, IN RELATION TO ANY PROPOSED REGULATION, ORDER THAT SUCH REGULATION TAKE EFFECT WITHOUT DELAY. THE BOARD SHALL PROCEED WITH ANY REQUIRED HEARINGS WHILE THE REGULATION CONTINUES IN EFFECT. (Section 27(c) of the Act.)

Section 102.347 Adoption Of Peremptory Regulations

- a) WHEN THE BOARD FINDS THAT A PEREMPTORY RULEMAKING IS NECESSARY AND STATES IN WRITING ITS REASONS FOR THAT FINDING, THE BOARD WILL ADOPT PEREMPTORY RULEMAKING UPON FILING A NOTICE OF RULEMAKING WITH THE SECRETARY OF STATE PURSUANT TO SECTION 6.01 OF THE APA.
- b) NOTICE OF SUCH PEREMPTORY RULEMAKING WILL BE PUBLISHED IN THE ILLINOIS REGISTER. (Section 5.03 of the APA.)

Section 102.348 Adoption Of Temporary Regulations

- a) THE BOARD MAY ADOPT A PROPOSED REGULATION PRIOR TO ITS CONSIDERATION OF AN ECONOMIC IMPACT STUDY WHEN SUCH STUDY IS FILED WITH THE BOARD LESS THAN 120 DAYS IN ADVANCE OF A DATE ON WHICH A TEMPORARY NON-EMERGENCY REGULATION OR PROVISION THEREOF WOULD LAPSE PRIOR TO ADOPTION OF A PERMANENT REGULATION OR PROVISION THEREOF ON THE SAME SUBJECT, OR LESS THAN 120 DAYS IN ADVANCE OF A DEADLINE FOR ADOPTION OF THE REGULATION WHICH IS

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ESTABLISHED IN A STATE STATUTE. (Section 27 of the Act.)

- b) SUCH ADOPTED REGULATION SHALL BE EFFECTIVE UNTIL 180 DAYS AFTER THE ECONOMIC IMPACT STUDY REQUIRED PURSUANT TO THIS SECTION IS FILED WITH THE BOARD, AND IN NO EVENT SHALL A REGULATION ADOPTED PURSUANT TO THIS PROCEDURE STAY IN EFFECT FOR MORE THAN ONE YEAR. (Section 27 of the Act.)

SUBPART N: MOTIONS FOR RECONSIDERATION
AND APPEAL

Section 102.360 Filing Of Motion For Reconsideration

Motions for reconsideration or modification of any Board order taking substantive action on a regulatory proposal shall be filed in accordance with 35 Ill. Adm. Code 101.246. The contents of such motions are governed by 35 Ill. Adm. Code 101.242.

Section 102.361 Disposition Of Motions For Reconsideration

- a) AFTER COMMENCEMENT OF THE SECOND NOTICE PERIOD, NO SUBSTANTIVE CHANGES MAY BE MADE TO A PROPOSED RULEMAKING UNLESS IT IS MADE IN RESPONSE TO AN OBJECTION OR SUGGESTION OF JCAR. (Section 5.01(b) of the APA.) Therefore, submission of second notice of a proposal to JCAR will preclude the Board from revising that proposal in response to a motion for reconsideration. However, the Board may resubmit a rule for first notice if necessary to prevent material prejudice.
- b) An adopted rule becomes effective upon the filing of that rule with the Secretary of State. Therefore, the Board is precluded from allowing a motion for reconsideration of a final order adopting a rule, if that rule has been filed with the Secretary of State.

Section 102.362 Correction Of Publication Errors

The Board may make technical corrections to proposed or adopted rules, published in the Illinois Register or filed with the Secretary of State, only in accordance with 1 Ill. Adm. Code 100.240. No hearing need be held on such corrections.

Section 102.363 Appeal

Any final Board order may be appealed to the appellate court

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED RULES

within 35 days of the entry of that order, pursuant to Sections 29 and 41 of the Act.

1)

The Heading of the Part: Regulatory and Other Nonadjudicative Hearings and Proceedings.

2)

The Code Citation: 35 Ill. Adm. Code 102

3)

Section Number: Adopted Action:

- 102.101 Repeal
 - 102.102 Repeal
 - 102.120 Repeal
 - 102.121 Repeal
 - 102.122 Repeal
 - 102.123 Repeal
 - 102.124 Repeal
 - 102.140 Repeal
 - 102.160 Repeal
 - 102.161 Repeal
 - 102.162 Repeal
 - 102.163 Repeal
 - 102.164 Repeal
 - 102.180 Repeal
 - 102.181 Repeal
 - 102.200 Repeal
 - 102.201 Repeal
 - 102.202 Repeal
 - 102.220 Repeal
- Appendix A
Repeal

4)

Statutory Authority: Ill. Rev. Stat. 1987, ch. 111, par. 1026.

5)

Effective Date of Rule(s) (Amendments, Repeal): May 24, 1990

6)

Does this rulemaking contain an automatic repeal date? No.

7)

Does this rule (amendment, repeal) contain incorporations by reference? No.

If "yes," was a copy of the approval form issued by JCAR attached to this rulemaking.

8)

Date filed in Agency's Principal Office: May 10, 1990.

9)

Notice(s) of Proposal published in Illinois Register: 13 Ill. Reg. 14727, September 22, 1989.

POLLUTION CONTROL BOARD

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED REPEALER

- 10) Has JCAR issued a Statement of Objections to this (these) Rules(s)? If answer is "yes," please complete the following: No.
 - A) Statement of Objection: _____, _____ Ill. Reg. _____.
 - B) Agency Response: _____, _____ Ill. Reg. _____.
 - C) Date Agency Response Submitted for Approval to JCAR: _____.
- 11) Difference(s) between proposal and final version: None.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.
- 13) Will this rule (amendments, repealer) replace an emergency rule currently in effect? No.
- 14) Are there any amendments pending on this Part? No.
Section Numbers: _____ Proposed Actions: _____ Ill. Reg. Citation: _____
- 15) Summary and Purpose of Rule(s):
 In response to legislative action, and in order to update its rules, the Board is revising its procedural rules. The most efficient way to adopt new rules is to repeal the existing Part and adopt a new Part. Please note that the Part numbers and subject matter remain the same. This is a notice of the repeal of Part 102, which contains rules for regulatory proceedings. The Board has adopted new regulatory rules at Part 102.
- 16) Information and question regarding this adopted rule shall be directed to:

Elizabeth S. Harvey
 Pollution Control Board
 100 W. Randolph Street
 Suite 11-500
 Chicago, Illinois 60601
 (312) 814-6921

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT(S)

- 1) Heading of Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers Adopted Action
 1030.80 Amendment
- 4) Statutory Authority: Sections 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 2-104(b)) and Sections 6-106(b) and 6-118 of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Ill. Rev. Stat. 1987, ch. 95 1/2, pars. 6-106(b) and 6-118).
- 5) Effective Date of Amendments: May 16, 1990
- 6) Does this rulemaking contain an automatic repeal date? Yes No
- 7) Does this amendment contain incorporations by reference? No.
- 8) Date Filed in Agency's Principal Office: _____
- 9) Notice of Proposal Published in Illinois Register: 14 Ill. Reg. 579 (January 12, 1990).
- 10) Has JCAR Issued a Statement of Objections to this Rule? No.
- 11) Differences between proposal and final version. None.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the Agreement Letter issued by JCAR? Yes.
- 13) Will this rule replace any Emergency Rule(s) currently in effect? No.
- 14) Are there any other amendments pending on this Part?

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1030.16	New Section	14 Ill. Reg 7130 (May 11, 1990)
1030.30	Amendment	14 Ill. Reg. 179 (January 5, 1990)
1030.50	Amendment	14 Ill. Reg. 2530 (February 16, 1990)
1030.55	Amendment	14 Ill. Reg. 2289 (February 9, 1990)
1030.60	Amendment	14 Ill. Reg. 2530 (February 16, 1990)

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NOTICE OF ADOPTED AMENDMENT(S)

amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990.

Section 1030.80 Driver's License Testing/Written Test

Any applicant for an initial or renewal driver's license who is required to take a written test shall comply with the following provisions:

- a) Classification of licenses is established in Sections 1030.20 through 1030.40 of this Part.
- b) An applicant for a class AD license shall be required to take a written test consisting of not more than 35 questions, of which 80% percent must be answered correctly in order to be eligible for a class AD license.
- c) An applicant for a class B/C/D C, B, A, or L-M license shall be required to take the written test as set forth in paragraph (b) above. Said applicant shall also take a written examination established by the Secretary of State for the classification of classification(s) and/or endorsement(s) applied for. The number of questions required to be answered is dependent upon the classification(s) and/or endorsement(s) applied for. Each written classification and/or endorsement examination shall consist of not more than 35 questions, of which 80% percent must be answered correctly in order for the applicant to be eligible for the classification(s) and/or endorsements applied for.
- d) All applicants shall be required to answer an identical number of questions. The number of questions required to be answered is dependent upon the classification of classifications applied for.
- e) The written examinations set forth in paragraphs (b) and (c) of this Section shall be in the English and of Spanish language, and may be in any other languages deemed necessary by the Secretary of State, based upon an identifiable demand.

NOTICE OF ADOPTED AMENDMENT(S)

- f) An applicant who is illiterate shall be given the written examination orally.
- g) An applicant who cannot read or write ~~the~~ in the English or Spanish language, or other available foreign language, shall be eligible to take the written exam. The driver facility supervisor, his/her assistant or designee, may provide or recommend an interpreter for the applicant's language if an interpreter is readily available. If an ~~interpreter~~ interpreter is not readily available, it will be the responsibility of the applicant to obtain the services of a ~~nonrelated~~ or ~~uninterested~~ an interpreter.
- h) An applicant shall demonstrate his/her ability to read and understand official traffic control devices.
- i) Any licensee who desires to change his/her classification and/or endorsements prior to renewal of such license shall be required to take the written examination for the classification or classifications and/or endorsements said applicant desires to obtain.
- j) An applicant for a permit to operate a school bus must have in his/her possession an application for Illinois School Bus Driver's Permit ~~Form~~ ~~102~~ ~~66/01~~ (Illinois State Board of Education Form 42.49) or its superseding form. The applicant shall be given a special test consisting of not more than 24 questions, of which 22 must be answered correctly in order to be eligible for such a permit.

(Source: Amended at 14 Ill. Reg. 9246, effective May 16, 1990)

1) Heading of the Part: Cannabis and Controlled Substances Tax Act

2) Code Citation: 86 Ill. Adm. Code 428

3) Section Numbers: 428.130

Emergency Action: Amendment

4) Statutory Authority: Ill. Rev. Stat. 1987, ch. 120, par. 2154.

5) Effective Date of Amendment(s): May 22, 1990

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable.

7) Date Filed in Agency's Principal Office: May 22, 1990

8) Reason for Emergency: To permit the Department of Revenue to immediately implement the provisions of P.A. 86-380 providing for issuance of jeopardy assessments and filing and enforcement of jeopardy assessment liens without prior notice to the drug dealer.

9) A Complete Description of the Subjects and Issues Involved: Collection of penalty as a part of the tax, jeopardy assessments and the filing and enforcement of jeopardy assessment liens.

10) Are there any proposed amendments to this Part pending? No

11) Statement of Statewide Policy Objectives: Enforcement of taxes due from drug dealers.

12) Information and questions regarding this amendment shall be directed to:

R. Dale Yung
Administrator
Legal Services Bureau
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6336

The full text of the emergency amendments begins on the next page:

Section

428.100 Definitions

428.110 Imposition of Tax

428.120 Tax Stamps; Returns

428.130 Failure To Pay Tax; Penalties

EMERGENCY

AUTHORITY: Implementing and authorized by the Cannabis and Controlled Substances Tax Act (Ill. Rev. Stat. 1987, ch. 120, par. 2151 et seq.).

SOURCE: Adopted at 12 Ill. Reg. 15159, effective September 19, 1988; emergency amendment at 14 Ill. Reg. 9251, effective May 22, 1990, for a maximum of 150 days.

NOTE: Capitalization denotes statutory language.

Section 428.130 Failure To Pay Tax; Penalties

EMERGENCY

a) When the Illinois Attorney General or a State's Attorney obtains a conviction of a dealer for a violation of the Cannabis Control Act or the Illinois Controlled Substances Act, and when the dealer is not liable for tax stamps or penalties that are imposed by the Act, the dealer shall be liable for the following information: the dealer's name, the dealer's current mailing address, social security number, and date of birth; a copy of the information or identification upon which the information was based; the weight, to the nearest tenth of a gram, or number of dosage units if not sold by weight, of the drug upon which the conviction was based; and the name and address of any person who witnessed the dealer's possession of untaxed cannabis or controlled substances. The requested information should be sent to the Illinois Department of Revenue, P.O. Box 190187, Springfield, Illinois 62794-9018. Whenever an Illinois law enforcement agency or prosecuting authority learns that a dealer has transferred, manufactured, produced, shipped, transported, imported, sold or possesses (with intent to deliver to another person) more than 30 grams of cannabis or more than 5 grams of any controlled substance or 5 more dosage units of a controlled substance not bearing valid tax stamps or other official indicia showing that the tax imposed by the Act has been paid, such law enforcement agency or prosecuting authority, as

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

the case may be, is requested to forthwith notify the Department and provide the following information: the dealer's name, current mailing address, social security number and date of birth; the weight, to the nearest tenth of a gram, or number of dosage units (if not measured by weight) of the cannabis or controlled substance; and the name and address of all peace officers who witnessed the dealer's possession, transfer, manufacture, shipment, transportation, importation or sale of such cannabis or controlled substance. This information should be transmitted to the Department's Bureau of Criminal Investigation. The foregoing is not intended to limit in any way the Department's duty and authority to enforce the tax and collection provisions of the Act.

- b) ~~Upon receipt of information requested in subsection (a), the Department will send a Notice of Tax Liability by certified mail, return receipt requested, to the dealer at his or her last known address. In addition to assessing the amount of tax due under the Act, the Notice will also assess a penalty equal to four times the amount of the tax.~~ Upon obtaining information that a dealer has transferred, manufactured, produced, shipped, transported, imported, sold or possesses (with intent to deliver to another person) the minimum jurisdictional quantity of cannabis or controlled substance not bearing valid tax stamps or other official indicia showing payment of the tax, the Department may issue a jeopardy assessment against such dealer for the tax and the penalty, which shall be collected as part of the tax, and applicable interest, as provided in Section 1102 of the Illinois Income Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 11-1102). The Department shall send a Notice of Jeopardy Assessment to the dealer by certified mail, return receipt requested, at his or her last known address.
- c) Upon the issuance of a jeopardy assessment for the tax and penalty to be collected as part of the tax (plus interest provided by law), the Department may immediately file a Notice of Jeopardy Assessment lien in the office of recorder of the county in which any property of the dealer may be located and shall notify said dealer of such filing by certified mail, return receipt requested, sent to such dealer at his or her last known address.
- d) Upon the filing of the Notice of Jeopardy Assessment lien, the Department may seize, distrain and levy upon all property and rights to property (whether real, personal, tangible or intangible) of the taxpayer, without exception, found within the State of Illinois, for the payment of the tax with the added penalty to be collected as part thereof, plus interest and costs. THE DEPARTMENT MAY ISSUE A WARRANT DIRECTED TO ANY SHERIFF OR OTHER PERSON AUTHORIZED TO SERVE PROCESS, COMMANDING THE SHERIFF OR OTHER PERSON TO LEVY UPON THE PROPERTY AND RIGHTS TO PROPERTY (WHETHER REAL OR PERSONAL, TANGIBLE

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENTS

OR INTANGIBLE) OF THE TAXPAYER, WITHOUT EXEMPTION, FOUND WITHIN HIS JURISDICTION, FOR THE PAYMENT OF THE AMOUNT THEREOF WITH THE ADDED PENALTIES, INTEREST AND THE COST OF EXECUTING THE WARRANT. THE TERM "LEVY" INCLUDES THE POWER OF DISTRRAINT AND SEIZURE BY ANY MEANS. Subject to the provisions of subsection (f) of this section, IN ANY CASE IN WHICH THE WARRANT TO LEVY HAS BEEN ISSUED, THE SHERIFF OR OTHER PERSON TO WHOM THE WARRANT WAS DIRECTED MAY SEIZE AND SELL SUCH PROPERTY OR RIGHTS TO PROPERTY. SUCH WARRANT SHALL BE RETURNED TO THE DEPARTMENT TOGETHER WITH THE MONEY COLLECTED BY VIRTUE THEREOF WITHIN THE TIME THEREIN SPECIFIED, WHICH SHALL NOT BE LESS THAN 20 NOR MORE THAN 90 DAYS FROM THE DATE OF THE WARRANT. THE SHERIFF OR OTHER PERSON TO WHOM SUCH WARRANT IS DIRECTED SHALL PROCEED IN THE SAME MANNER AS PRESCRIBED BY LAW IN RESPECT TO THE ENFORCEMENT AGAINST PROPERTY UPON JUDGMENTS BY A COURT, AND SHALL BE ENTITLED TO THE SAME FEES FOR HIS SERVICES IN EXECUTING THE WARRANT, TO BE COLLECTED IN THE SAME MANNER. (Ill. Rev. Stat. (1987), ch. 120, par. 11-1109). In addition, Revenue Special Agents employed by the Department and so designated in writing by the Director, are authorized to seize tangible personal property of the taxpayer. Any officer or employee of the Department, designated in writing by the Director, may levy upon wages, accounts and other intangible assets of a taxpayer. Subject to the provisions of subsection (f) of this section, IN ANY CASE WHERE PROPERTY OR RIGHTS TO PROPERTY HAVE BEEN SEIZED BY an officer or employee of the department or by AN OFFICER OF THE ILLINOIS DEPARTMENT OF STATE POLICE, OR SUCCESSOR AGENCY THERETO, UNDER THE AUTHORITY OF A WARRANT TO LEVY ISSUED BY THE DEPARTMENT OF REVENUE, THE DEPARTMENT OF REVENUE MAY TAKE POSSESSION OF AND MAY SELL SUCH PROPERTY OR RIGHTS TO PROPERTY AND THE DEPARTMENT OF REVENUE MAY CONTRACT WITH THIRD PERSONS TO CONDUCT SALES OF SUCH PROPERTY OR RIGHTS TO THE PROPERTY. IN THE CONDUCT OF SUCH SALES, THE DEPARTMENT OF REVENUE SHALL PROCEED IN THE SAME MANNER AS IS PRESCRIBED BY LAW FOR PROCEEDING AGAINST PROPERTY TO ENFORCE JUDGMENTS WHICH ARE ENTERED BY A CIRCUIT COURT OF THIS STATE. IF, IN THE DEPARTMENT OF REVENUE'S OPINION, NO OFFER TO PURCHASE AT SUCH SALE IS ACCEPTABLE AND THE STATE'S INTEREST WOULD BE BETTER SERVED BY RETAINING THE PROPERTY FOR SALE AT A LATER DATE, THEN THE DEPARTMENT MAY DECLINE TO ACCEPT ANY BID AND MAY RETAIN THE PROPERTY FOR SALE AT A LATER DATE. (Ill. Rev. Stat. (1987), ch. 120, par. 11-1109).

- e) ~~A dealer wishing to contest the Department's notice assessing the tax and penalty may~~ If the dealer believes that he does not owe some or all of the amount for which the lien was filed, he may protest and request a hearing to be conducted pursuant to the provisions of the Department's hearing rules (86 Ill. Adm. Code 200). The request shall be in writing, and must be postmarked no more than 20 days after the date the Department mailed the ~~Notice of Tax Liability~~ notice of the filing of the lien. The request for a hearing must be

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POLLUTION CONTROL BOARD

NOTICE OF MODIFICATION TO MEET THE OBJECTION
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

not be used in any way to exclude persons from participation in that pre-hearing conference. The Board believes that in the normal course of events, there will be no need to make any determination as to whether a particular person is "potentially affected." Only if the issue specifically arises will there be any type of inquiry into whether a person is "potentially affected." Finally, the Board notes that this definition does not require an environmental group to prove that it has a specific member who is "potentially affected."

DEPARTMENT OF PUBLIC AID

NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

- 1) The Heading of the Part: MEDICAL PAYMENT
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: Action:
140.642 Refusal
- 4) Date Notice of Proposed Rules Published in the Register (if applicable):
March 2, 1990 (14 Ill. Reg. 3019)
- 5) Date JCAR Statement of Objection Published in the Register:
_____, Ill. Reg. ____
(Issue Date)
- 6) Summary of Action Taken by the Agency:

The Joint Committee (JCAR) has objected to this emergency rulemaking on the basis that the emergency has been created by the failure of the Department to act in a timely manner. The Department respectfully disagrees.

Nursing home prescreening (PASSAR) was required under the provisions of the Omnibus Reconciliation Act of 1987 (OBRA). OBRA required the federal government (HHS) to issue criteria for states to use in implementing PASSAR by October 1, 1988. Guidelines were not issued by HHS until July 1989, in the State Medicaid Manual. On March 23 of this year (after publication of this rule), HHS finally published proposed regulations on PASSAR. These proposed rules, which are not final and could be subject to further revision, are not the same as the guidelines published in the State Medicaid Manual.

While the federal government's dilatory actions do not excuse the state from timely implementation of a PASSAR program, it does justify the delay in the Department publishing rules on the subject. Without a clear mandate as to the parameters of a PASSAR policy, the Department has had to operate without any definite Federal guidelines in implementing that policy. An effective rule cannot be promulgated without a firm grasp of what is and what is not

DEPARTMENT OF PUBLIC AID
NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

1) The Heading of the Part: MEDICAL PAYMENT

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Numbers: Action:

- 140.542 Refusal
- 140.543 Refusal
- 140.544 Refusal
- 140.545 Refusal
- 140.646 Refusal
- 140.647 Refusal
- 140.648 Refusal
- 140.649 Refusal
- 140.650 Refusal
- 140.652 Refusal

4) Date Notice of Proposed Rules published in the Register (if applicable):

March 23, 1990 (14 Ill. Reg. 4577)

5) Date JCAR Statement of Objection published in the Register:

Ill. Reg.

(Issue Date)

6) Summary of Action Taken by the Agency:

The Joint Committee (JCAR) has objected to this emergency rulemaking on the basis that any emergency has been created solely by the Department's failure to act in a timely manner. The Department respectfully disagrees.

This rulemaking contains provisions related to program services provided persons with developmental disabilities. An emergency rulemaking was necessary to ensure that the health and welfare of these members of the public is appropriately maintained. Any delay in the promulgation of this rulemaking was not due to any dilatory action by the Department, but rather by the time and effort necessary to implement an effective and workable program. Rules are intended to define the parameters of a certain policy; until those parameters have been established, rules would be premature.

DEPARTMENT OF PUBLIC AID
NOTICE OF REFUSAL
TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

required, especially when much controversy and conflict surrounds the policy, as it does here.

The Department eventually determined that a rule was necessary despite the lack of Federal guidance, in order to provide policy guidelines in rule form. Even now, because of the many comments received and the new proposed federal regulations, the Department envisions significant changes in the proposed version of this rule on second notice.

However, because the policy considerations underlying the PASSAR requirements are intended to preserve the health and safety of persons seeking to reside in nursing facilities, the Department felt that an emergency rulemaking was required in this situation. The PASSAR program is in operation and is intended to benefit persons seeking to reside in nursing homes to ensure proper placement.

Accordingly, the Department respectfully disagrees with JCAR's objection, and must refuse to modify this emergency rulemaking.

MENT OF PUBLIC AID

ICE OF REFUSAL
CTION OF THE JOINT COMMITTEE
INISTRATIVE RULES

rtment must respectfully decline to
the Committee.

DEPARTMENT OF TRANSPORTATION

NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Inspection, Repair and Maintenance
- 2) Code Citation: 92 Ill. Adm. Code 396
- 3) The Notice of Proposed Rules being corrected appeared at 14 Ill. Reg. 7447, dated May 18, 1990.
- 4) The information being corrected is as follows:

The words, "interstate commerce must be met" were inadvertently omitted from the last paragraph of the complete description (question #5 of the Notice of Proposed Rules). Therefore, this paragraph has been corrected to read as follows:

Docket MC-113 (December 8, 1989) - In this docket, FHWA delayed until July 1, 1990, the date by which compliance with the periodic inspection requirements for vehicles used in interstate commerce must be met.

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JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSECOND NOTICES RECEIVED
(page 3)

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>Scheduled for Consideration by JCAR</u>
7/9/90	Department of Public Health, Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Code 300)	2/9/90 14 Ill. Reg. 2261	July 26, 1990

PROCLAMATION

90-270
DISASTER AREAS - SEVERAL COUNTIES

A series of severe thunderstorms, damaging winds and excessive rainfall occurring within the Wabash River tributary system since May 15 and continuing to the present have created near record flooding conditions, serious public service disruptions and extensive damages to real and personal property, business enterprises, farms, livestock, roads and other property in affected counties. In addition, the failure of several agricultural levees has inundated thousands of acres of farmland with flood waters.

In the interest of aiding those citizens who were adversely affected and suffered losses because of the flood conditions and to minimize any further impact on public health, safety and welfare of our citizens, I hereby declare the counties Clay, Crawford, Edwards, Jasper, Lawrence, Marion, Richland, Wabash, Wayne and White to be State of Illinois Disaster Areas, pursuant to the provisions of Section 7(a) of the "Illinois Emergency Services and Disaster Agency Act of 1988" (Ill. Rev. Stat., 1989, ch. 127, par. 1051, et seq.).

This gubernatorial declaration of disaster will aid the Illinois Emergency Services and Disaster Agency in coordinating other State agency resources in the disaster recovery operations; provide for the reassessment of real and personal property substantially damaged by the storms; and make possible any requests for federal disaster assistance.

Issued by the Governor May 24, 1990.

Filed with the Secretary of State May 24, 1990.

90-271

CHARLOTTE LARAIA DAY

Whereas, Charlotte Laraia has served the community for 25 years through her dedication to music, dance, and the American Theater; and

Whereas, Charlotte Laraia has used her talent as a director to introduce to the community the works of classic composers, lyricists, and writers; and

Whereas, Charlotte Laraia has shown true devotion to the education, growth, and development of youngsters of all ages in the performing arts; and

Whereas, Charlotte Laraia has instilled the enthusiasm in others and persuaded novices to reach beyond their known abilities to perfect their talents; and

Whereas, Charlotte Laraia has been responsible for showcasing the arts for persons who might not otherwise have had the opportunity to enjoy them;

Therefore, I, James R. Thompson, Governor of the State of

Illinois, proclaim May 1990 as MENTAL HEALTH MONTH in Illinois, and urge all citizens of this state to join the volunteers, staff, and supporters of the Mental Health Association in aiding those suffering from this often overlooked illness. Issued by the Governor May 24, 1990. Filed with the Secretary of State May 29, 1990.

90-274

NEUROFIBROMATOSIS AWARENESS MONTH

Whereas, neurofibromatosis (NF) is recognized as one of the most common neurological disorders and yet is one of the least understood genetically; and Whereas, affecting more than 100,000 Americans, NF occurs once in every 3,000 births and is more common than muscular dystrophy, sickle-cell anemia, and Tay-Sachs' disease; and Whereas, NF may affect all organs and organ systems and can lead to bone defects, disfigurements, and scoliosis, as well as to life-threatening forms of neurological impairments, brain tumors, and spinal tumors; and Whereas, NF is characterized by abnormal tumor growth at nerve endings, and two of its most common signs are dark patches of skin and benign skin tumors; and Whereas, the National Neurofibromatosis Foundation and the Illinois chapter of this foundation strive to assist afflicted individuals and their families through education, support, and medical records; Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim May 1990 as NEUROFIBROMATOSIS AWARENESS MONTH in Illinois, focusing public attention on this serious disorder and the many health problems to which it leads. Issued by the Governor May 24, 1990. Filed with the Secretary of State May 29, 1990.

90-275 ORTHO-OLYMPICS DAY

Whereas, 1990 marks the 11th anniversary of Chicago Public Schools' Ortho-Olympics; and Whereas, sports play an important part in the lives of contemporary Americans providing recreation, challenge, excitement, and satisfaction; and Whereas, participating in sports is especially meaningful to the many physically handicapped students who will be competing in the Ortho-Olympics on June 8th; and Whereas, this event will give them the thrill of competition, the joy of meeting other athletes and the satisfaction that comes from doing the very best they can; and Whereas, additionally, this event eloquently demonstrates that a disability doesn't have to stand in the way of a full and

Illinois, proclaim June 1, 1990, as CHARLOTTE LARAIA DAY in Illinois, in recognition of her 25 years as director of the performing arts. Issued by the Governor May 24, 1990. Filed with the Secretary of State May 29, 1990.

90-272

ILLINOIS STATE MEDICAL SOCIETY RECOGNITION WEEK

Whereas, the Illinois State Medical Society was founded June 9, 1840, in Springfield, Illinois, for the purpose of promoting the science and art of medicine, protecting public health, elevating standards of medical education, and uniting the medical profession behind these purposes; and Whereas, throughout its history, the Illinois State Medical Society has fostered health education, preventive medicine, and care of the indigent, which are most laudatory objectives; and Whereas, the Illinois State Medical Society has been instrumental in supporting legislation to protect public health, such as licensing for health care professionals; and Whereas, Illinois citizens should recognize the contributions the medical profession has made to improving the quality of life and fostering technological advances; Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim June 9-16, 1990, as ILLINOIS STATE MEDICAL SOCIETY RECOGNITION WEEK in Illinois and extend congratulations and thanks to the society's 18,000 physician members for 150 years of quality health care for our citizens. Issued by the Governor May 24, 1990. Filed with the Secretary of State May 29, 1990.

90-273

MENTAL HEALTH MONTH

Whereas, being mentally healthy is as important as being physically fit; and Whereas, children are dependent on adults for sustenance, guidance, security, and other factors necessary for good mental health; and Whereas, more than 8 million children in the U.S., including 325,000 in Illinois, suffer from a mental or emotional disorder. Many of these disorders can be successfully treated with psychotherapy, medication, or a combination of both; and Whereas, an acute lack of understanding concerning the importance of good mental health and the facts of mental illnesses exists in the public today; and Whereas, the Mental Health Association in Illinois is helping children, their families, and the public learn the facts about mental health and illnesses; Therefore, I, James R. Thompson, Governor of the State of

active life;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim June 8, 1990, as ORTHO-OLYMPIC DAY in Illinois, and I applaud the efforts of the participants, their teachers, parents and other volunteers who make this event possible.

Issued by the Governor May 24, 1990.

Filed with the Secretary of State May 29, 1990.

90-276

PEST CONTROL MONTH

Whereas, pests destroy property, transmit diseases, contaminate food, and are universally objectionable; and

Whereas, the public should be made aware of the importance of pest control in keeping our food sanitary, our homes and businesses safe from destructive pests, and our environment clean; and

Whereas, professional pest control operators perform a valuable service to our community by helping to protect the safety of our property and the health of our citizens; and

Whereas, the structural pest control industry encourages the safe, effective use of pesticides and alternate control methods through research and training; and

Whereas, the public should be supportive of pest control efforts carried out by licensed pesticide control operators;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim June 1990 as PEST CONTROL MONTH in Illinois, in recognition of the valuable work performed by the structural pest control industry.

Issued by the Governor May 24, 1990.

Filed with the Secretary of State May 29, 1990.

90-277

POMPON APPRECIATION DAY

Whereas, 1,000 young women from 50 midwestern high school pompon squads will be demonstrating their hard work and talents at the Allstate Open Pompon competition; and

Whereas, several groups of young women from Illinois will be participating in the competition to be held at the 1990 Wisconsin State Fair; and

Whereas, participation in pompon squads can be an integral part of a young persons life by helping to promote responsibility, increase awareness of women's athletics, emphasize good health, and strengthen community pride;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim August 5, 1990, as POMPON APPRECIATION DAY in Illinois and urge all citizens of Illinois to realize the importance of this opportunity which is offered to our youth.

Issued by the Governor May 24, 1990.

Filed with the Secretary of State May 29, 1990.

90-278

TALENT-LINKAGE-CHICAGO DAY

Whereas, the State of Illinois and the City of Chicago are nationally acclaimed centers for theatre and film; and

Whereas, The Theatre School, DePaul University, was founded in 1925 as the Goodman School of Drama at the Art Institute of Chicago; and

Whereas, 1990 marks its 65th Anniversary as a professional training school; and

Whereas, the 37 graduates of the Class of 1990 will present a showcase of their work to directors, casting agents, and theatre professionals from throughout the nation at the 10th annual Talent-Linkage-Chicago Day, June 2; and

Whereas, these young people hope to follow the footsteps of such noted alumni as Geraldine Page, Linda Hunt, Karl Malden, Joe Mantegna, and costume designer Theoni V. Aldredge;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim June 2, 1990, as TALENT-LINKAGE-CHICAGO DAY in Illinois. I extend my personal congratulations to the Theatre School, DePaul University, on the occasion of its 65th Anniversary and commend it for the outstanding contributions it has made to theatre arts in Illinois.

Issued by the Governor May 24, 1990.

Filed with the Secretary of State May 29, 1990.

90-279

SPIEGEL DAY

Whereas, Spiegel, the nation's largest direct marketer of apparel and home furnishings, is celebrating its 125th anniversary; and

Whereas, Spiegel marks this anniversary from a position of strength, vitality, and enormous consumer popularity, having achieved one billion dollars in sales under the leadership of its president and chief executive officer, John J. Shea; and

Whereas, Spiegel is committed to providing the highest quality products and services to its customers; and

Whereas, Spiegel's noteworthy contributions to the retail industry include many innovative ideas, such as credit through the mail, photography in a catalog, the flip-catalog format, and Christmas catalogs; and

Whereas, since Spiegel is one of Chicago's larger employers, it is an important part in the Land of Lincoln and plays a leadership role in the policies and activities of the Illinois Retail Merchants Association;

Therefore, I, James R. Thompson, Governor of the State of

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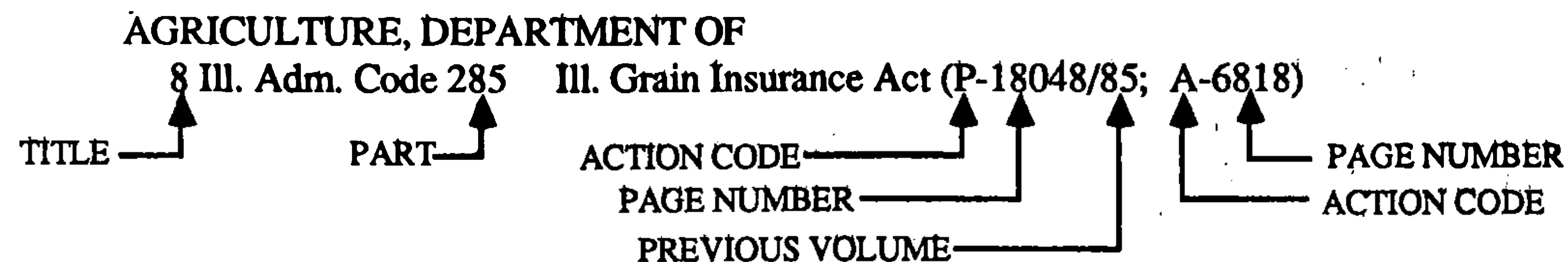
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ACTION CODES

JCAR - Joint Committee on Administrative Rules

- | | |
|--|--|
| A - Adopted Rule | P - Proposed Rule |
| AR - Adopted Repealer | PF - Prohibited Filing Ordered by JCAR |
| C - Notice of Corrections | PP - Peremptory or Court ordered Rules |
| CC - Codification Changes | PR - Proposed Repealer |
| E - Emergency Rule | R - Refusal to meet JCAR objection |
| ER - Emergency Repealer | RC - Statement of Recommendation |
| M - Modification to meet JCAR objections | S - Suspension ordered by JCAR |
| O - JCAR Statement of Objections | W - Withdrawal to meet JCAR objections |

EXAMPLE:



ALL RULES ARE LISTED BY PART NUMBER AND HEADING ONLY. (FOR ACTION ON SPECIFIC SECTIONS, PLEASE REFER TO THE SECTIONS AFFECTED INDEX.) IF THERE ARE ANY QUESTIONS, PLEASE CONTACT THE ADMINISTRATIVE CODE DIVISION AT (217) 782-9786.

AGING, DEPARTMENT ON

- 89 Ill. Adm. Code 240 Community Care Program (P-1077) (P-13638/89; O-17144/89; R-1533) (P-13353/89; A-1233)
- 89 Ill. Adm. Code 230 Older Americans Act Programs (P-14499/89; A-2308)

AGRICULTURE, DEPARTMENT OF

- 8 Ill. Adm. Code 110 Animal Diagnostic Laboratory Act (P-15911/89; A-1907) (P-16861/89; A-3416) (P-8759)
- 8 Ill. Adm. Code 75 Bovine Brucellosis (P-15915/89; A-1911)
- 8 Ill. Adm. Code 85 Diseased Animals (P-15926/89; A-1919) (P-8768)
- 8 Ill. Adm. Code 80 Ill. Bovine Tuberculosis Eradication Act (P-15938/89; A-1931)
- 8 Ill. Adm. Code 115 Ill. Pseudorabies Control Act (P-15942/89; A-1935) (P-19329/89; A-5065) (P-8773)
- 8 Ill. Adm. Code 40 Livestock Auction Markets (P-15950/89; A-1943)
- 8 Ill. Adm. Code 45 Marketing Center (Livestock) (P-15956/89; A-1949)
- 8 Ill. Adm. Code 125 Meat & Poultry Inspection Act (P-16625/89; A-3424) (PP-4953)
- 8 Ill. Adm. Code 850 Motor Fuel Standards Act (P-19837/89; A-5072)
- 2 Ill. Adm. Code 700 Organizational Chart, Description, Rulemaking Procedure, & Programs (A-584) (A-4093) (A-9009)
- 8 Ill. Adm. Code 5 Standardization of Agriculture Products (P-3711)
- 8 Ill. Adm. Code 100 Swine Brucellosis (P-15960/89; A-1953)
- 8 Ill. Adm. Code 105 Swine Disease Control & Eradication Act (P-15968/89; A-1961) (P-8777)

ALCOHOLISM AND SUBSTANCE ABUSE, DEPARTMENT OF

- 77 Ill. Adm. Code 2058 Licensure of Alcoholism & Substance Abuse Treatment Intervention & Research Programs (P-6457)

ATTORNEY GENERAL

- 86 Ill. Adm. Code 2000 Ill. Estate & Generation - Skipping Transfer Tax Act (P-4281)

AUDITOR GENERAL

- 74 Ill. Adm. Code 420 Code of Regulations (P-1541)

BANKS AND TRUST COMPANIES, COMMISSIONER OF

- 38 Ill. Adm. Code 395 Corporate Fiduciary Branch Offices (P-2981)
- 38 Ill. Adm. Code 396 Corporate Fiduciary Subsidiaries (P-2985)
- 38 Ill. Adm. Code 356 Reimbursement to Banks for Financial Records (P-3303)

CARNIVAL-AMUSEMENT SAFETY BOARD

- 56 Ill. Adm. Code 6000 Carnival & Amusement Ride Inspection Law (P-2989) (E-3235; O-5905)

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

- 80 Ill. Adm. Code 303 Conditions of Employment (P-17169/89; A-3433)
- 80 Ill. Adm. Code 2160 Local Government Health Plan (P-4288)
- 80 Ill. Adm. Code 5010 Marking, Inventory, Transfer & Disposal of State-Owned Personal Property (P-8271) (E-8714)
- 80 Ill. Adm. Code 310 Pay Plan (P-427) (P-15141/89; A-615) (PP-1627) (P-17521/89; A-4455) (P-5269) (PP-7652) (P-7675)
- 80 Ill. Adm. Code 3000 The Travel Regulation Council (P-1548)

CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

- 89 Ill. Adm. Code 431 Confidentiality of Personal Information of Persons Served by the Dept. (P-4303)
- 89 Ill. Adm. Code 410 Licensing Standards for Youth Emergency Shelters (P-439; O-8206) (E-999)
- 89 Ill. Adm. Code 300 Reports of Child Abuse & Neglect (P-20159/89; C-2684)
- 89 Ill. Adm. Code 302 Services Delivered by the Dept. (P-1) (P-2205) (P-14508/89; A-3438)

COMMERCE AND COMMUNITY AFFAIRS, DEPARTMENT OF

- 14 Ill. Adm. Code 525 Economic Development Area Tax Increment Allocation Financing (P-13356/89; A-1968)
- 14 Ill. Adm. Code 520 Enterprise Zone Program (P-15975/89; A-3445)
- 14 Ill. Adm. Code 590 Ill. Large Business Development Program (P-7291)
- 14 Ill. Adm. Code 610 Ill. Public Infrastructure Loan & Grant Program (P-7300)
- 56 Ill. Adm. Code 2650 Industrial Training Program (P-15977/89; A-5075)
- 14 Ill. Adm. Code 550 Local Tourism & Convention Bureau Program (P-17567/89; A-5091) (P-5294) (E-5565) (P-8782)
- 47 Ill. Adm. Code 120 State Administration of the Federal Community Services Block Grant Program (P-5296)
- 14 Ill. Adm. Code 545 Technology Advancement & Development Act Program (P-19336/89; A-9016)
- 56 Ill. Adm. Code 2610 Training Services for the Disadvantaged (P-5017/89; A-1976)
- 56 Ill. Adm. Code 2630 Uniform Fiscal & Administrative Standards for the Job Training Partnership Act (P-5310) (P-7312)

COMMERCE COMMISSION, ILLINOIS

- 92 Ill. Adm. Code 1207 Agents for Service of Process (P-15150/89; A-3033)
- 83 Ill. Adm. Code 760 Cellular Radio Exclusion (P-13358/89; A-3037)
- 83 Ill. Adm. Code 281 Energy Assistance (PR-4312)
- 92 Ill. Adm. Code 1415 Freight Bills & Bills of Lading or Other Forms (P-19339/89; A-8583)
- 83 Ill. Adm. Code 900 Joint Rules of the Ill. Commerce Commission & the Dept. of Energy & Natural Resources: Residential Conservation Plan (PR-12680/89; AR-624)
- 92 Ill. Adm. Code 1300 Minimum Rate (PR-14147/89; AR-3040)
- 83 Ill. Adm. Code 445 Purchase & Sale of Electric Energy from Qualified Solid Waste Energy Facilities (P-13129/89; A-626)
- 92 Ill. Adm. Code 1710 Relocation Towing (P-2721)
- 83 Ill. Adm. Code 285 Standard Filing Requirements for Electric, Gas, Water & Sewer Utilities & Telecommunications Carriers in Filing for an Increase in Rates (P-5229/89; A-6000)
- 83 Ill. Adm. Code 410 Standards of Service for Electric Utilities (P-16211/89; A-3454)