

# 2006

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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## ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2006

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 27, 2005	January 6, 2006
2	January 3, 2006	January 13, 2006
3	January 9, 2006	January 20, 2006
4	January 17, 2006	January 27, 2006
5	January 23, 2006	February 3, 2006
6	January 30, 2006	February 10, 2006
7	February 6, 2006	February 17, 2006
8	February 14, 2006	February 24, 2006
9	February 21, 2006	March 3, 2006
10	February 27, 2006	March 10, 2006
11	March 6, 2006	March 17, 2006
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13	March 20, 2006	March 31, 2006
14	March 27, 2006	April 7, 2006
15	April 3, 2006	April 14, 2006
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28	July 3, 2006	July 14, 2006
29	July 10, 2006	July 21, 2006
30	July 17, 2006	July 28, 2006
31	July 24, 2006	August 4, 2006
32	July 31, 2006	August 11, 2006
33	August 7, 2006	August 18, 2006
34	August 14, 2006	August 25, 2006
35	August 21, 2006	September 1, 2006
36	August 28, 2006	September 8, 2006
37	September 5, 2006	September 15, 2006
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43	October 16, 2006	October 27, 2006

<b><u>Issue #</u></b>	<b><u>Rules Due Date</u></b>	<b><u>Date of Issue</u></b>
44	October 23, 2006	November 3, 2006
45	October 30, 2006	November 13, 2006
46	November 6, 2006	November 17, 2006
47	November 13, 2006	November 27, 2006
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49	November 27, 2006	December 8, 2006
50	December 4, 2006	December 15, 2006
51	December 11, 2006	December 22, 2006
52	December 18, 2006	December 29, 2006

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Merit and Fitness
- 2) Code Citation: 80 Ill. Adm. Code 302
- 3) Section Number: 302.300                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415]
- 5) A Complete Description of the Subjects and Issues Involved: This amendment deletes language relating to the 30-day probationary period for State employees who have been appointed to a position subject to jurisdiction B after serving as a full-time employee continuously for a minimum of two years in a position not subject to jurisdiction B.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section</u>	<u>Proposed Action</u>	<u>Ill. Register Citation</u>
302.150	Emergency Rule	30 Ill. Reg. 12366; 07/14/06
302.150	Amendment	30 Ill. Reg. 12064; 07/14/06
- 11) Statement of Statewide Policy Objectives: This proposed amendment neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit written comments within 45 days after the date of publication to:

Gina Wilson  
Illinois Department of Central Management Services  
720 Stratton Office Building

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62706

217/785-1793

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the desirability of amending this Section was recently raised by staff members of JCAR in response to the Department's submission of another rulemaking.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS  
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

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- 302.320 Status Change in Probationary Period
- 302.325 Intermittent Status

SUBPART G: PROMOTIONS

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- 302.330 Eligibility for Promotion
- 302.335 Limitations On Promotions
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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

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302.860	Renewal Procedure for Incumbents Subject to Public Act 83-1369
302.863	Renewal of Certified or Probationary Incumbents in Exempted Positions

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 2 Ill. Reg. 33, p. 24, effective September 1, 1978; amended at 3 Ill. Reg. 1, p. 63, effective January 1, 1979; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 1, p. 76, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 67, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; amended at 7 Ill. Reg. 654, effective January 5, 1983; codified at 7 Ill. Reg. 13198; amended at 8 Ill. Reg. 7788, effective May 23, 1984; emergency amendment at 9 Ill. Reg. 241, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 7907, effective May 15, 1985; amended at 10 Ill. Reg. 13940, effective September 1, 1986; amended at 12 Ill. Reg. 5634, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 16214, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 3722, effective March 13, 1989; amended at 13 Ill. Reg. 10820, effective June 23, 1989; amended at 13 Ill. Reg. 12970, effective August 1, 1989; amended at 15 Ill. Reg. 17974, effective November 27, 1991; amended at 16 Ill. Reg. 8375, effective May 21, 1992; emergency amendment at 16 Ill. Reg. 11645, effective July 6, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13489, effective August 19, 1992; amended at 16 Ill. Reg. 17607, effective November 6, 1992; amended at 17 Ill. Reg. 3169, effective March 1, 1993; amended at 18 Ill. Reg. 1892, effective January 25,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

1994; amended at 18 Ill. Reg. 17183, effective November 21, 1994; amended at 19 Ill. Reg. 8145, effective June 7, 1995; amended at 20 Ill. Reg. 3507, effective February 13, 1996; amended at 21 Ill. Reg. 15462, effective November 24, 1997; amended at 22 Ill. Reg. 14735, effective August 3, 1998; amended at 26 Ill. Reg. 15285, effective October 15, 2002; amended at 29 Ill. Reg. 11800, effective July 14, 2005; emergency amendment at 30 Ill. Reg. 12366, effective July 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART F: PROBATIONARY STATUS

**Section 302.300 Probationary Period**

- a) A probationary period of six months shall be served by:
  - 1) an employee who enters State service or commences a new period of continuous service, except an employee who is reinstated as provided under Section 302.610;
  - 2) an employee who is appointed from an open competitive eligible list, whether or not it be considered an advancement in rank or grade.
- b) A probationary period of four months shall be served by any employee who is promoted pursuant to Subpart G or reinstated on or after January 1, 1999, pursuant to Section 302.610. Employees reinstated prior to January 1, 1999 shall serve a six month probationary period.
- ~~e) An employee who has been appointed to a position subject to Jurisdiction B of the Personnel Code and who, immediately prior to the appointment, has served the State as a full time employee, continuously, for a minimum of 2 years in a position not subject to Jurisdiction B, shall serve a probationary period of 30 days.~~
- cd) An employee transferred during the probationary period shall serve that portion of the probationary period which was not completed at the time of such transfer.
- de) A probationary period shall not be deemed to be continued by the payment of any sum for vacation or other benefits accrued during such probationary period.
- ef) If an employee is absent from work for more than 15 consecutive calendar days during the probationary period because of leave of absence, disciplinary suspension, sick leave, unauthorized absence, or work related injury or industrial

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

disease, such absence shall serve to extend the probationary period by the length of the absence.

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

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Purchase of Service
- 2) Code Citation: 89 Ill. Adm. Code 357
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
357.120	Amend
357.130	Amend
- 4) Statutory Authority: 20 ILCS 505
- 5) A Complete Description of the Subjects and Issues Involved: In Section 357.120, the Department is reinstating a provision requiring providers to have a management letter from a certified independent auditing firm that specifies those accounting and internal control deficiencies that merit attention. The provision was omitted in error in a previous rulemaking.  
  
In Section 357.130, the Department is removing two provisions dealing with annual and quarterly actual and budget variances, as well as a provision dealing with furniture and equipment inventories. The Department had agreed to remove them from the rulemaking in an agreement with a commenter.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: The proposed rulemaking does not expand a State Mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Jeff E. Osowski  
Office of Child and Family Policy  
Department of Children and Family Services  
406 East Monroe Street, Station #65  
Springfield, Illinois 62701-1498

Telephone: 217/524-1983  
TDD: 217/524-3715  
FAX: 217/557-0692  
E-Mail address: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Agencies that provide contracted services for the Department
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for completion: None
- 14) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the two most recent regulatory agendas because: the need for the rulemaking was not anticipated at the time the regulatory agendas were prepared.

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



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## SUBCHAPTER c: FISCAL ADMINISTRATION

## PART 357

## PURCHASE OF SERVICE

## Section

357.1	Purpose (Renumbered)
357.2	Definitions (Renumbered)
357.3	Procuring Services (Renumbered)
357.4	Issuance of Requests for Proposals (Renumbered)
357.5	Content of Requests for Proposals (Renumbered)
357.6	Evaluation of Proposals (Renumbered)
357.7	Notification of Awards (Renumbered)
357.8	Disclosure of Proposals (Renumbered)
357.9	Contract Approval (Renumbered)
357.10	Purpose
357.11	Fiscal Reports and Records (Renumbered)
357.12	Required Documentation (Renumbered)
357.13	Contract Termination (Renumbered)
357.20	Definitions
357.30	Purchase of Day Care Services
357.40	Procuring Services
357.50	Issuance of Requests for Proposals
357.60	Content of Requests for Proposals
357.70	Evaluation of Proposals
357.80	Notification of Awards
357.90	Disclosure of Proposals
357.100	Contract Approval
357.110	Compliance During the Contract Period
357.120	Fiscal Reports and Records
357.130	Required Documentation
357.140	Contract Termination

AUTHORITY: Implementing 42 CFR 431 and authorized by Section 5 of the Department of Children and Family Services Act [20 ILCS 505].

SOURCE: Adopted and codified at 5 Ill. Reg. 14546, effective December 29, 1981; amended at 6 Ill. Reg. 9294, effective July 26, 1982; amended at 8 Ill. Reg. 12127, effective July 13, 1984;

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

amended at 9 Ill. Reg. 11292, effective July 15, 1985; amended at 13 Ill. Reg. 3344, effective March 1, 1989; amended at 21 Ill. Reg. 13160, effective October 1, 1997; amended at 26 Ill. Reg. 3015, effective February 15, 2002; amended at 29 Ill. Reg. 8706, effective June 8, 2005; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 357.120 Fiscal Reports and Records**

- a) Purchase of service providers shall furnish the Department with any required reports during the contract period in a manner specified in this Section.
- b) When all of the contracts with one provider expire or terminate prior to the end of the fiscal year, the revenue and expense sections of the Department's cost report shall be submitted with an opinion from a certified public accountant. This report and opinion shall be submitted within 30 days after the expiration or termination of the contract.
- c) Any purchase of service provider (with the exception of day care providers, unless they are involved in cost based rate negotiations authorized under 89 Ill. Adm. Code 356.30(a), and governmental agencies) who receives \$150,000 or more from the Department within the State fiscal year shall submit an agency-wide certified independent audit using the requirements in this Section and in accordance with Government Auditing Standards, 2003 (no later amendments or editions included), available from the Government Accountability Office, 441 G Street, NW, Washington, DC 20548.
  - 1) All governmental and not-for-profit organizations must also consider federal audit guidelines and complete audits in accordance with the guidance specified in the Office of Management and Budget (OMB) Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations, when required by A-133 to conduct an audit. If required to prepare an audit in accordance with OMB Circular A-133, the audit must still contain the information listed in subsection (d).
  - 2) The Department may also request, at its sole discretion, certified agency-wide or limited-scope audits from any purchase of service providers (including day care providers and government entities) to ensure compliance with Federal, State and Department requirements. All governmental entities audited by the Illinois Auditor General will submit those audits to the Department within 60 days after completion.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 3) The audits for all entities must be completed within 180 calendar days after the completion of the provider's fiscal year.
  - 4) A waiver of the certified audit requirement may be requested in writing and directed to the Department's Deputy Director of Monitoring and Quality Assurance. The request must state the reason for the waiver and shall be submitted prior to the due date of the report.
  - 5) A request for an extension of the deadline for submittal of the audit and/or costs report beyond the time frame specified in subsection (c)(3) must be submitted in writing to the central office manager responsible for the administration of the reimbursement rates and excess revenue by the required due date in subsection (c)(3).
  - 6) The Department will respond to the requests for waivers or extensions within 30 business days, specifying approval or rejection of the waiver or extension. Waivers are approvable if the cost to the provider outweighs the benefit of the requirement. Extensions and extensions beyond 30 calendar days are approvable when circumstances beyond the agency's control prevent a timely submission (e.g., death, hospitalization or a change at the agency) or when a further extension from another State or federal agency requiring the same reports has been granted.
- d) The agency-wide certified independent and OMB A-133 audit report submission shall contain the following information:
- 1) Independent Auditor's Report – an expression of the auditor's opinion on the financial statement;
  - 2) Statement of Financial Position (balance sheet);
  - 3) Statement of Activities – a statement of revenue and expenses and changes in net assets. This statement should specifically identify revenue received for the Department's programs. The cost of management and general expenses should be shown;
  - 4) Statement of Cash Flows;
  - 5) Statement of functional expenses for the agency, including management and general expenses and fundraising expenses. This schedule should

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

show by functional and natural classifications the expenses for each individual program to enable identification of costs covered by Department funding;

- 6) Notes to the financial statements, including, but not limited to, a note on the basis of accounting and the basis for recording and method for depreciation of assets; ~~and~~
  - 7) Reports on Compliance and Internal Controls Over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards; ~~and-~~
  - 8) A management letter from the certified independent audit firm that specifies those accounting and internal control deficiencies that merit attention.
- e) Limited scope audits will be requested in the contract program plan and defined for each situation. The audit report shall include the objectives, scope and methodology; the audit results, including findings, conclusions, and recommendations, as appropriate; a reference to compliance with generally accepted government auditing standards, as necessary; the views of responsible officials; and, if applicable, the nature of any privileged and confidential information omitted. Reports shall be received within the time frames specified in the contract.
- f) Cost and Audit Reports are necessary to evaluate the costs for all provider services. Unless the Department determines that circumstances do not warrant the following action, noncompliance with the fiscal reporting requirements included in this Part and the cost reporting requirements in accordance with 89 Ill. Adm. Code 356.40 (Cost Information Requirements of Providers) will result in:
- 1) withholding of rate increases; or
  - 2) non-renewal or termination of the purchase of service contract; or
  - 3) withholding of current contract payments in full or in part for services provided. Such withholding of payments will occur 60 days after the provider has received written notice from the Director of the Department.

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

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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**Section 357.130 Required Documentation**

- a) Purchase of service providers shall maintain financial records for 5 years from the expiration or termination of each contract. The Department reserves the right to inspect all purchase of service provider records that relate to services for which the Department provides funding. These records shall be kept in accordance with generally accepted accounting principles. The records must be detailed and accurate enough to document the reasons for a decision, the ways monies were spent, and the beneficiaries of income, goods, and services. Such required recordkeeping shall include but not be limited to:
- 1) establishment of financial recordkeeping which includes:
    - A) Cash Receipts Journal
    - B) Cash Disbursements Journal
    - C) General Journal
    - D) General Ledger
    - E) All cash disbursements and/or expenses, fully supported by documentation, such as invoices, time sheets, time studies, or approved cost allocation plans
    - F) Revenue and expenses by program
    - ~~G) Annual budgets and quarterly actual and budget variance analyses~~
    - ~~H) Annual furniture and equipment inventory with procedure for disposition and explanation of the tagging system for Department contract items~~
  - 2) establishment of programmatic compliance recordkeeping that includes:
    - A) individual client files on each client applying for and receiving service;
    - B) schedule of service provided to each client that includes the date

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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and time service was provided and the agency's employee providing service;

- b) Purchase of service providers shall maintain individual client records for clients for whom services were purchased by the Department 5 years from the date services are terminated. Individual client records shall contain:
- 1) the original referral from the Department or in the case of funded day care facilities the documentation of need for services if it was the provider's responsibility to gather it or if the Department submitted it to the provider;
  - 2) documentation that supports Title IV-E and XIX (42 CFR 431) eligibility determinations, redeterminations, court orders, and court findings regarding reasonable effort (i.e., effort to prevent placement or that effort was not possible) as appropriate, if it was the provider's responsibility to gather it or if the Department submitted it to the provider;
  - 3) documentation that supports the need for child protective services if it was the provider's responsibility to gather it or if the Department submitted it to the provider;
  - 4) documentation of the service planning goals established within required timeframes, when the case was opened and the changes made in the service planning goals as the client's needs changed;
  - 5) documentation of the child and family's progress or lack of progress toward achieving the service planning goals including the social service worker's or other responsible employee's reports and official records regarding the child and family's cooperation in meeting service planning goals;
  - 6) basic client social history data and updates, as necessary, if it was the provider's responsibility to gather it or if the Department submitted it to the provider; and
  - 7) any other documentation specifically required in the purchase of service contract.
- c) Purchase of service providers shall maintain personnel records of all employees who provide direct or supportive services to Department clients. Personnel

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records shall be maintained on each employee for 5 years after the termination of employment. The following information shall be maintained:

- 1) proof of educational background including high school or college transcripts or a copy of the diploma; or, if the employee has attended a training program, documentation of the employee's completion of the program;
- 2) detailed summary of the employee's work experience;
- 3) at a minimum, yearly employee performance evaluations;
- 4) payroll data, including salary, accrued vacation and sick days, records of when vacation and sick days were taken, and travel expense records; and
- 5) documentation that a background check was completed for each employee in accordance with 89 Ill. Adm. Code 385 (Background Checks).

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

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Audits, Reviews, and Investigations
- 2) Code Citation: 89 Ill. Adm. Code 434
- 3) Section Number: 434.7                      Proposed Action:  
Amend
- 4) Statutory Authority: 20 ILCS 505/4
- 5) A Complete Description of the Subjects and Issues Involved: In Section 434.7, the Department correcting a provision regarding excess revenue calculations for programs receiving an enhancement. The provision allows the provider agency to demonstrate that the intended funding of the enhancement has been met without supplanting other contracted services or costs.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? No
- 11) Statement of Statewide Policy Objectives: The proposed rulemaking does not expand a State Mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff E. Osowski  
Office of Child and Family Policy  
Department of Children and Family Services  
406 East Monroe Street, Station #65  
Springfield, Illinois 62701-1498



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Telephone: 217/524-1983  
TDD: 217/524-3715  
FAX: 217/557-0692  
E-Mail address: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Agencies that provide contracted services for the Department
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for completion: None
- 14) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not included on either of the two most recent regulatory agendas because: the need for the rulemaking was not anticipated at the time the regulatory agendas were prepared.

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

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES  
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
SUBCHAPTER f: GENERAL ADMINISTRATIONPART 434  
AUDITS, REVIEWS, AND INVESTIGATIONS

## Section

434.1	Purpose
434.2	Definitions
434.3	Audit Standards to be Applied and Audit Procedures to be Followed for the Office of Field Audits – OFA
434.4	Scope of the OFA Audit/Review or Investigation
434.5	Reports of OFA Auditors
434.6	Exit Conferences
434.7	Certified Audits, Cost Reports and Desk Reviews
434.8	Records Maintenance and Availability for Audit
434.9	Responsibilities of the Office of Field Audits
434.10	Administrative Hearings of Draft Audit Findings and Recommendations
434.11	Referrals by Department Employees to the Investigations Unit (Repealed)
434.12	Severability of This Part

**AUTHORITY:** Implementing and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4] and the Fiscal Control and Internal Auditing Act [30 ILCS 10].

**SOURCE:** Adopted and codified at 5 Ill. Reg. 8634, effective September 1, 1981; amended at 8 Ill. Reg. 133, effective December 30, 1983; amended at 18 Ill. Reg. 6697, effective May 1, 1994; emergency amendment at 18 Ill. Reg. 8944, effective June 3, 1994, for a maximum of 150 days; emergency expired on October 31, 1994; amended at 19 Ill. Reg. 2760, effective February 27, 1995; amended at 21 Ill. Reg. 15469, effective December 15, 1997; amended at 26 Ill. Reg. 3021, effective February 15, 2002; amended at 27 Ill. Reg. 7971, effective April 30, 2003; amended at 29 Ill. Reg. 8732, effective June 8, 2005; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 434.7 Certified Audits, Cost Reports and Desk Reviews**

- a) The Department's requirements for providers include the annual filing of a cost report in accordance with 89 Ill. Adm. Code 356 (Rate Setting) and an audit report in accordance with 89 Ill. Adm. Code 357 (Purchase of Service) and 360 (Grants-in-Aid).

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- b) The certified audit reports are reviewed by the Office of Field Audits and the cost reports are reviewed by the Rate Setting Unit and, when appropriate, a report on the certified audit or cost reports will be issued to Department officials who are responsible for the contracts. The general objectives of the desk review and report shall determine whether:
- 1) financial and service unit information is appropriately presented and is consistent with the generally accepted accounting principles;
  - 2) costs incurred in operating the contracted service are not less than the revenues received directly for the program;
  - 3) related party transactions are appropriately recorded and disclosed;
  - 4) significant accounting practices and other information that require disclosure (as described by generally accepted accounting principles) are disclosed appropriately; and
  - 5) funds were used in accordance with Department policy and whether the entity has received monies in excess of actual reimbursable costs.
- c) The Office of Field Audits is responsible for answering all questions regarding the preparation of a certified audit. If the Department has not received the certified audit by the deadline of 180 calendar days after the completion of the entity's fiscal year, the Department will notify the entity of the delinquency and send a copy of the notice to the Department's Contracts and Grants unit and regional administrative staff.
- d) All certified audit reports are logged in upon receipt by the Office of Field Audits and a check-in list is prepared for each audit received. If the audit does not contain adequate information, the Office of Field Audits will send a letter to the entity to request additional information. If the certified audit does not meet the standards set out in 89 Ill. Adm. Code 357.120 (Purchase of Service Fiscal Reports and Records), the entity will be given 10 business days to submit omitted items or 30 business days to submit a new certified audit.
- e) The Office of Field Audits will prepare a desk review report that will highlight any deficiencies that are found in the audit and will contain specific recommendations for procedural changes in the preparation of certified audits.

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The completed desk review report will be sent directly to the entity, with a copy to appropriate Department regional staff.

- f) Department regional staff are responsible for reviewing the recommendations contained in the desk review report and providing assistance as necessary to the entity in follow-up on the recommendations made. The desk review report may contain recommendations for contract or budget revisions that must be acted upon by the regional staff.
- g) The desk review report may contain recommendations that require an additional response from the entity before the certified audit is accepted. The entity's response and concurrence with the recommendations of the desk review report will close the desk review process.
- h) Effective with cost reports received for contract periods ending after July 1, 2003, excess revenue calculations shall be based on the information reported in the Cost Report or other suitable financial report accepted by the Department. The certified independent audit report may be used to develop excess revenue calculations if sufficient detail exists within the report to support the excess revenue calculations, and an accurate cost report or other suitable financial report is not available.
  - 1) Programs Subject to Excess Revenue Determination:  
The Department shall determine individual program excess revenues attributable to Department funding for contracted provider agency 24-hour substitute care programs. Examples of provider agency programs include, but are not limited to:
    - A) childcare institutions;
    - B) shelter care;
    - C) group homes;
    - D) independent living;
    - E) community integrated living arrangements;
    - F) agency foster care; and

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- G) other programs or contracted agencies, as determined by the Director or his/her designee.
- 2) Excess Revenue Determination Procedure
- A) Excess revenue is the amount of purchase of service fees and governmental grant funding that exceeds total audited costs, less:
    - i) disallowable costs as listed in 89 Ill. Adm. Code 356.60 (Disallowable Cost and Reduced Reimbursement);
    - ii) fringe benefit costs, as defined in 89 Ill. Adm. Code 356.20 (Definitions), that exceed 25% of salaries and wages; and
    - iii) administrative costs that exceed 20% of all other allowable costs.
  - B) For excess revenue determinations, profit is considered as an allowable cost to the extent permitted in 89 Ill. Adm. Code 356 (Rate Setting).
  - C) Excess revenue attributable to Department funding is the amount of program excess revenues times Departmental revenue divided by all program purchase of service fees and government non-restricted grants.
- 3) Excess Revenue Amounts that May Be Retained
- A) In each fiscal year, provider agencies may retain an amount of program excess revenues attributable to substitute care programs reimbursed through payments made according to standard reimbursement levels or through individual historical cost based program rates calculated consistent with the process and standards defined in 89 Ill. Adm. Code 356, provided that:
    - i) for programs with a licensed capacity, the total utilization is between 85% and 95% of the licensed or approved program capacity;
    - ii) for [all programs receiving an enhancement, the provider](#)

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~~agency demonstrates that the intended funding of the enhancement has been met without supplanting other contracted services or costs; the programs subject to the excess revenue review, administrative costs do not exceed 20% of reimbursable costs; and~~

- iii) the provider agency demonstrates that program staffing level meets the minimum requirements defined in the contract program plan and licensing standards where applicable.
  - B) The amount retained may not exceed the DCFS portion of 7% of the program reimbursable costs less the DCFS portion of excess administrative costs. Programs reimbursed through rates containing an enhancement add-on (see 89 Ill. Adm. Code 356.80) are not eligible to retain excess revenue amounts in the year in which the enhancement was granted.
  - C) All DCFS identified program excess revenue amounts retained by the provider agency must be invested in direct service (non-administrative) activities in programs funded by the Department. Provider agencies unable to demonstrate that retained program excess revenue amounts have been invested consistent with the provisions of this subsection (h)(3) will be subject to forfeiture of the retained funds.
- 4) **Amounts Returned to the Department**  
Amounts to be returned to the Department must be received within 60 days after the date the excess revenue amount has been finalized and notification is mailed to the provider agency's director or his/her designee or after a payment plan has been approved.
- 5) **Program Excess Revenue Offsets**  
Program excess revenue may not be offset against other program deficits occurring in the year reviewed, or any other year, without the approval of the Director or his/her designee.

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

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Early Childhood Teacher Preparation Assistance Grant
- 2) Code Citation: 23 Ill. Adm. Code 70
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
70.10	New Section
70.20	New Section
70.30	New Section
70.40	New Section
70.50	New Section
70.60	New Section
70.70	New Section
70.80	New Section
- 4) Statutory Authority: 105 ILCS 5/1C-5 and 105 ILCS 5/2-3.71
- 5) A Complete Description of the Subjects and Issues Involved: P.A. 94-1054, effective July 25, 2006, amended Section 2-3.71 of the School Code (105 ILCS 5/2-3.71) to establish the Preschool for All Children program and provide funding for two years (i.e., 2006-07 and 2007-08). Preschool for All Children significantly expands the number of young children able to receive high-quality preschool education by focusing not only on children who are determined to be at risk of academic failure but also serving families of low to moderate income whose children are not considered to be at risk academically and other families that choose to participate.

One of the requirements of the Preschool for All Children program – that also applies to its predecessor, the Prekindergarten Program for Children at Risk of Academic Failure – is that any teacher of preschool children who is employed by the program must hold an Early Childhood teaching certificate (i.e., Type 04 certificate). Rapid growth over the past four years in preschool education programs funded by the Early Childhood Block Grant has fueled the demand for more Type 04 certified teachers, particularly bilingual and minority teachers who are willing to teach in State-funded preschool education programs that are offered in community-based settings and serve ethnically and linguistically diverse populations.

The goal of the Early Childhood Teacher Preparation Assistance Grant program is to address the shortages experienced by all State-funded preschool education programs of teachers holding Type 04 certificates by assisting individuals to enroll as candidates in and complete a teacher preparation program leading to an Initial Early Childhood teaching certificate. The program will include a loan program that will forgive the loans

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED RULES

of candidates who teach in a State-funded preschool education program for at least five years.

Proposed Part 70 sets forth the application requirements and review criteria for planning and implementation grants and the requirements for the loan program, including procedures and conditions for waivers and deferrals.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a state mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Sally Vogl  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street, S-493  
Springfield, Illinois 62777-0001

(217) 782-5270

Comments may also be submitted electronically, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:



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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Public and private not-for-profit and for-profit entities with experience in providing educational, social and/or child development services to young children may apply for grants under these rules. These entities would include community organizations and day-care facilities.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: Not applicable
- 14) Regulatory Agenda on which these amendments were summarized: This rulemaking did not appear in either of the two most recent Regulatory Agendas because: The legislation was not signed into law until after the July publication of the Regulatory Agenda.

The text of the Proposed Rules is identical to the text of the Emergency Rules that appear in this issue of the *Illinois Register* on page 17952:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.469	Amendment
140.526	Amendment
140.530	Amendment
140.860	Repeal
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: The Department entered into intergovernmental agreements with counties that own or operate nursing facilities that provided for intergovernmental transfers (IGTs) of funds from the counties to the State. Under federal upper payment limit policy, the Department sets rates for county owned or operated facilities at 94% of what Medicare would pay for the facility's residents, an alternate reimbursement methodology. The Center for Medicare and Medicaid (CMS) objects to what they characterize as "inefficient and uneconomic payments" to county nursing facilities, citing Section 1902(a)(30)(A) of the Social Security Act and began deferring \$10 million per quarter in September 2005. The deferral is due to the conditional nature of the reimbursement methodology whereby county facilities receive the alternate rate only if the county enters into an intergovernmental agreement to engage in the IGT process. CMS maintains that an internal policy requires states to restructure these types of arrangements. \$30 million has been deferred to date and the deferrals remain pending while CMS and the Department work on the deferral issues. To comply with CMS and preserve federal matching funds, the intergovernmental agreements will be terminated, and the proposed amendments will provide for continuing contributions to the Medicaid program from the counties.
- 6) Published Studies or Reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? Yes

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<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.490	Amendment	30 Ill. Reg. 12066; 07/14/06
140.492	Amendment	30 Ill. Reg. 12066; 07/14/06
140.990	New Section	30 Ill. Reg. 13633; 08/18/06
140.991	New Section	30 Ill. Reg. 13633; 08/18/06
140.992	New Section	30 Ill. Reg. 13633; 08/18/06
140.993	New Section	30 Ill. Reg. 13633; 08/18/06
140.13	Amendment	30 Ill. Reg. 14007; 8/25/06
140.15	Amendment	30 Ill. Reg. 14007; 8/25/06
140.18	Amendment	30 Ill. Reg. 14007; 8/25/06
140.20	Amendment	30 Ill. Reg. 14007; 8/25/06
140.24	Amendment	30 Ill. Reg. 14007; 8/25/06
140.25	Amendment	30 Ill. Reg. 14007; 8/25/06
140.28	Amendment	30 Ill. Reg. 14007; 8/25/06
140.30	Amendment	30 Ill. Reg. 14007; 8/25/06
140.33	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1001	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1002	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1003	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1004	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1005	Amendment	30 Ill. Reg. 14007; 8/25/06

- 11) Statement of Statewide Policy Objective: This rulemaking affects units of local government that have county-owned or -operated nursing facilities.
  
- 12) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/557-7157

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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The Department requests the submission of written comments within 30 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: These proposed amendments affect county-owned or -operated nursing facilities.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this Rulemaking Was Summarized: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 17970:

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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Sale of Information
- 2) Code Citation: 92 Ill. Adm. Code 1002
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1002.40	Amendment
1002.60	Amendment
1002.70	Amendment
- 4) Statutory Authority: Implementing Section 2-123, and authorized by Sections 2-104, 2-107, and 2-123, of the Illinois Vehicle Title and Registration Law [625 ILCS 5/2-123, 2-104 and 2-107], and 18 U.S.C. 2721.
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will amend the current rules related to procedures for requesting information purchased from the Office of the Secretary of State. The amendment to Section 1002.60 clarifies prohibitions with respect to the redisclosure of such information.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, [www.sos.state.il.us/departments/index/home](http://www.sos.state.il.us/departments/index/home) as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Secretary of State  
Office of the General Counsel

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENTS

Brenda Glahn, Legal Advisor  
298 Howlett Building  
Springfield, IL 62701

217/785-3094 or bglahn@ilsos.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Organizations purchasing information from the Office of the Secretary of State which is obtained by means of a computer connection will need to include a certified statement of use with their request.
  - B) Reporting, bookkeeping or other procedures required for compliance: Certified statements of use will now be required to accompany all requests for information obtained through electronic means.
  - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

## SECRETARY OF STATE

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TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1002  
SALE OF INFORMATION

Section	
1002.10	Applicability
1002.20	Definitions
1002.30	Fees
1002.40	Requests
1002.42	Impermissible Uses of Personal Information
1002.45	Request for an Individual's Driving, Registration, or Title Information
1002.50	Lists of Purchasers
1002.60	Contract
1002.70	Public Records
1002.80	Lists of Licenses
1002.90	Social Security Numbers

AUTHORITY: Implementing Section 2-123, and authorized by Sections 2-104, 2-107, and 2-123, of the Illinois Vehicle Title and Registration Law [625 ILCS 5/2-123, 2-104 and 2-107] and 18 USC 2721.

SOURCE: Emergency rules adopted at 7 Ill. Reg. 11760, effective September 14, 1983; adopted and codified at 8 Ill. Reg. 2522, effective February 11, 1984; amended at 16 Ill. Reg. 13088, effective August 11, 1992; amended at 18 Ill. Reg. 18118, effective December 9, 1994; amended at 21 Ill. Reg. 466, effective January 1, 1997; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1002.40 Requests**

- a) All requests for any type of information for sale pursuant to Section 2-123 must be in writing, be signed before a notary by the person requesting the information, and include~~includes~~ that person's address, the purpose of the request, the specific information or type of information sought, the name and address of any organization represented, the position of the requestor in the organization, and the identification of the requestor.
- b) Information obtained by means of a computer connection between the Secretary's computers and those of any organization shall~~need not~~ be requested in writing.

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including a certified statement of use, and a record shall be kept as required in subsections ~~subsections~~ (a) ~~or (b) above~~. The requesting organization shall comply with the provisions of subsection (a) ~~above~~ at the time of the original request and contract period.

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

**Section 1002.60 Contract**

All commercial or business purchasers of the drivers, vehicle, or title lists shall sign a contract with the Secretary. The contract, which shall include disclosure of the commercial use, which shall not include commercial solicitation purposes, or disclosure of the permissible use of personal information, if applicable. The contract, and shall contain those terms the Secretary ~~he/she~~ deems necessary and appropriate to protect the integrity of the lists, including, but not limited to, a requirement that the list ~~will~~ not be used for criminal or immoral purposes, that violation of any terms of the contract could result in the Secretary's denial of sale of the lists to the purchaser for a term of 5 years, and the return of the vehicles, titles or drivers list to the Secretary. The redisclosure of information is prohibited, except to the extent necessary to effectuate the purpose for which the original disclosure of the information was permitted. Any authorized recipient that resells or rediscloses personal information covered by this Part must keep, for a period of 5 years, records identifying each person or entity that receives information, and the permitted purpose for which the information will be used. The purchaser, and must make these ~~such~~ records available to the Secretary of State upon request.

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

**Section 1002.70 Public Records**

- a) Subject to the federal Driver's Privacy Protection Act (18 USC 2721 et seq.) and 625 ILCS 5/2-123, the ~~The~~ drivers lists, title lists ~~and~~, vehicle lists, and lists of purchasers ~~for~~ of these lists, are public records and may be examined, and purchased for the appropriate fees ~~by anyone~~ for a legitimate and lawful purpose and use.
- b) The Secretary may sell the lists in their entirety on the medium the Secretary ~~he~~ deems most economical and efficient, or in any reasonable part, such as by county or counties, age group, zip code groups, make or model of car, restriction codes, license issue data, license expiration data, city, or other governmental or geographic division. No listing shall be prepared and sold by the Secretary to any person or organization for commercial solicitation purposes. Lists shall not be



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available as compiled by any form of driver's license sanction; i.e., suspension, revocation, cancellation, or denial. No list will be prepared and sold by the Secretary for any person or organization for commercial purposes ~~if~~<sup>where</sup> the request is for the Secretary to extract from a larger group certain persons or types of persons to be solicited by the requestor, when the requestor, by the purchase of the larger group of names, titles, or registrations, could extract the information sought.

- e) ~~The DUI listing shall only be made available if the person requesting the list states the specific purpose for the request and the purpose is not for personal or commercial benefit nor solicitation purposes.~~

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

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- 1) Heading of the Part: Collection of Fees
- 2) Code Citation: 92 Ill. Adm. Code 1003
- 3) Section Number: 1003.20                      Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/2-124, 3-824, 2-101 and 2-104].
- 5) A Complete Description of the Subjects and Issues Involved: The amendment to Section 1003.20 will detail the situations in which the return of registration stickers is required.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, [www.sos.state.il.us/departments/index/home](http://www.sos.state.il.us/departments/index/home) as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to the:

Secretary of State  
Office of the General Counsel  
Nathan Maddox, Senior Legal Advisor  
298 Howlett  
Springfield, IL 62701

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217-785-3094

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

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TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1003  
COLLECTION OF FEES

Section	
1003.10	Definitions
1003.20	Collection and Refund
1003.30	Collection of All Motor Vehicle Fees
1003.40	Audits for Truck License Fees
1003.50	Use of State Comptroller's Offset Authority
1003.60	Bankruptcy Discharge of Fees
1003.70	Invalidity

AUTHORITY: Implementing Sections 2-124 and 3-824 and authorized by Sections 2-101 and 2-104 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/2-124, 3-824, 2-101 and 2-104].

SOURCE: Adopted at 12 Ill. Reg. 14719, effective September 15, 1988; amended at 13 Ill. Reg. 7048, effective May 1, 1989; amended at 29 Ill. Reg. 1966, effective January 20, 2005; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1003.20 Collection and Refund**

- a) The refund of registrant fees paid to the Secretary of State shall occur if the registration is cancelled, or a duplicate registration occurred or excess fees were paid.
- b) If cancelled registration meets any of the following criteria, a refund will be paid by the Secretary of State if the registration plate was not used on the vehicle, and is returned to the Secretary, and if the cancelled registration does not meet these criteria, then a refund will be denied.
  - 1) If the registrant is moving out of Illinois, a refund request or letter stating that fact is required prior to refund actions being initiated.
  - 2) If the registrant's vehicle was stolen and not recovered, a notarized statement from the applicant is required stating the date the vehicle was stolen.

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- 3) If the registrant sells the vehicle and the unused registration is returned after the display date, a notarized statement concerning the last operation date of the vehicle is required.
  - 4) If the registered vehicle is damaged or inoperable, the ~~sticker~~plates must be returned with a notarized statement concerning the last operation date of the vehicle. This applies to requests on refunds applied for after the display date.
  - 5) If the registered vehicle will be stored and not operated for the entire registration year, a notarized statement is required along with the return of the ~~plates and~~sticker.
  - 6) If the registrant has died, then the executor or administrator of the estate must sign a statement and attach a copy of the death certificate, surrender the ~~sticker~~plates, and ~~must~~ adhere to Section 3-824(c) of the Illinois Vehicle Title and Registration Law ~~[625 ILCS 5/3-824].(Ill. Rev. Stat. 1987, ch. 111½, par. 3-824(e)).~~
- c) If a registration is a duplicate, then to obtain a refund, the duplicate set of plates or duplicate sticker must be returned, with the registration and a photocopy of the retained registration. A written request for a refund must also be submitted.
  - d) If an excess fee is paid and a refund sought, the registrant must request the refund in writing within 6 months ~~after~~of the date of payment.
  - e) Applicable to all requests for refund are the requirements that:
    - 1) The vehicle the refund is requested upon must have been registered in prior registration year by the same owner.
    - 2) For plates returned after the display date, the applicant must submit a notarized statement indicating the last operation date of the vehicle.
    - 3) Proof of payment must be submitted (cash receipts, cash tickets, a photocopy of the cancelled checks, if the Secretary of State records do not show payment was made).
    - 4) After the registrant has applied for the registration plates or sticker no

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refund can be requested or paid until after the registrant receives the plates or sticker.

- 5) Refunds will not be granted for replacement plates unless the applicant specifically requests the same registration plate number. If the same number is not requested, the refund will be withheld to cover the costs of the transaction.
- f) Refunds will not be granted for any title-related transaction.
- g) All requests for refunds must be submitted in writing to the Department of Accounting Revenue, Refund Division, Room 235, Centennial Building, Springfield, Illinois 62756.

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

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- 1) Heading of the Part: State Records Commission
- 2) Code Citation: 44 Ill. Adm. Code 4400
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
4400.10	Amend
4400.20	Amend
4400.22	New
4400.25	Amend
4400.30	Amend
4400.50	Amend
4400.60	Amend
4400.70	New
- 4) Statutory Authority: Implementing and authorized by the State Records Act [5 ILCS 160]
- 5) A Complete Description of the Subjects and Issues Involved: The objective of this rulemaking is to create standards to allow for the digital reproduction of records, which are retained for short term use, and which the original records are intended to be destroyed. The amendments are also intended to reflect recent changes in technology and to update the Part to reflect changes in and ensure conformance with the State Records Act [5 ILCS 160].
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 8) Does this rulemaking contain any automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes. In Section 4400.70 (f) (1) and (2) there are references to publications of The American National Standards Institute, 1819 L Street, NW, Suite 600, Washington, DC 20036.
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government

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- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:
- David A. Joens, Director  
Illinois State Archives  
Margaret Cross Norton Building  
Springfield, IL 62756
- 217-782-3492
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profits corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: The standards and procedures required for compliance are set forth in the Part.
- C) Types of professional skills necessary for compliance: The State Records Act places the responsibility to provide the expertise and technical assistance necessary for State agencies to comply with the terms of this rulemaking. Applicable training may be provided at the discretion of the Secretary.
- 14) Regulatory Agenda on which these amendments were summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the need for this rulemaking was not recognized at the time the agendas were prepared.

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



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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY MANAGEMENT  
SUBTITLE C: GOVERNMENTAL RECORDS  
CHAPTER IV: STATE RECORDS COMMISSION

PART 4400  
STATE RECORDS COMMISSION

Section	
4400.10	General
4400.20	Definitions
<u>4400.22</u>	<u>Incorporations by Reference</u>
4400.25	Record Management
4400.30	Procedures for Compiling and Submitting Lists and Schedules of Records of Disposal
4400.40	Procedures for the Physical Destruction or Other Disposition of Records Proposed for Disposal
4400.50	Standards for the Reproduction of Records by Microphotographic <u>and Electronic Microimaging</u> Processes with a View to the Disposal of the Original Records
4400.60	Minimum Standards of Quality for Permanent Record Photographic Original Microfilm Intended for Retention Periods in Excess of 10 Years
<u>4400.70</u>	<u>Digital Reproduction</u>
4400.APPENDIX A	<del>Limits for Residual Thiosulfate</del> Inventory Work Sheet ( <del>Repealed</del> )
4400.APPENDIX B	Records Retention Schedule (Application for Authority to Dispose of State Records)
4400.APPENDIX C	Records Disposal Certificate
4400.APPENDIX D	Archives Records Transfer Sheet

AUTHORITY: Implementing and authorized by the State Records Act [5 ILCS 160].

SOURCE: Amended May 28, 1976; codified at 8 Ill. Reg. 8927; recodified from 44 Ill. Adm. Code 4100 (Secretary of State) to 44 Ill. Adm. Code 4400 (State Records Commission) at 9 Ill. Reg. 15547; amended at 10 Ill. Reg. 1965, effective January 8, 1986; amended at 13 Ill. Reg. 7444, effective May 1, 1989; amended at 31 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 4400.10 General**

- a) *The State Records Commission shall consist of the following State officials or their authorized representatives: the Secretary of State ~~or his representative~~, who shall act as chairman; the State Historian, who shall serve ~~act as~~ secretary; the*

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*State Treasurer, ~~or his authorized representative~~; the Director of Central Management Services, ~~or his authorized representative~~; the Attorney General, ~~or his authorized representative~~; and the State Comptroller, ~~or his authorized representative~~.*

- b) *The Commission shall meet whenever called by the ~~chairman~~Chairman, who shall have no vote on matters considered by the Commission.*
- c) All meetings of the Commission shall be open to the public and will be held in the conference room of the ~~Margaret Cross Norton~~State Archives Building, unless otherwise stated in the call for the meeting.
- d) *It is the duty of the Commission to determine what records no longer have administrative, legal, fiscal, research, or historical value and should be destroyed or disposed of otherwise. [5 ILCS 160/16] ~~The State archivist may retain any records which the Commission has authorized to be destroyed, where they have a historical value, and may deposit them in the State Library or State historical museum or with a historical society, museum or library.~~*
- e) *No record shall be disposed of by any agency of the State, unless approval of the State Records Commission is first obtained. [5 ILCS 160/17] This includes original source documents that have been reproduced to another format via scanning, electronic microimaging or microfilming, as well as the reproductions themselves when they serve as the official record.*
- f) The Commission reserves the right to review, modify, or revoke approved records schedules if any changes occur in the records' administrative, legal, fiscal, research or historical value after initial scheduling for destruction. Reviews, modifications and revocations of existing records schedules may only take place after the head of each agency involved receives written notice two weeks prior to the Commission meeting stating time, date, and place of meeting and the reason for the proposed review. Commission meeting date, times and locations will be posted in the ~~Margaret Cross Norton Building~~Illinois State Archives two weeks prior to each meeting and will be publicized in accordance with the Open Meetings Act [5 ILCS 120].~~(Ill. Rev. Stat. 1983, ch. 102, pars. 41 et seq.)~~
- g) *"Agency" means all parts, boards, and commissions of the executive branch of the State government including but not limited to all departments established by the Civil Administrative Code of Illinois, ~~(Ill. Rev. Stat. 1983, ch. 127, pars. 1 et seq.)~~ as heretofore or hereafter amended. [5 ILCS 160/2]*

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- h) The head of each agency shall provide for compliance with provisions of this Part~~these rules~~.

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

**Section 4400.20 Definitions**

Act – The State Records Act [5 ILCS 160].

Administrative Value – Those aspects of records containing facts concerning an agency's administrative decisions that an agency needs for its immediate day-to-day function. This value almost always diminishes and is lost over time.

Commission or SRC – The State Records Commission created by Section 16 of the State Records Act to determine what State agency records no longer have any administrative, fiscal, legal, research or historical value and should no longer be retained.

Digital Surrogate – A reproduction of the original record when the record has been scanned, photographed, encoded, or otherwise converted to a digital photocopy that, when printed, viewed or played, retains the look, sound or feel of the original record.

Digitization Process – The methods, tools and procedures by which a digital surrogate is created for an original record. Examples include scanning and encoding of audio/video signals into digital data.

Electronic Microimaging – Any process in which source documents are scanned into a digital format and then converted to permanent record microfilm.

Electronic Record – A record generated, communicated, received or stored by electronic means [5 ILCS 175/5-105]. Electronic records are contained in various storage media.

Electronic Storage Media – Storage devices in computers (hard drives) and any removable/transportable digital storage medium, such as magnetic tape or disk, optical disk, or digital storage device.

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Field Representative – A representative in the State Records Unit of the Office of the Secretary of State.

Fiscal Value – Those aspects of records containing monetary information that accounts for the receipt or expenditure of funds.

Illinois State Archives – Department of the Archives and Records, Office of the Secretary of State, established pursuant to the State Records Act [5 ILCS 160].

Legal Value – Records that contain evidence of legally enforceable rights or obligations of the State, such as legal decisions and opinions; fiscal documents representing agreements, such as leases, titles and contracts; and records of actions in particular cases, such as claim papers and legal dockets.

b) "Nonrecord Material ~~material~~" means:

1) Material not filed as evidence of administrative activity or for ~~its the~~ informational content ~~thereof~~.

2) Extra copies of documents preserved only for convenience of reference.

3) Stocks of printed or reproduced documents kept for supply purposes, where file copies have been retained for record purposes.

4) Books, periodicals, newspapers, posters, and other library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

5) Private materials neither made nor received by a ~~State state~~-agency pursuant to ~~State state~~-law or in connection with the transaction of public business.

6) Perforated, magnetized and photographically coded cards and tapes, provided that documents containing the same information have been filed in the same office and such cards and tapes were not prepared as evidence of administrative decisions or transactions subject to audit.

⇒ Whenever doubt arises whether certain papers are nonrecord materials, it should be presumed that they are records. ⇒ Nonrecord materials may be destroyed at any time by the agency in possession of ~~the such~~ materials

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without the prior approval of the State Records Commission.

Open Format – A published specification for storing digital data, usually maintained by a non-proprietary standards organization and free of legal restrictions on use. A non-exclusive list of open formats includes txt, rtf, tiff, jpeg and PDF-A.

Permanent – To be retained forever.

e)Permanent Record Film – A record film is a photographic camera original, or an exact copy of ~~such~~ an original film, so composed and treated that the image and support will have maximum keeping quality under archival room storage conditions of ~~temperature 65-70° degrees F:~~ and 30-40% humidity ~~30-40%~~.

f)~~Raw Stock – Sensitized stock. Raw stock is sensitized~~ photographic material that has not undergone the process of development.

a)~~"Records – AllRecords" means all~~ books, papers, digitized electronic material, maps, photographs, databases, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed, or received by any agency in the State in pursuance of State state-law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein. [5 ILCS 160/2]

Records Retention Schedule – The document stating the official retention, maintenance and disposition requirements for a record series, or type of record, based on administrative, fiscal, legal or archival values for the scheduled records. The schedule is of no force unless approved by the State Records Commission (see Section 17 of the State Records Act).

Records Series – A group of identical or related documents (either as to form or content) that is arranged under a single filing system or kept together as a unit because they consist of the same form, relate to the same subject, result from the same activity, or have certain common physical characteristics (i.e., maps, blueprints, etc.). A series may contain both forms and correspondence.

Research, Historical or Archival Value – Records that document a specific State

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program, a unique program, a departure from previous State policy, formation of public policy, the activities of an important government official, or a trend or movement by the citizenry.

Secretary – The Illinois Secretary of State.

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

**Section 4400.22 Incorporations by Reference**

- a) No incorporation by reference in this Part includes any amendment or edition later than the date specified.
- b) The following materials are incorporated in this Part:

The American National Standards Institute/Association for Information and Image Management

1819 L Street, NW  
Suite 600  
Washington, DC 20036

- 1) ANSI/AIIM MS23 (1998) – Standard Recommended Practice – Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents
- 2) ANSI/AIIM MS44 (1993) – Recommended Practice for Quality Control of Image Scanners
- 3) ANSI/AIIM MS49 (1993) – Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners
- 4) ANSI/AIIM MS62 (1999) – Recommended Practice for COM Recording System Having an Internal Electronic Forms Generating System – Operational Practices for Inspection & Quality Control
- 5) ANSI/AIIM TR34 (1996) – Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management (EIM) & Micrographics Systems

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

**Section 4400.25 Record Management**

a) ~~For purposes of this Section, the following definitions shall apply:~~

~~"Administrative Value"—Refers to those aspects of records which contain facts concerning an agency's administrative decisions which an agency needs for its immediate day-to-day function. This value almost always diminishes and is lost over time.~~

~~"Fiscal Value"—Refers to those aspects of records which contain monetary information which accounts for the expenditure of funds.~~

~~"Illinois State Archives"—Means the Department of the Archives and Records, Office of the Secretary of State established pursuant to the State Records Act (Ill. Rev. Stat. 1987, ch. 116, pars. 43.4 et seq.).~~

~~"Legal Value"—Refers to records which contain evidence of legally enforceable rights or obligations of the State such as legal decisions and opinions; fiscal documents representing agreements, such as leases, titles and contracts; and records of actions in particular cases, such as claim papers and legal dockets.~~

~~"Permanent"—To be retained forever (as long as the data stored on the particular medium is retrievable).~~

~~"Records Retention Schedule"—The document stating the official retention, maintenance and disposition requirements for a record series, or type of record, based on administrative, fiscal, legal or archival values for the scheduled records. The schedule is of no force unless approved by the State Records Commission (see Section 8 of the State Records Act (Ill. Rev. Stat. 1987, ch. 116, par. 43.11)).~~

~~Record Series"—A group of identical or related documents (either as to form or content) which is arranged under a single filing system, or kept together as a unit because they consist of the same form, relate to the same subject, result from the same activity, or have certain common physical characteristics (i.e., maps, blueprints, etc.). A series may contain both forms and correspondence.~~

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~~"Research, Historical or Archival Value"—Refers to records which document a specific state program, document a unique program, document a departure from previous state policy, document formation of public policy, document the activities of an important government official, and document a trend or movement by the citizenry.~~

~~"Secretary"—Secretary of State of Illinois.~~

- ab) The ~~State Records~~ Act [5 ILCS 160](~~Ill. Rev. Stat. 1987, ch. 116, par. 43.4 et seq.~~) places with the Secretary of State the responsibility to provide the expertise and technical assistance necessary for State agencies to properly manage their records. The Secretary provides this service through the Illinois State Archives – Records Management Section.
- be) The ~~State Records~~ Act places three major responsibilities on State agencies:
- 1) No record shall be disposed of by any State agency ~~of State~~, unless the approval of the State Records Commission (~~hereinafter referred to as the Commission~~) is first obtained.
  - 2) The head of each agency shall establish and maintain an active, continuing program for the economical and efficient management of records of the agency.
  - 3) The head of each agency shall submit to the Commission, lists or schedules of records in his or her custody that are not needed in the transaction of public business and do not warrant further preservation. Any person who agency that knowingly and without lawful authority alters, destroys, defaces, removes, or conceals any public record is guilty of a Class 4 felony as provided in Section 11 of the Act and Section 32-8 of the Criminal Code [720 ILCS 5/32-8]~~Section 32-8 of the Criminal Code of 1961 (Ill. Rev. Stat. 1987, ch. 38, par. 32-8).~~
- cd) When requested by authorized State agency officials, the State ArchivesRecords Unit field representatives (~~hereinafter referred to as field representatives~~) present the records management program to the agency and provide guidance in the implementation of records management practices. The field representatives personally contact the State agencies for the purposes of:



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- 1) providing for the economical and efficient management of the records of an agency;
  - 2) analyzing, developing, promoting, coordinating, and promulgating standards, procedures, and techniques designed to improve the management of records;
  - 3) establishing retention policies ~~retentions~~ for an agency's records;
  - 4) facilitating the segregation, storage, and disposal of records with temporary value; and
  - 5) insuring the maintenance and security of records deemed for permanent preservation.
- de) The ~~State Records~~ Commission has set standards for the reproduction of public records by micrographic, digital and electronic microimaging processes ~~process~~. Standards regarding the quality of film, preparation and identification of records, and proper certification of copies are provided in Sections 4400.50 and 4400.60. Standards for the reproduction of records using digital formats are provided in Section 4400.70.
- ef) The field representative will complete a records inventory for the State agency. The inventory serves as the basis ~~for of~~ determining the records program required. The records inventory worksheet (see Appendix A) shall contain the following information:
- 1) the date the worksheet was completed;
  - 2) the number of the ~~inventory~~ worksheet;
  - 3) the records series title;
  - 4) the beginning date of the series or an estimated date for records no longer created or required;
  - 5) the total record ~~number of cubic feet of the records~~ series in existence at the time of the inventory;
  - 6) the accumulation, ~~in cubic feet,~~ of the record series for the most recent

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year;

- 7) the physical measurements of the documents or a description of the documents;
  - 8) whether the series is arranged chronologically, alphabetically or, numerically, or by status (active, inactive, or closed);
  - 9) the official designation of the State agency and the division and/or subdivision if appropriate;
  - 10) the location of the office of the person having responsibility for the records;
  - 11) the name, title, and phone number of the person responsible for the records;
  - 12) a description of the index or finding aid for the records;
  - 13) a detailed and accurate description of each record series; and
  - 14) the recommendation regarding retention of records in terms of years or months.
- fg) The values considered by the State ArchivesRecords Management Section in appraising records for retention purposes are as follows:
- 1) the administrative value;
  - 2) the legal value;
  - 3) the fiscal value; and
  - 4) the research, historical, or archival value.
- gh) The State ArchivesRecords Management Section will examine the records in light of the values listed in subsection (fg) to determine if the records should be retained by the agency, transferred to the State Archives, or destroyed.
- hi) If the agency's approved Record Retention Schedule (see Appendix B,

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~~Application for Authority to Dispose of State Records~~) authorized the destruction of records ~~which are~~ stored in the agency's own ~~offices~~~~office(s)~~, the State Records Disposal Certificate (see Appendix C) shall be completed and approved by the Chairman of the ~~State Records~~ Commission prior to the physical destruction of the agency's files. The Disposal Certificate shall be submitted to the Commission ~~30~~~~thirty (30)~~ days prior to the date of the proposed destruction unless the waiting period has been waived by the Chairman.

- ij) If the agency's approved Records Retention Schedule provides for the transfer of agency files to the State Archives after retention in the office, Form ARD-50 (~~Archives Records Transfer Sheet, see~~ Appendix D) shall be completed and included with the ~~records~~ ~~Records~~ when they are transferred to the Archives.

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

**Section 4400.30 Procedures for Compiling and Submitting Lists and Schedules of Records of Disposal**

- a) The head of each agency shall submit to the Commission lists or schedules or records in his ~~or her~~ custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal, or fiscal value to warrant their further preservation.
- 1) Lists are applications for authority to destroy records that have accumulated.
  - 2) Schedules are applications for continuing authority to destroy records after specified periods of time or the occurrence of specified events.
- b) New lists or schedules are required whenever the informational contents of a ~~records~~ ~~record~~ series are changed.
- c) An application for authority to dispose of State records ~~original and two copies of all applications for authority to destroy records~~ shall be submitted to the Commission on forms available from the State Records Commission, Margaret Cross Norton~~Archives~~ Building, Springfield, Illinois, 62756.
- d) An application~~Application~~ for authority to dispose of~~destroy~~ records may~~shall~~ be accompanied by samples of each ~~records~~ ~~record~~ series proposed for destruction, which will be filed as permanent records of the State Records Commission.

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Blank forms and explanatory statements may be submitted in lieu of confidential records.

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

**Section 4400.50 Standards for the Reproduction of Records by Microphotographic and Electronic Microimaging Processes with a View to the Disposal of the Original Records**

- a) Records proposed for microfilming or electronic microimaging with a view to dispose of the original records must be on a list or retention schedule approved by the State Records Commission.
- b) In submitting lists or schedules of records for which microfilm copies are to be substituted, the head of each agency shall certify that microfilm copies, made in accordance with standards of the ~~State Records~~ Commission, will be adequate substitutes for the original records.
- c) Computer Output Microfilm (COM) of born digital data is to be considered an original record and not a copy of an original record. Therefore, authentication requirements for source document microfilm as found in ~~Section Sections~~ 4400.50(f) and (g) do not apply to COM. COM of scanned (electronic microimaging) digital images must include resolution charts as recommended in ANSI/AIIM MS62.
- d) Quality of the ~~Film Used~~film used. The film stock used must be silver halide; and the processing of the film~~thereof~~, shall comply with the minimum standards of quality required by the ~~State Records~~ Commission as set forth in Section 4400.60 ~~of these rules~~.
- e) Preparation of the ~~Records~~records for ~~Filming~~filming ~~or Electronic Microimaging~~. All documents in the file shall be microfilmed or scanned, unless their size or physical form prevents microfilming or scanning, in which case an explanation of their omission shall be microfilmed or scanned at the appropriate point on the roll of film and be worded substantially as follows:

" \_\_\_\_\_ (Item Description) \_\_\_\_\_ was omitted from this roll of film because  
\_\_\_\_\_ ."  
It may be located \_\_\_\_\_."

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Any records not filmed shall be maintained by the agency or transferred to the Archives under terms specified on the approved records disposition schedule.

- f) Integrity of the Original Records~~original records~~.
- 1) The integrity of the original records shall be preserved through a photographic or electronic microimaging process ~~so such~~ that the image on film ~~camera original~~, or exact duplicates of the image~~thereof~~, will be adequate substitutes for the original records in that they will serve the purposes for which ~~the such~~ records were created or maintained and that ~~the such~~ copies will contain all significant record detail needed for probable future reference and will not permit additions, deletions or changes to the reproductions of the original images.
  - 2) Prior to microfilming or scanning, the original documents shall be ~~so~~ prepared, arranged, classified and indexed ~~as~~ to readily permit the subsequent location, examination and reproduction of the photographs ~~thereof~~. Any significant characteristics of the records ~~that which~~ would not reflect photographically (e.g., that the record is indistinct or that certain figures are of a color not suited to recording on microfilm) shall be indicated by means of an explanatory target inserted to guide the user. Any notations on the face or reverse side of any document shall be photographed and identified as forming an integral part of the original document. A significant characteristic is any part of the record necessary for its interpretation, including all words, numbers and illustrations.
    - A) Each film roll, camera negative, or sheet (including 105~~mm~~MM continuous fiche rolls, but not COM) shall be identified by or contain the following targets:
      - i) A technical target for measuring resolution~~Resolution~~.
      - ii) A film density target (8½" x 11" bond paper).
      - iii) A roll number START target in characters that can be read without magnification.
      - iv) A TITLE target giving name of the office having custody of the records, a brief title of the record series, dates, file

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arrangement, and the number of the schedule approved by the ~~State Records~~ Commission authorizing the project.

- v) Listed between the START file and END file targets must be explanatory targets for omission, deletion, misfiles, retakes, or any example given in Section 4400.50(f)(2).
- B) At the end of each roll/sheet of film, after the document images, shall be targets as follow:
- i) An END target containing the number of the list or schedule approved by the ~~State Records~~ Commission authorizing the project.
  - ii) Roll number.
  - iii) Brief title of the record series.
  - iv) Beginning and ending file designations.
  - v) A camera operator's certificate as follows:

"I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, ~~2019~~ \_\_\_\_\_, photographed the documents appearing on this roll of film, that they are true copies of the documents found in the record file described above, and that the integrity of the above described record file has been maintained on the film by microfilming each document in the exact order in which it was found in the file. Reproductions designed to serve as permanent records comply with the regulations and standards of the State Records Commission."
  - vi) Signature of camera operator.
  - vii) A film density target (8½" x 11" bond paper).
  - viii) A technical target for measuring ~~resolution~~Resolution.

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- g) Security microfilm shall have no breaks, cuts or splices in the body of the film, which shall be the area following the START target and preceding the Camera Operator's Certificate. However, a retake of a length of film may be spliced ahead of the START target or after the Camera Operator's Certificate, providing that the retake be given its own START target and Camera Operator's Certificate. This shall be done in such a manner as not to overload a reel or cartridge. Exceptions to this rule are:
- 1) If the trailing end of a reel shall be fogged or unreadable, the camera operator shall rephotograph the original documents from a point 12 images in advance of the last readable image prior to the fogged or unreadable area. The retake will include a (camera operator's certificate) and will be spliced to the trailing end of the fogged or unreadable portion of the film.
  - 2) When a court-ordered expungement of specific records is issued and deletions are made from the roll of film, the court expungement order and a certificate of deletion, illustrated below, must be photographed and the images spliced to the beginning of the film.

## CERTIFICATE OF DELETION

This is to certify the deletion of microfilm images on this roll of microfilm, occurred due to Court Order # \_\_\_\_\_, date \_\_\_\_\_, signed by Judge \_\_\_\_\_. No other images other than those listed in this order were deleted.

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Signature of Officer

- h) The camera or microimaging system used to microfilm the records shall be one that accurately reproduces the content of the original records with sufficient photographic contrast and resolution to be readable through three generations of reproduction.
- i) Each roll of original film or camera negative must be inspected after processing and before duplicate copies are made. The inspection must be conducted in such a manner as to reveal defects such as improper density, poor resolution, blurred or obscured images, improper document sequence, or improper identification targets. If a defect prohibits a clear, legible, hard copy print from the files, the original records must be re-photographed.

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- 1) randomly sampling the film, making sure that the samples include the beginning, middle, and end of the roll or microform. (It is suggested that this be done on all film as a minimum quality control.)
  - 2) visually inspecting the film by passing each image through a reader and checking for overlapping, double or folded images, or other types of problems that would impair retrieving any information on the microimages.
  - 3) performing all of the requirements of subsection (i)(2) plus, counting the number of microimages on the film and comparing that against the number of documents that were to be microfilmed. (If the numbers coincide, the conclusion is made that every document has been microfilmed.)
  - 4) individually comparing each document with each microimage that was actually created. (This visual verification provides the highest assurance that every document has been properly filmed.)
- j) If more than 1% one percent of the original images needs need to be refilmed (approximately 30 images per roll), the entire roll must be refilmed.
- k) Updateable Microfiche Systems:  
An agency considering using an updateable microfiche ~~such a~~ system should first contact the State Records Unit to review the proposed application. The application will be approved if the updateable microfiche meets the following specifications:
- 1) each microfiche must have the specified targets at the beginning and end of each fiche as required called for by subsection Section 4400.50(f)(2)(A) and (B).
  - 2) each time a microfiche is updated, either a camera operator's certificate must be inserted at the end of the added documents or annotated reference to the original camera operator's certificate must appear on each added image.
  - 3) only records bearing retention periods of 10 ten years or less may be placed on updateable microforms.



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- 4) if a court ordered expungement is necessary, a certificate of deletion must appear at the place of the deleted image.
- l) Prior to the destruction of records microfilmed under the authority of approved records schedules, the agency shall file with the ~~State Records~~ Commission a statement of compliance with its standards governing the microfilming of records. The statement shall include:
    - 1) Agency having custody of the records.
    - 2) Date.
    - 3) Title and inclusive dates of the record series.
    - 4) The number of the list or schedule approved by the ~~State Records~~ Commission authorizing the project.
    - 5) The following statement:

"I hereby certify that the film on which the records were reproduced complies with the standards given in Section 4400.60 of the rules of the State Records Commission."
    - 6) Signature of the microfilm project supervisor.
  - m) Each film carton shall be identified by a label or exterior marking indicating:
    - 1) Roll number.
    - 2) Name of office.
    - 3) Title of the record series.
    - 4) Names of the file units at the start of the roll, at space targets, and at the end of the roll.
    - 5) The number of the application authorizing the microfilming of the record/record series.

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- n) Inspection  
Security or ~~master~~ Master films of permanent record microforms, and records microfilmed to dispose of the original record, shall be inspected every 2 years during their scheduled life. The inspection shall be made using a 1% percent randomly selected sample in the following categories: 70% percent – microforms not previously tested, 20% percent – microforms tested in the last inspection, and 10% percent – control group. The control group shall represent samples of microforms from the oldest microforms filmed through the most current.

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

**Section 4400.60 Minimum Standards of Quality for Permanent Record Photographic Original Microfilm Intended for Retention Periods in Excess of 10 Years**

- a) These standards are concerned with both raw stock for permanent record films and with the processed films ready for storage. They are not restricted to microfilm but apply equally to motion picture films, roll films, and sheet films. ~~They reflect incorporations listed in Section 4400.22. No incorporation by reference in Section 4400.60 includes any later amendments or editions.~~
- b) All such film stock shall be of approved permanent type polyester based film that includes an anti-halation dye system that such as meets the minimum specifications of ~~the American National Standards Institute (ANSI) as found in ANSI/AIIM MS23, 4.12.:~~
- ~~PH 1.25—1976~~
- ~~PH 1.28—1981~~
- ~~PH 1.41—1981~~
- c) Each frame of microfilm shall be exposed and processed so that every line and character on the document appears on the microfilm with sufficient clarity to permit reproducibility through three successive generations of reproduction. With regard to operational procedures, inspection, and quality control of silver gelatin microfilm, ANSI/~~AIIM~~NMA MS23~~1983~~, ~~PH 1.25—1976~~, ~~PH 1.28—1981~~, ~~PH 1.41—1981~~ and ~~PH 4.8—1978~~ shall apply.
- d) The background photographic densities must be appropriate to the type of documents being filmed. Appropriate background densities are as follows:

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Classification	Description of Documents	Background Density
Group 1	High-quality, <u>high-contrast</u> printed books, <u>and periodicals</u> ; <u>black type face</u> ; <u>fine-line originals</u> ; <u>black opaque pencil writing</u> ; <u>and documents with small, high-contrast print, and dense typing</u> .....	<u>1.00 to 1.30</u> <u>1.30-1.50</u>
Group 2	<u>Pencil and ink drawings</u> ; <u>faded and very small print (for example, footnotes at the bottom of a printed page)</u> ; <u>scenic checks</u> ; <u>documents with printed pictorial images</u> ; <u>and newspapers</u> . <u>Fine-line originals</u> , <u>letters typed with a worn ribbon</u> , <u>pencil writing with a soft lead</u> , <u>and documents with small printing</u> .....	<u>0.90 to 1.10</u> <u>1.15-1.40</u>
Group 3	<u>Low-contrast manuscripts and drawings</u> ; <u>graph paper with pale, fine-colored lines</u> ; <u>letters typed with a worn ribbon</u> ; <u>poorly printed, faint documents</u> . <u>Pencil drawings</u> , <u>faded printing</u> , <u>graph paper with pale, fine-colored lines</u> , <u>and very small printing such as footnotes</u> .....	<u>0.80 to 1.00</u> <u>(1:24 reduction or less)</u> <u>1.00-1.20</u>
Group 4	<u>Very low-contrast (worse case) documents can require extremely low background density</u> . <u>Very weak pencil manuscripts and drawings</u> , <u>and poorly printed, faint documents</u> .....	<u>0.75 to 0.85</u> <u>(1:24 reduction or less)</u> . <u>90-1.10</u>
Group 5	COM.....	1.50-2.00

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

Section 4400.70 Digital Reproduction

## STATE RECORDS COMMISSION

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- a) Original records may not be destroyed in favor of digital surrogates unless the digital surrogates are produced in compliance with this Section and unless done pursuant to a list or retention schedule approved by the Commission.
- b) In submitting lists or schedules of original records for which digital surrogates are to be substituted, the head of each agency shall certify that the copies will be made in accordance with the standards of the Commission and will be adequate substitutes for the original records.
- c) File Integrity – The integrity and authenticity of the original records shall be preserved through the digitization process so that the images or surrogates will be adequate substitutes for the original records. They must serve the purposes for which the original records were created or maintained and the copies must contain all significant record detail needed for probable future reference.
- d) File formats
  - 1) Digital surrogates must be created in an open file format.
  - 2) Meta-data or indexing information for digital surrogates must be stored in SQL (structured query language) compliant databases or in XML (extensible markup language) format.
- e) Access – The digital surrogates shall be prepared, arranged, classified and indexed to readily permit their subsequent location, examination, and reproduction. Hardware, software and documentation must be maintained to allow ready access to each file.
- f) Technical standards for digital surrogates:
  - 1) Quality Control – Prior to production, an agency shall assemble a sample set of source documents or records equivalent in characteristics to the source documents for the purposes of evaluating scanner results. Scanner quality must be evaluated based on the standard procedures in ANSI/AIIM MS44 and MS49.
  - 2) Quality Assurance – Before production, an agency shall develop written quality assurance procedures based upon the results of the pre-production quality sample. Before the original documents are destroyed, quality assurance must be conducted in accordance with ANSI/AIIM TR34.

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- 3) Scanning Resolution – Scanning resolution must be adequate to ensure that no information is lost. A scanning resolution with a minimum of 200 dots per inch is required for recording documents that contain no type font smaller than six point. A scanning density with a minimum of 300 dots per inch is required for engineering drawings, maps and other documents with a type font smaller than six point or with background detail. The selected scanning density must be validated with tests on actual source documents.
- g) External Vendors – Contracts for the storage of digital surrogates by external vendors must allow for the return of all electronic data files and indexing information to the agency at the expiration of the contract, in a format complying with the requirements of subsections (h) through (n).
- h) Media – Digital surrogates may be stored on a hard disk, networked server, magnetic tapes, or optical disks. Floppy disks may not be used. Data maintained on magnetic tape must be recopied onto a new tape a minimum of once every five years.
- i) Backup copies – All digital surrogates of original records must be stored in duplicate copy on a second hard disk, magnetic tape, optical disk, or storage network. If possible, the second copy must be stored in a different building than the first copy.
- j) Access – Each digital surrogate must be individually accessible. System tapes used for data backup or disaster recovery, unless indexed for individual accessibility, do not satisfy records retention requirements.
- k) Additions, Deletions, Erasure – Systems used to store and access digital surrogates must not permit additions, deletions, or changes to the digital images or surrogates substituting for the original record.
- l) Labeling – External labels for magnetic tapes or optical disks used to store digital images or surrogates shall provide unique identification of each reel/cartridge or disk, including the name of the office responsible for the data, system title, and security classification, if applicable.
- m) Maintenance
- 1) Each agency shall ensure that hardware, software, and documentation (including maintenance documentation) required to retrieve and read the

## STATE RECORDS COMMISSION

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digital surrogate are retained for the entire period mandated under the approved retention period for the digital surrogates.

2) If hardware, software, and/or documentation are replaced, or if the digital surrogates are migrated to a new information system, the agency must ensure that the replacement hardware, software and/or documentation meets all requirements mandated in the approved records schedule and in this Section.

n) Long-Term Retention – Whenever a record series proposed for conversion to a digital surrogate has been scheduled for a retention period in excess of 10 years, it must be maintained additionally either in its original format or in a microfilm format that complies with Sections 4400.50 and 4400.60 of this Part.

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

## DEPARTMENT ON AGING

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Community Care Program
- 2) Code Citation: 89 Ill. Adm. Code 240
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
240.810	Amendment
240.920	Amendment
240.950	Amendment
- 4) Statutory Authority: 20 ILCS 105/4.01(11)
- 5) Effective Date of Amendments: October 26, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 30 Ill. Reg. 11474; July 7, 2006
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendments currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Amendments are adopted, so the rules for the Community Care Program will reflect (1) the change in the name of the Department of Public Aid to the Department of Healthcare and Family Services as a result of Executive Order 2005-3; (2) an increase in the asset level from \$12,500 to \$17,500 for eligibility determinations; and (3) an increase in the spend down level from \$10,500 to \$15,500 for non-exempt assets owned by married couples for Medicaid enrollment.

DEPARTMENT ON AGING

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

George M. Sisk  
General Counsel  
Illinois Department on Aging  
421 E. Capitol Avenue, #100  
Springfield, Illinois 62701-1789

217/785-3346

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



DEPARTMENT ON AGING

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER II: DEPARTMENT ON AGING

PART 240  
COMMUNITY CARE PROGRAM

SUBPART A: GENERAL PROGRAM PROVISIONS

Section	
240.100	Community Care Program
240.110	Department Prerogative
240.120	Services Provided
240.130	Maintenance of Effort
240.140	Program Limitations
240.150	Completed Applications Prior to August 1, 1982 (Repealed)
240.160	Definitions

SUBPART B: SERVICE DEFINITIONS

Section	
240.210	Homemaker Service
240.220	Chore-Housekeeping Service (Repealed)
240.230	Adult Day Service
240.240	Information and Referral
240.250	Demonstration/Research Projects
240.260	Case Management Service
240.270	Alternative Provider
240.280	Individual Provider

SUBPART C: RIGHTS AND RESPONSIBILITIES

Section	
240.300	Applicant/Client Rights and Responsibilities
240.310	Right to Apply
240.320	Nondiscrimination
240.330	Freedom of Choice
240.340	Confidentiality/Safeguarding of Case Information
240.350	Applicant/Client/Authorized Representative Cooperation
240.360	Reporting Changes
240.370	Voluntary Repayment

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SUBPART D: APPEALS

Section	
240.400	Appeals and Fair Hearings
240.405	Representation
240.410	When the Appeal May Be Filed
240.415	What May Be Appealed
240.420	Group Appeals
240.425	Informal Review
240.430	Informal Review Findings
240.435	Withdrawing an Appeal
240.436	Cancelling an Appeal
240.440	Examining Department Records
240.445	Hearing Officer
240.450	The Hearing
240.451	Conduct of Hearing
240.455	Continuance of the Hearing
240.460	Postponement
240.465	Dismissal Due to Non-Appearance
240.470	Rescheduling the Appeal Hearing
240.475	Recommendations of Hearing Officer
240.480	The Appeal Decision
240.485	Reviewing the Official Report of the Hearing

SUBPART E: APPLICATION

Section	
240.510	Application for Community Care Program
240.520	Who May Make Application
240.530	Date of Application
240.540	Statement to be Included on Application

SUBPART F: ELIGIBILITY

Section	
240.600	Eligibility Requirements
240.610	Establishing Eligibility
240.620	Home Visit
240.630	Determination of Eligibility

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240.640	Eligibility Decision
240.650	Continuous Eligibility
240.655	Frequency of Redeterminations
240.660	Extension of Time Limit

## SUBPART G: NON-FINANCIAL REQUIREMENTS

Section	
240.710	Age
240.715	Determination of Need
240.720	Clients Prior to Effective Date of This Section (Repealed)
240.725	Clients After Effective Date of This Section (Repealed)
240.726	Emergency Budget Act Reduction (Repealed)
240.727	Minimum Score Requirements
240.728	Maximum Payment Levels for Homemaker Service
240.729	Maximum Payment Levels for Adult Day Care Service
240.730	Plan of Care
240.735	Supplemental Information
240.740	Assessment of Need
240.750	Citizenship
240.755	Residence
240.760	Furnishing of Social Security Number

## SUBPART H: FINANCIAL REQUIREMENTS

Section	
240.800	Financial Factors
240.810	Assets
240.815	Exempt Assets
240.820	Asset Transfers
240.825	Income
240.830	Unearned Income Exemptions
240.835	Earned Income
240.840	Potential Retirement, Disability and Other Benefits
240.845	Family
240.850	Monthly Average Income
240.855	Applicant/Client Expense for Care
240.860	Change in Income
240.865	Application For Medical Assistance (Medicaid)
240.870	Determination of Applicant/Client Monthly Expense for Care

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240.875 Client Responsibility

SUBPART I: DISPOSITION OF DETERMINATION

Section

- 240.905 Prohibition of Institutionalized Individuals From Receiving Community Care Program Services
- 240.910 Written Notification
- 240.915 Service Provision
- 240.920 Reasons for Denial
- 240.925 Frequency of Redeterminations (Renumbered)
- 240.930 Suspension of Services
- 240.935 Discontinuance of Services to Clients
- 240.940 Penalty Payments
- 240.945 Notification
- 240.950 Reasons for Termination
- 240.955 Reasons for Reduction or Change

SUBPART J: SPECIAL SERVICES

Section

- 240.1010 Nursing Facility Screening
- 240.1020 Interim Services
- 240.1040 Intense Service Provision
- 240.1050 Temporary Service Increase

SUBPART K: TRANSFERS

Section

- 240.1110 Individual Transfer Request – Vendor to Vendor – No Change in Service
- 240.1120 Individual Transfer Request – Vendor to Vendor – With Change in Service
- 240.1130 Individual Transfers – Case Coordination Unit to Case Coordination Unit
- 240.1140 Transfer of Pending Applications
- 240.1150 Interagency Transfers
- 240.1160 Temporary Transfers – Case Coordination Unit to Case Coordination Unit
- 240.1170 Caseload Transfer – Vendor to Vendor
- 240.1180 Caseload Transfer – Case Coordination Unit to Case Coordination Unit

SUBPART L: ADMINISTRATIVE SERVICE CONTRACT

## DEPARTMENT ON AGING

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Section  
240.1210 Administrative Service Contract

## SUBPART M: CASE COORDINATION UNITS AND PROVIDERS

Section  
240.1310 Standard Contractual Requirements for Case Coordination Units and Providers  
240.1320 Vendor or Case Coordination Unit Fraud/Illegal or Criminal Acts  
240.1330 General Vendor and CCU Responsibilities (Repealed)  
240.1396 Payment for Services (Repealed)  
240.1397 Purchases and Contracts (Repealed)  
240.1398 Safeguarding Case Information (Repealed)  
240.1399 Suspension/Termination of a Vendor or Case Coordination Unit (CCU)

## SUBPART N: CASE COORDINATION UNITS

Section  
240.1400 Community Care Program Case Management  
240.1410 Case Coordination Unit Administrative Minimum Standards  
240.1420 Case Coordination Unit Responsibilities  
240.1430 Case Management Staff Positions, Qualifications and Responsibilities  
240.1440 Training Requirements For Case Management Supervisors and Case Managers

## SUBPART O: PROVIDERS

Section  
240.1510 Provider Administrative Minimum Standards  
240.1520 Provider Responsibilities  
240.1530 General Homemaker Staffing Requirements  
240.1535 Homemaker Staff Positions, Qualifications and Responsibilities  
240.1540 General Chore-Housekeeping Staffing Requirements (Repealed)  
240.1545 Chore-Housekeeping Staff Positions, Qualifications and Responsibilities  
(Repealed)  
240.1550 Standard Requirements for Adult Day Service Providers  
240.1555 General Adult Day Service Staffing Requirements  
240.1560 Adult Day Service Staff  
240.1565 Adult Day Service Satellite Sites  
240.1570 Service Availability Expansion  
240.1575 Adult Day Care Site Relocation  
240.1580 Standards for Alternative Providers

## DEPARTMENT ON AGING

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240.1590 Standard Requirements for Individual Provider Services

## SUBPART P: PROVIDER PROCUREMENT

## Section

240.1600 Provider Contract  
240.1605 Procuring Provider Services  
240.1610 Procurement Cycle for Provider Services (Repealed)  
240.1620 Issuance of Provider Proposal and Guidelines  
240.1625 Content of Provider Proposal and Guidelines  
240.1630 Criteria for Number of Provider Contracts Awarded  
240.1635 Evaluation of Provider Proposals  
240.1640 Determination and Notification of Provider Awards  
240.1645 Objection to Procurement Action Determination  
240.1650 Classification, Identification and Receipt of Provider Service Violations  
240.1655 Method of Identification of Provider Service Violations (Repealed)  
240.1660 Provider Performance Reviews  
240.1661 Provider and Case Coordination Unit Right to Appeal  
240.1665 Contract Actions for Failure to Comply with Community Care Program Requirements

## SUBPART Q: CASE COORDINATION UNIT PROCUREMENT

## Section

240.1710 Procurement Cycle For Case Management Services  
240.1720 Case Coordination Unit Performance Review

## SUBPART R: ADVISORY COMMITTEE

## Section

240.1800 Community Care Program Advisory Committee  
240.1850 Technical Rate Review Advisory Committee (Repealed)

## SUBPART S: PROVIDER RATES

## Section

240.1910 Establishment of Fixed Unit Rates  
240.1920 Contract Specific Variations  
240.1930 Fixed Unit Rate of Reimbursement for Homemaker Service  
240.1940 Fixed Unit Rates of Reimbursement for Adult Day Service and Transportation

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- 240.1950 Adult Day Care Fixed Unit Reimbursement Rates  
240.1960 Case Management Fixed Unit Reimbursement Rates

## SUBPART T: FINANCIAL REPORTING

## Section

- 240.2020 Financial Reporting of Homemaker Service  
240.2030 Unallowable Costs for Homemaker Service  
240.2040 Minimum Direct Service Worker Costs for Homemaker Service  
240.2050 Cost Categories for Homemaker Service

AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(11)].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendment at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendment at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendment at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendment at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendment at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendment suspended at 16 Ill. Reg. 1744; emergency amendment modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendment at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendment at 16 Ill. Reg. 4069, effective February 28, 1992, to expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendment at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23,

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1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8995, effective July 1, 1996; amended at 20 Ill. Reg. 10597, effective August 1, 1996; amended at 21 Ill. Reg. 887, effective January 10, 1997; amended at 21 Ill. Reg. 6183, effective May 15, 1997; amended at 21 Ill. Reg. 12418, effective September 1, 1997; amended at 22 Ill. Reg. 3415, effective February 1, 1998; amended at 23 Ill. Reg. 2496, effective February 1, 1999; amended at 23 Ill. Reg. 5642, effective May 1, 1999; amended at 26 Ill. Reg. 9668, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10829, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17358, effective November 25, 2002; emergency amendment at 28 Ill. Reg. 923, effective December 26, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 7611, effective May 21, 2004; emergency amendment at 30 Ill. Reg. 10117, effective June 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 11767, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 16281, effective September 29, 2006; amended at 30 Ill. Reg. 17756, effective October 26, 2006.

## SUBPART H: FINANCIAL REQUIREMENTS

**Section 240.810 Assets**

- a) To be eligible to receive Community Care Program (CCP) services, an applicant/client shall not own interest in non-exempt assets having a combined value in excess of ~~\$17,500~~\$12,500, if:
  - 1) unmarried; or
  - 2) married and:
    - A) spouse is receiving CCP services; or
    - B) spouse is in a nursing home; or



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- C) spouse does not reside on a permanent basis with and does not receive support from or give support to the applicant/client; or
- D) spouse is abandoned; or
- E) spouse is potentially abusing the applicant/client.

EXCEPTION: An applicant/client, who is married and the spouse does not receive CCP services, shall not own interest in non-exempt assets having a total value in excess of the asset disregard amount allowed by the Illinois Department of Healthcare and Family Services~~Public Aid~~ for Medicaid which is currently \$2,000 + \$1,500 in a pre-paid burial plan or life insurance policy + burial merchandise. Non-exempt assets having value over the asset disregard amount described above and up to the amount allowed by the Community Spouse Asset Allowance, as adopted by the Illinois Department of Healthcare and Family Services~~Public Aid~~ at 89 Ill. Adm. Code 120.379(d), must be transferred to or for the sole benefit of the community spouse. If the couple owns assets that exceed the asset disregard and prevention of spousal impoverishment amounts allowed by statute, the excess (up to ~~\$15,500~~\$10,500 of non-exempt assets after transfer; and/or up to \$1,800 of countable monthly income after diversion) shall be designated as a spend down, to be spent before Medicaid enrollment is established.

- b) The value of non-exempt assets shall be considered in determining eligibility for the Community Care Program.
- c) All assets not specifically exempt are non-exempt.
- d) When a client's non-exempt assets are greater than the allowable disregard as specified in subsection (a), consideration of non-liquid assets may be deferred as follows:
  - 1) real property may be deferred from consideration for six months;
  - 2) the client shall sign an agreement to dispose of the real property in excess of the allowable disregard within six months from the date of the agreement; and
  - 3) the six month period for disposition may be extended an additional six months if the client fails to dispose of the asset (through no fault of his/her

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own) despite reasonable and diligent effort.

(Source: Amended at 30 Ill. Reg. 17756, effective October 26, 2006)

## SUBPART I: DISPOSITION OF DETERMINATION

**Section 240.920 Reasons for Denial**

Denial of Community Care Program (CCP) eligibility shall be based upon one or more of the reasons identified below:

- a) Applicant is less than 60 years of age at the time of the determination of eligibility.
- b) Applicant is not in need of CCP services: scored less than 29 total points/less than 15 points on Part A, Level of Impairment, of the Determination of Need.
- c) Applicant/authorized representative refuses to sign Client Agreement – Plan of Care.
- d) Applicant/authorized representative refuses to sign Client Agreement – Plan of Care based upon the expense to be incurred monthly as required on the Client Agreement – Plan of Care.
- e) Applicant/authorized representative does not agree with plan of care/hours of service.
- f) Applicant is deceased.
- g) Applicant has been institutionalized for more than 60 calendar days from the date of application.
- h) Applicant/authorized representative voluntarily withdraws application.
- i) Applicant cannot be located to determine eligibility/provide CCP services.
- j) Applicant/authorized representative has not provided reasonable documentation supporting eligibility as required by the Department or its Case Coordination Unit (CCU) within 90 calendar days from the date of receipt of the completed application.

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- k) Applicant/authorized representative has not cooperated with the Department/CCU/vendor as required and as specified by Section 240.350.
- l) Applicant does not meet citizenship requirements.
- m) Applicant does not meet residency requirements.
- n) A plan of care cannot be developed that adequately meets the applicant's determined needs.
  - 1) The determination that an adequate plan of care cannot be developed shall be sought first through the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner endorsement. Failure to obtain the supportive endorsement that an adequate plan of care cannot be developed shall be so documented.
  - 2) If the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner fails to provide the supportive endorsement, the CCU shall make the determination that an adequate plan of care cannot be developed in accordance with Section 240.715.
- o) The total value of applicant's non-exempt assets is in excess of ~~\$17,500~~\$12,500.
- p) Applicant has not provided the Physician, Nurse Practitioner, Registered Nurse or Christian Science Practitioner endorsement as required by Section 240.730(d).
- q) Eligibility could not be established for an applicant who was receiving interim services based upon presumptive eligibility as required by Section 240.1020.
- r) Applicant/authorized representative provided fraudulent information.
- s) Applicant whose CCP services were previously denied or terminated for non-cooperation as set forth in Section 240.350 shall be denied services upon re-application, except as the situation or condition which led to the memorandum of understanding (see Section 240.350) has been permanently resolved.
- t) Applicant has an outstanding bill for CCP services provided prior to this application which he/she refuses to pay.

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- u) Applicant chooses not to receive CCP services from the list of authorized vendors and has so indicated on the Client's Vendor Selection form.
- v) Applicant received interim services in the past for which an incurred expense was never paid.
- w) Applicant has transferred non-exempt assets within the past 36 months for the purpose of obtaining CCP services.
- x) Applicant/authorized representative has not reported or refused to provide documentation of changes in circumstances which have occurred prior to eligibility determination as required by Section 240.360.
- y) Effective July 1, 2002, applicant refuses to apply for medical assistance (Medicaid) under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V].

(Source: Amended at 30 Ill. Reg. 17756, effective October 26, 2006)

**Section 240.950 Reasons for Termination**

A client shall be terminated from the Community Care Program (CCP) for one or more of the reasons identified below:

- a) client is deceased;
- b) client is an in-patient of any institution or is otherwise not available for services for more than 60 calendar days;
- c) client's condition has improved and there is no longer a need for CCP services as measured by the CCP Determination of Need (DON);
- d) client cannot be located;
- e) client has requested termination of services;
- f) client refuses transfer to a different vendor/Case Coordination Unit (CCU) and the current vendor/CCU cannot provide services needed by the client;
- g) client has failed to cooperate with the Department/CCU/vendor as required and as specified in Section 240.350;

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- h) client no longer meets citizenship requirements;
- i) client no longer meets residency requirements;
- j) a plan of care cannot be developed that adequately meets the client's determined needs in accordance with Section 240.715.
  - 1) Such determination shall be sought first through the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner endorsement. Failure to obtain the endorsement shall be so documented.
  - 2) If the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner fails to provide the supportive endorsement, the CCU shall make the determination that an adequate plan of care (see Section 240.730(d)) cannot be developed;
- k) client's non-exempt assets have increased and exceed ~~\$17,500~~\$12,500 (see Section 240.810(a));
- l) client failed to report the transfer of non-exempt assets as required by Section 240.820;
- m) client, initially determined eligible prior to July 6, 1982 (see Section 240.800(a) and (b)), who has had continuous service since that time, refuses to declare income/assets upon redetermination;
- n) client has failed to report or refused to provide documentation of changes in circumstances as required by Section 240.360;
- o) client refuses to sign a Client Agreement – Plan of Care (see Section 240.855(c));
- p) client rejects CCP services under Section 240.330 and has so indicated on the Client's Vendor Selection form;
- q) a client, whose CCP services were discontinued for non-payment of incurred expense for care, has not made payment for the indebtedness, and has not received CCP services for more than one year (see Section 240.935(e)); or

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- r) effective July 1, 2002, client refuses to apply for medical assistance (Medicaid) under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V].

(Source: Amended at 30 Ill. Reg. 17756, effective October 26, 2006)

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- 1) Heading of the Part: Rental Housing Support Program
- 2) Code Citation: 47 Ill. Adm. Code 380
- 3)

Section Numbers:	Adopted Action:
380.101	New
380.102	New
380.103	New
380.104	New
380.105	New
380.106	New
380.107	New
380.108	New
380.109	New
380.110	New
380.111	New
380.112	New
380.113	New
380.201	New
380.202	New
380.203	New
380.204	New
380.205	New
380.301	New
380.302	New
380.303	New
380.304	New
380.305	New
380.306	New
380.307	New
380.308	New
380.309	New
380.310	New
380.311	New
380.312	New
380.401	New
380.402	New
380.403	New
380.404	New
380.405	New

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380.406	New
380.407	New
380.408	New
380.409	New
380.410	New
380.411	New
380.412	New
380.413	New
380.414	New
380.415	New
380.416	New
380.501	New
380.502	New
380.503	New
380.504	New
380.505	New
380.506	New
380.507	New
380.601	New
380.602	New
380.603	New
380.604	New
380.605	New
380.606	New
380.607	New
380.608	New
380.609	New
380.610	New
380.611	New
380.612	New
380.613	New
380.614	New
380.615	New
380.616	New
380.617	New
380.618	New

- 4) Statutory Authority: Implemented and authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and the Rental Housing Support Program Act [310 ILCS 105]



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- 5) Effective Date of Rules: October 30, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposed Published in the Illinois Register: May 19, 2006; 30 Ill. Reg. 6264
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version:

In Section 380.103, Definition was added for Annual Adjustment Factor. Definition of Annual Income was revised to include amounts anticipated to be received by or on behalf of household members. The determination of Annual Income shall be made as provided in the HUD regulations governing Section 8 of the United States Housing Act of 1937 (42 US 1437). Definition of Applicant was revised to include developers. Definition of Landlord was revised to include a Local Administering Agency ("LAA") or subsidiary. Definition of Plan for Services was revised to include that a municipality shall prepare a Plan for Services unless the municipality has designated and LAAs to prepare the Plan for Services. Definition of Rental Assistance Rider was revised to include that tenant's must report changes in its annual income to the landlord or developer on each occasion that the tenant's lease is to be renewed and that an increase in a tenant's income may result in an increase in the tenant contribution. The rental assistance rider must be in the Illinois Housing Development Authority's program guide or the municipalities program guide. Definition for Special Needs Households was added. Definition for Tenant Contribution was revised to include that the monthly rent for a unit to be paid by a tenant shall be approximately one twelfth of 30% of the median income range in which the tenant's annual income falls, adjusted for unit size. Definition of Unit was revised to include an efficiency apartment, a single room occupancy unit, or a one bedroom or larger unit in a multifamily dwelling.

Section 380.106 was amended to include that application fees may be set forth in the Illinois Housing Development Authority's program guide or a municipal program guide.

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Section 380.108 was amended to reflect that administrative expenses specifically related to the program within a municipality may be deducted from the annual appropriation required by law to be distributed to municipalities.

"Section 380.112 was amended to reflect that landlords, LAAs and developers shall comply with the Rehabilitation Act of 1973, the Illinois Environmental Barrier's Act, and the Illinois Accessibility Code.

Section 380.301 was amended to reflect that a household that is already receiving or will receive rental assistance under a federal program shall not be eligible to be a tenant.

Section 380.302 Outreach Requirements was added. LAAs and developers must document that they have made extensive efforts to publicize the availability of units under the program.

Section 380.303 Income Certifications was added. Tenants must provide an annual income certification to the landlord when applying to occupy a unit and when renewing the lease for the unit.

Section 380.305 was amended to reflect that the tenant contribution may increase when the lease is renewed if the tenant's annual income increases or the annual income ranges for tenant contribution schedules change.

Section 380.306 was amended to reflect that an LAA must document the circumstances for an increase in rent and get approval from an agency prior to requesting an increase in rents to a level greater than the maximum rent.

Section 380.308 was amended to reflect that landlords must recertify the annual income of each tenant prior to the renewal of the tenant's lease.

Section 380.309 Appeals was added. All disputes regarding annual income or other eligibility requirements shall be initially resolved by the LAA providing rental assistance to the landlord. If the LAA is unable to resolve the dispute, any of the parties involved may appeal to the applicable agency.

Section 380.311 was amended to reflect that an LAA or a developer may pledge to use its best efforts to make up 30% of the units under its allocation available for special needs households. However, LAAs must require landlords to rent, and developers must rent available units to the first eligible tenant regardless of whether the tenant is a special needs household.

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Section 380.312 was amended to reflect that tenant selection plans must be available to the general public for inspection.

Section 380.403 was amended to reflect that (i) each applicant must include in its application a plan for selecting landlords to participate in the program; (ii) each applicant must include a plan for advertising and making available information about the program to landlords in its service area; (iii) the LAA should outline procedures for conducting physical inspections of the units; and (iv) letters of intent from landlords should include the proposed rent for and number of bedrooms in the unit, a statement as to whether the unit is accessible to disabled individuals or is adaptable so that it can be made accessible to disabled individuals.

Section 380.405 was amended to reflect that the section does not apply to municipalities.

Section 380.407 was amended to reflect that LAAs shall make inspections of all units at least bi-annually. In other years, the LAA shall inspect a sampling of units to visually observe the physical condition of the units. If a landlord receives rental assistance for fewer than three units, the LAA shall perform a visual inspection of all units. If any units do not satisfy housing quality standards, the landlord shall have 30 days to correct the deficiencies; provided, however, that if the deficiencies are in an occupied unit and pose a serious threat to the health and safety of the tenant, the deficiency must be corrected within 72 hours. The LAA shall use its best efforts to find a replacement unit for the tenant if the deficiency cannot be fixed within the 72-hour period.

Section 380.408 Selection of Landlords was added. LAAs must have a plan for selecting landlords to participate in the program. LAAs must provide an independent third party to inspect the units of the landlord if the landlord is a fully or partially-owned subsidiary of the LAA.

Section 380.409 was amended to reflect that (i) LAAs shall enter into a payment contract for all units for which the landlord wants to receive rental housing assistance; (ii) the landlord must abide by the requirements of the program; and (iii) the LAA shall assist the landlord in determining the annual income of each prospective tenant and that the landlord shall not reveal any information in connection with the prospective tenant's annual income, except to the LAA, the applicable agency, or as otherwise required by law.

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Section 380.410 was amended to reflect that LAAs must include a statement in their quarterly reports to their funding agency the extent to which the LAA was successful in meeting the preference goals set forth in the LAAs application.

Section 380.411 was amended to reflect that an LAA created by a municipality may use excess funds to provide rental assistance for additional units.

Section 380.413 was amended to include LAAs may apply for renewal of their commitments, which shall be granted at the discretion of the applicable agency. The performance review should include, among other things, the LAA's compliance with its services plan and its outreach plan, the LAA's compliance with its selection plan for landlords, and proper documentation of the LAA's operating expenses and other program requirements. In the event an agency does not renew a commitment with an LAA, the agency shall inform the LAA in writing, and the LAA shall have 30 days to submit an appeal to the agency. The agency shall make a decision as to the renewal of the commitment within 30 days of receiving the written appeal from the LAA.

Section 380.415 was amended to include additional sections that municipalities must comply with.

Section 380.416 Reporting Requirements for Municipalities was added. Each municipality shall provide a report to the Illinois Housing Development Authority documenting the use of funds from its fund disbursement within 120 days after the close of each fiscal year.

Section 380.504 Housing Quality Standards was added. Landlords must maintain each unit in compliance with housing quality standards.

Section 380.604 was amended to reflect that developers may supply federal income tax returns if they do not have audited financial statements.

Section 380.605 was amended to reflect that supportive housing projects that contain more than sixteen units and for all other projects containing more than six units, the number of units proposed to receive rental assistance shall not exceed 30%.

Section 380.608 was amended to reflect that in the case of long-term financing, the developer will be required to enter into a regulatory agreement with the applicable agency pursuant to which, among other requirements, it will agree to rent a set number of units to households who meet the income qualifications for the RHS program.

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Section 380.610 Over-Income Tenants was added. Developers must recertify the annual income of each tenant prior to the renewal of the tenant's lease. Rental assistance shall be terminated if the tenant's annual income exceeds the extremely low-income household limit.

Section 380.612 Evictions was added. Developers shall have the right to evict tenants from units for good cause, as permitted under State and local law.

Section 380.613 was amended to reflect that projects must continue to meet housing quality standards during the period in which developers are receiving funding under the LTOS program or in the case of long-term financing. Agencies shall make annual inspections of the units. Developers shall have a period of 30 days in which to correct any deficiencies discovered in the inspections. If the deficiency poses a serious threat to the health and safety of the tenant, the deficiency must be corrected within 72 hours.

Section 380.618 was amended to reflect that the agency shall have a right to recapture all or a part of the rental assistance for the project if the developer is unable to correct any material violations of the regulatory agreement within a reasonable period of time. The remaining changes to this rulemaking were nonmaterial / nonsubstantive changes.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The rules are established to implement the program requirements under the Rental Housing Support Program Act. The purpose of these rules is to create uniform procedures in order to operate the program.
- 16) Information and questions regarding this rulemaking shall be directed to:  
  
Richard B. Muller  
Illinois Housing Development Authority                      312/836-5327  
401 N. Michigan Ave., Ste. 700  
Chicago, IL 60611
- 17) Does this rulemaking require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

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NOTICE OF ADOPTED RULES

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 380  
RENTAL HOUSING SUPPORT PROGRAM

SUBPART A: GENERAL RULES

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- 380.104 Compliance with Federal and State Law
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- 380.201 Distribution of Appropriation Funds
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SUBPART C: GENERAL REQUIREMENTS

- 380.301 Tenant Eligibility; Required Percentage of Severely Low-Income Tenants
- 380.302 Outreach Requirements
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- 380.309 Appeals
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SUBPART D: ALLOCATIONS TO LOCAL ADMINISTERING AGENCIES

- 380.401 Request for Proposals
- 380.402 Eligibility
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- 380.405 Qualification Requirements
- 380.406 Administration of Allocations
- 380.407 Inspection Requirements
- 380.408 Selection of Landlords
- 380.409 Contracts with Landlords
- 380.410 Reporting Requirements
- 380.411 Reconciliations
- 380.412 Funding of Allocations
- 380.413 Renewal of Commitments
- 380.414 Leases
- 380.415 Requirements for LAAs Designated by Municipalities
- 380.416 Reporting Requirements for Municipalities

SUBPART E: LANDLORD RESPONSIBILITIES

- 380.501 Income Eligibility and Verification
- 380.502 Record Submission and Retention
- 380.503 Lead-Based Paint
- 380.504 Housing Quality Standards
- 380.505 Compliance with State and Local Law
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SUBPART F: LONG-TERM OPERATING SUPPORT (LTOS)  
PROGRAM REQUIREMENTS

- 380.601 Allocations
- 380.602 Allocations Only for New Units
- 380.603 Application Procedures



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380.604	Developer Qualifications
380.605	Application Requirements
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380.607	Waiver
380.608	Commitments
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380.611	Leases
380.612	Evictions
380.613	Housing Quality Standards
380.614	Lead-Based Paint
380.615	Reconciliations
380.616	Reporting Requirements
380.617	Agency Monitoring
380.618	Continuing Eligibility Requirements

AUTHORITY: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and the Rental Housing Support Program Act [310 ILCS 105].

SOURCE: Adopted at 30 Ill. Reg. 17772, effective October 30, 2006.

## SUBPART A: GENERAL RULES

**Section 380.101 Authority**

The Illinois Housing Development Authority (Authority) is the designated administrator for the Rental Housing Support Program (RHS Program) in Illinois, which was established by the Rental Housing Support Program Act (RHS Program Act) [310 ILCS 105], effective July 5, 2005. This Part is authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 10 of the RHS Program Act.

**Section 380.102 Purpose and Objectives**

The purpose of the RHS Program is to help localities address the need for decent, affordable, permanent rental housing. Under the RHS Program, the Agency shall make grants to Local Administering Agencies to provide subsidies to Landlords that will make housing units affordable to Extremely Low- and Severely Low-Income Households and to Developers to provide long-term operating support for Projects that will make housing units affordable to Extremely Low- and Severely Low-Income Households.

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**Section 380.103 Definitions**

The following terms used in this Part shall have the following definitions:

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

"Agency": The Illinois Housing Development Authority or a Municipality.

"Allocation": An award of funds from the RHS Program to an LAA or a Developer.

"Annual Adjustment Factor": The figure published monthly by HUD to determine rent increases for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Annual Income": All amounts, monetary or not, received or anticipated to be received, from a source outside the Household, by or on behalf of the head, spouse or co-head of the Household, or any other Household member over the age of 18, during the 12-month period following admission or the date of the most recent recertification of the Household income. Annual Income includes income from the family's assets. The determination of Annual Incomes shall be made as provided in the HUD regulations governing Section 8 of the United States Housing Act of 1937 (42 USC 1437), 24 CFR 5.609(b) and (c) (2006), provided that imputed income from the Household's assets shall not be included. Examples and instructions for application of these requirements shall be included in the applicable Agency's Program.

"Applicant": An entity or an individual (as a Developer) making an Application for an Allocation.

"Application": The Application form and attachments that an Applicant must submit when applying for an Allocation under the RHS Program.

"Appropriation": The annual Appropriation of funds to the Illinois Department of Revenue for the Authority by the Illinois General Assembly for the RHS Program.

"Authority": The Illinois Housing Development Authority.

"Commitment": A contract executed by an Agency and an LAA or a Developer under which the Agency agrees to provide an Allocation. Each Commitment

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shall contain a provision to the effect that the Agency shall not be obligated to provide funds under the Commitment if the Agency has not received adequate funds from an Appropriation or a Fund Distribution, as applicable.

"Developer": The owner of a Project that has applied for or has been approved for an Allocation under the LTOS Program.

"Extremely Low-Income Household": A Household whose Annual Income is less than or equal to 30% of the Median Income.

"Fiscal Year": The Fiscal Year of the State.

"Fund Distribution": A distribution of funds from the Appropriation for a Fiscal Year to a Geographic Area.

"Geographic Areas": The City of Chicago, Suburban Areas, Small Metropolitan Areas, and Rural Areas.

"Household": A single person, family or unrelated persons living together.

"Housing Quality Standards": Inspection standards for units, which shall be set forth in the Program Guide or the Municipality Program Guide, as applicable.

"HUD": The U.S. Department of Housing and Urban Development.

"Income Range": A range of incomes published annually by the Authority that is used to determine the Tenant Contribution for Tenants.

"Landlord": An owner of one or more Units receiving or approved to receive Rental Assistance through an LAA. An LAA or subsidiary of an LAA may be a Landlord; provided, however, that the LAA must disclose its intention to be a Landlord, or appoint a subsidiary to be a Landlord, in its Application.

"LAA": A local administering agency that receives an Allocation to provide Rental Assistance.

"LTOS Program": The long-term operating support program established under the RHS Program, to be used exclusively to provide long-term operating support to Developers of Projects that provide Units newly affordable to Extremely Low-Income Households and Severely Low-Income Households.

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"Maximum Rent": The maximum rent for a Unit, which shall be the greater of the Maximum Rent established under the federal Low Income Housing Tax Credit Program for a Unit rented by a Tenant with an Annual Income less than or equal to 60% of the Median Income and 120% of HUD's fair market rent for the area in which the Unit is located.

"Median Income": The Median Income of the area in which the Unit is located, adjusted for family size, as such adjusted income and Median Income for the area are determined from time to time by HUD for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Members": The members of the Authority.

"Municipality": A municipality with a population greater than 2,000,000.

"Municipality Program Guide": The guidelines published by a Municipality for Allocations made by the Municipality. Each Municipality Program Guide shall contain the provisions specifically required by Section 380.415 of this Part.

"Plan for Services": The plan through which each prospective LAA will provide information to Tenants on how to gain access to education, training, and other supportive services and that sets forth the procedures for identifying and referring prospective Tenants to Landlords. LAAs designated by a Municipality shall prepare a Plan for Services, and if a Municipality does not designate an LAA, the Municipality shall prepare a Plan for Services.

"Program Guide": The guidelines published by the Authority explaining the RHS Program and providing additional information about various RHS Program requirements.

"Project": A building or group of buildings that are financed under a common plan of financing.

"Receipts": Funds collected by the Illinois Department of Revenue for the RHS Program.

"Reconciliation": The determination of the difference between the amount of Rental Assistance payments made to Landlords or Developers and the amount of

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Rental Assistance payments the Landlords or the Developers were entitled to receive.

"Rental Assistance": The amount paid to a Landlord or a Developer as a subsidy for a Unit approved for assistance under the RHS Program.

"Rental Assistance Rider": The rider to be attached to each Tenant's lease that describes the RHS Program, requires the Tenant to provide a certification of its Annual Income, notifies the Tenant that the Tenant must report changes in its Annual Income to the Landlord or Developer, as applicable, on each occasion that the Tenant's lease is to be renewed, informs the Tenant that increases in Annual Income may result in an increase in the Tenant Contribution and sets forth the amount of the Tenant Contribution. The Rental Assistance Rider shall be included in the Program Guide or the Municipality's Program Guide, as applicable.

"Reserve Fund": The fund established either by the Authority or by a Municipality directly or through its LAA to provide a source of funds in the event that an annual Appropriation is not sufficient to provide adequate funding for existing Commitments.

"RFP": A request for proposals by an Agency soliciting Applications from LAAs or Developers.

"RHS Program Act": The Rental Housing Support Program Act [310 ILCS 105].

"RHS Program": The Rental Housing Support Program authorized by the RHS Program Act.

"Rural Area": All areas of the State not specifically included in any other Geographic Area.

"Service Area": The geographic boundaries of the area to be served by an LAA.

"Severely Low-Income Household": A Household whose Annual Income is less than or equal to 15% of the Median Income.

"Small Metropolitan Areas": The Geographic Area that includes the municipalities of Bloomington-Normal, Champaign-Urbana, Decatur, DeKalb,

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Moline, Pekin, Peoria, Rantoul, Rockford, Rock Island and Springfield, and the counties of Madison and St. Clair.

"Special Needs Households": Households that are homeless or imminently at risk of becoming homeless; that are, or imminently at risk of, living in institutional settings because of the unavailability of suitable housing; or that have one or more members with disabilities, including but not limited to physical disabilities, developmental disabilities, mental illness or HIV/AIDS.

"Suburban Areas": The Geographic Area that includes the counties of Cook (excluding Chicago), DuPage, Kane, Lake, McHenry, and Will.

"State": The State of Illinois.

"State Median Income": The State Median Income published by the U.S. Census Bureau in the most current decennial census.

"Tenant": A Household occupying a Unit.

"Tenant Bill of Rights": Information LAAs and Developers are required to provide to Tenants concerning how to contact the LAA; local Landlord-Tenant laws and procedures; the housing rights of persons with disabilities; how to contact the local agency or agencies administering local Landlord-Tenant laws and procedures or protecting or promoting such housing rights of persons with disabilities; eligibility requirements for participating in the RHS Program; and the rights and responsibilities of prospective Tenants prior to occupancy of a Unit.

"Tenant Contribution": The portion of the monthly rent for a Unit to be paid by the Tenant, which shall be approximately one twelfth of 30% of the Median Income for the Income Range in which the Tenant's Annual Income falls, adjusted for Unit size.

"Tenant Income Certification": The form prescribed by the Authority and to be used by Landlords and Developers in determining and reporting a Tenant's Annual Income to an LAA or an Agency, as applicable.

"Tenant Selection Plan": The written plan prepared by a Landlord or a Developer and approved by the LAA or an Agency, as applicable, that governs the selection of Tenants for a Unit or an efficiency apartment, a single room occupancy Unit or a one bedroom or larger Project.

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"Transitional Contribution": The Tenant Contribution for Tenants whose income has exceeded the income limit for Extremely Low-Income Households.

"Unit": A rental housing Unit receiving Rental Assistance through an Allocation. A Unit may be a single family dwelling or a Unit in a multifamily dwelling. Housing Units intended as transitional or temporary housing do not qualify as Units.

**Section 380.104 Compliance with Federal and State Law**

Notwithstanding anything in this Part to the contrary, this Part shall be construed in conformity and compliance with applicable federal and State law.

**Section 380.105 Forms and Procedures for the Program**

The Authority may prepare, use, supplement, and amend such forms, agreements, and other documents and such procedures as may be necessary to implement the RHS Program. Except as otherwise permitted in this Part or by the Authority in writing, all Agencies must use the forms prepared by the Authority.

**Section 380.106 Application Fee**

An Agency may charge an Application fee not to exceed \$500 in connection with its Application, as set forth in the Program Guide or Municipal Program Guide, as applicable.

**Section 380.107 Program Operating Fees**

Allocations to LAAs, including any LAA designated by a Municipality, shall include an amount to be paid to the LAA for the LAA's operating expenses in connection with the administration of the Allocation, including, but not limited to, the staff salaries and benefits of LAA employees for time spent performing duties associated with the Allocation, including Unit inspections; participation in Tenant referrals and determination of Tenant eligibility; negotiation with prospective Landlords regarding participation in the RHS Program; technical assistance; auditing and bookkeeping expenses; the LAA's use of equipment in operating under the RHS Program (such as cars, copiers, paper used in preparing required documentation, etc.); and costs for office space and utilities incurred in operating under the RHS Program. The amount of funds for an LAA's operating expenses shall not exceed 10% of the amount of an Allocation that is less than or equal to \$500,000 and 7% of the annual amount of an Allocation that is greater than \$500,000.

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**Section 380.108 Authority Administrative Expenses**

The Authority shall be entitled to deduct from each Appropriation, prior to any distribution of funds under the RHS Program, an amount not to exceed 7% of the Appropriation for expenses associated with the administration of the RHS Program, including, without limitation, expenses for staff salaries and benefits for time spent on design and administration of the RHS Program; training and marketing expenses incurred in performing outreach activities and providing technical assistance to LAAs; the use of the Authority's equipment for RHS Program purposes; the cost of office space and utilities incurred in connection with the RHS Program; and any other expenses incurred in the administration of the RHS Program; provided, that only administrative expenses specifically related to the RHS Program within a Municipality may be deducted from the annual Appropriation required by law to be distributed to Municipalities. The Authority shall maintain a detailed accounting of all administrative expenses, which shall be available to the applicable Agency, LAAs or the public for review.

**Section 380.109 Amendment**

This Part may be supplemented, amended, or repealed by the Members from time to time and in a manner consistent with the Illinois Administrative Procedures Act [5 ILCS 100], this Part, the Act, the RHS Program Act, and other applicable laws. This Part shall not constitute or create any contractual rights.

**Section 380.110 Severability**

If any clause, sentence, paragraph, subsection, Section, or Subpart of this Part is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section, or Subpart as to which the judgment is rendered.

**Section 380.111 Gender and Number**

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

**Section 380.112 Non-Discrimination**

Landlords, LAAs and Developers shall comply with the applicable provisions of the Illinois Human Rights Act [775 ILCS 5] and the regulations promulgated under that Act, the Fair Housing Act (42 USC 3601), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the Illinois Environmental Barriers Act [410 ILCS 25], the Illinois Accessibility Code (71 Ill. Adm.



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Code 400), and all other applicable State and federal law concerning discrimination and fair housing.

**Section 380.113 Titles and Captions**

Titles and captions of Subparts, Sections, and subsections are used for convenience and reference and are not a part of the text.

## SUBPART B: DISTRIBUTION OF FUNDS

**Section 380.201 Distribution of Appropriation Funds**

The Authority shall distribute funds from annual Appropriations in accordance with the following priorities:

- a) To the Authority for its administrative fee.
- b) To Municipalities.
  - 1) Each Municipality must use at least 10% of its Fund Distribution for an LTOS Program.
  - 2) Each Municipality shall distribute the balance of its Fund Distribution to its Reserve Fund and one or more designated non-profit organizations that meet the requirements for an LAA and that will serve as an LAA for the Municipality.
- c) To fund the Authority's Reserve Fund, as provided in Section 380.205 of this Part.
- d) After distributing the amounts listed in subsections (a), (b) and (c), the Authority shall use at least 10% of the remaining amount of the Appropriation for an LTOS Program, which the Authority shall allocate through a competitive Application process, as described in Subpart F, for Projects to be located outside the Municipalities.
- e) The balance of the Appropriation shall be distributed to Suburban Areas, Small Metropolitan Areas and Rural Areas.

**Section 380.202 Fund Distributions to Geographic Areas**

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- a) The Authority shall make Fund Distributions to Geographic Areas on a proportional basis using data from the most recent decennial census performed by the U.S. Census Bureau. Each Geographic Area's proportionate share shall be the fraction having a numerator equal to the number of all Households in that Geographic Area having an Annual Income less than 50% of the State Median Income (as determined by the U.S. Census Bureau) for a Household of four and paying more than 30% of their Annual Income for rent, and a denominator equal to the number of all Households in the State having an Annual Income less than 50% of the State Median Income for a Household of four and paying more than 30% of their Annual Income for rent.
- b) The proportionate Fund Distributions for the Geographic Areas shall be redetermined when data from a new decennial U.S. Census becomes available. The Authority may use funds in the Reserve Fund to alleviate hardships arising out of reductions in the proportionate amount of Fund Distributions that would otherwise result in reductions in the amount of Rental Assistance for existing Tenants.

**Section 380.203 Long-Term Operating Support (LTOS) Program**

Each Agency shall establish a competitive Application process for providing long-term operating support to Projects providing Units newly available to Extremely Low-Income Households and Severely Low-Income Households within its jurisdiction. Each Agency shall administer the funds for its LTOS Program in a manner consistent with criteria established in Subpart F of this Part, but Municipalities may include additional preferences and requirements set forth in writing in the Municipality's Application form.

**Section 380.204 Rural Area Set-Aside**

The Authority may award up to 20% of the Fund Distribution for Rural Areas to a single LAA, to be used for Rental Assistance within a designated portion of the Rural Area within which localities desire to support a number of Units too small to justify the establishment of a Rental Assistance program for such localities, as determined by the LAA and approved by the Authority. With the approval of the Authority, the designated LAA under the Rural Area set-aside may subcontract administrative tasks, such as inspection of Units, to local agencies.

**Section 380.205 Reserve Fund**

- a) Each Agency shall establish a Reserve Fund in an interest-bearing account from each Appropriation or Fund Distribution, as applicable, to offset decreases

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in funding caused by periodic fluctuation in annual Appropriations, to maintain continuity in funding when Commitments expire, and to phase out Rental Assistance lost by a shift in any Geographic Area's proportionate Fund Distribution as a result of a new decennial census. Municipalities may delegate the responsibility to establish a Reserve Fund to their designated LAAs.

- b) The amount to fund the Reserve Fund for the Authority shall be a maximum of 5% of the amount of each annual Appropriation after subtracting the Authority's operating fee and the Fund Distributions to Municipalities. The amount of each Municipality's Reserve Fund shall be a maximum of 5% of the Municipality's Fund Distribution. Each Reserve Fund shall also include income derived from investing funds in the Reserve Fund and funds received from LAAs that did not use the entire amount of their Allocations.

## SUBPART C: GENERAL REQUIREMENTS

**Section 380.301 Tenant Eligibility; Required Percentage of Severely Low-Income Tenants**

Eligible Tenants shall be either Extremely Low-Income Households or Severely Low-Income Households; provided, however, that a Household that is already receiving or will receive Rental Assistance under a federal program shall not be eligible to be a Tenant. At least 50% of the Units for which an LAA or a Developer receives Rental Assistance shall be reserved for Severely Low-Income Households unless the LAA or the Developer is able to demonstrate that there are an insufficient number of Severely Low-Income Households currently residing in the Service Area defined in the Application or the area in which the Project is located, as applicable, who are qualified to become Tenants. The LAA or the Developer must show that it has made extensive, but unsuccessful outreach efforts, including contacting non-profit corporations serving the homeless, disabled, and senior citizens in the Service Area or the area in which the Project is located; contacting public housing authorities with jurisdiction in the Service Area or the area in which the Project is located; and otherwise publicizing the availability of these Units at appropriate locations within and surrounding the Service Area or the area in which the Project is located, such as through advertising in local newspapers, or meetings with community groups. The Applicant must submit this evidence to the Agency with its Application.

**Section 380.302 Outreach Requirements**

The LAA or the Developer must document that it has made extensive efforts to publicize the availability of Units under the RHS Program, including contacting non-profit corporations serving the homeless, the disabled and senior citizens in the Service Area or the area in which the Project is located; public housing authorities with jurisdiction in the Service Area or the area in

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which the Project is located; and otherwise publicizing the availability of these Units at appropriate locations within and surrounding the Service Area or the area in which the Project is located, such as by advertising in local newspapers, or through meetings with community groups. The Applicant must submit this evidence to the Agency with its Application and with the report required under Section 380.410 of this Part.

**Section 380.303 Income Certifications**

Each prospective Tenant must provide an Income Certification to the Landlord when applying to occupy a Unit and each time thereafter that the Tenant applies to renew the lease for the Unit.

**Section 380.304 Training Programs**

For any year in which funding is available from the Authority for Allocations to new LAAs, the Authority shall provide training programs in areas of the State convenient to potential Applicants. The training shall include a program overview, a description of the requirements for both an LAA and a Developer, a thorough review of the Program Guide and, if applicable, the RFP process. The Authority shall provide reasonable notice of all training programs on its website and by any other means the Authority deems appropriate.

**Section 380.305 Tenant Rent Contribution**

The LAA or Developer must establish for each Unit the amount of the Tenant Contribution. Each Tenant's Tenant Contribution shall be a fixed amount and must be based on the size of the Unit and the Tenant's Income Range. The Authority shall determine Income Ranges and Tenant Contribution schedules annually. A Tenant's Tenant Contribution may increase when the Tenant's lease is renewed if the Tenant's Annual Income increases or the annual Income Ranges or Tenant Contribution schedules change.

**Section 380.306 Amount of Rental Assistance, Rent, and Maximum Rent**

- a) The amount of the Rental Assistance for each Unit shall be the difference between the amount of the rent for the Unit and the Tenant Contribution. The amount of Rental Assistance for the Unit shall be established by the LAA and the Landlord, or the Agency and the Developer, as applicable.
- b) Rents for a Unit must be comparable to those of similar size and condition in the market area in which the Unit is located with similar amenities. These comparable rents must be consistent with rent levels provided in the Application.

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- c) Rents shall not exceed Maximum Rents established for the area, as determined annually by the Authority, unless the rents throughout the local community are at such levels that, if the Maximum Rent is used, it is highly unlikely that there will be Units available for inclusion in the RHS Program. If an LAA requests an increase in rents to a level greater than the Maximum Rent, the LAA must document these circumstances to the satisfaction of the applicable Agency before the Agency will approve the request.

**Section 380.307 Rent Increases**

Upon request from an LAA or a Developer, Agencies may allow an annual increase in the rent for Units, not to exceed the existing rent multiplied by the most recent Annual Adjustment Factor, except as otherwise permitted by Section 380.306(c). Rent increases shall be subject to the availability of funds in an Appropriation. In making this determination, the Agency shall review comparable rents in the market area, operating expenses of the building in which the Unit is located and any other information the Agency deems relevant. Any rent increase shall not increase the Tenant Contribution. If approved, rent increases shall take effect either at the time the lease for the Unit is renewed or, if a lease is not renewed, in the first month Rental Assistance is subsequently provided for a new Tenant for the Unit.

**Section 380.308 Over-Income Tenants**

Landlords must recertify the Annual Income of each Tenant prior to the renewal of the Tenant's lease. If the Annual Income of a Tenant exceeds the Extremely Low-Income Household limit as a result of an increase in the Tenant's Annual Income, Rental Assistance shall be terminated no later than 12 months after the date of expiration of the Tenant's lease in effect when the Tenant's Annual Income exceeds the Extremely Low-Income Household limit. The Transitional Contribution during this period shall be the Tenant's Tenant Contribution prior to such increase, plus one-half of the difference between the Tenant Contribution and the current rent for the Unit.

**Section 380.309 Appeals**

- a) All disputes between Landlord and Tenant or prospective Tenant concerning Annual Income or other eligibility requirements shall be initially resolved by the LAA providing Rental Assistance to the Landlord.
- b) If the LAA is unable to resolve the dispute, any of the parties involved may take an appeal to the applicable Agency. In the event of an appeal, all parties shall submit a written statement of their position and all relevant documentation to the

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applicable Agency; the Agency shall make a final decision based on the documentation submitted.

**Section 380.310 Rental Preferences for Tenants with Special Needs**

An LAA or a Developer may include in its Application a pledge to use its best efforts to make up to 30% of the Units under its Allocation available to Special Needs Households. Notwithstanding the fact that an LAA or a Developer has included such a pledge in its Application, LAAs must require Landlords to rent, and Developers must rent, available Units to the first eligible Tenant, regardless of whether the prospective Tenant is a Special Needs Household. An LAA, a Landlord or a Developer shall not require a Tenant to have a diagnosis of a particular illness or the presence of a specific disability as a condition of eligibility for a Unit unless such diagnosis or disability is required by another funding source for the Unit or the Project.

**Section 380.311 Tenant Bill of Rights**

Each LAA must provide each Landlord that is to receive Rental Assistance payments with a Tenant Bill of Rights, and shall require each Landlord to provide each Tenant with the Tenant Bill of Rights. Each Developer must provide all Tenants in its Project with a Tenant Bill of Rights.

**Section 380.312 Tenant Selection Plan**

Landlords and Developers must submit to the funding LAA or Agency, as applicable, a Tenant Selection Plan acceptable to the LAA or Agency. All Tenant Selection Plans shall be made available to the general public for inspection.

## SUBPART D: ALLOCATIONS TO LOCAL ADMINISTERING AGENCIES

**Section 380.401 Request for Proposals**

From time to time the Authority shall issue an RFP for Applications from prospective LAAs. The RFP shall include a copy of the Program Guide and an Application form. The period for submitting a response to the initial RFP shall be at least nine months. For each subsequent RFP, the Authority shall allow a minimum of three months to submit a response to the RFP. Each Municipality shall designate an LAA that meets the requirements of Section 380.415 of this Part and that adopts a policy statement containing the same requirements for an Application to be an LAA, as set forth in Section 380.403 of this Part; however, Municipalities are not required to

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issue RFPs for selecting an LAA. Municipalities may designate an LAA according to procedures set forth in the Municipality Program Guide.

**Section 380.402 Eligibility**

LAAAs may be local governmental bodies, including Municipalities, counties, and townships in unincorporated areas of the State; local housing authorities organized under the Illinois Housing Authorities Act [310 ILCS 10]; or non-profit organizations registered and in good standing with the Illinois Secretary of State and the Illinois Attorney General.

**Section 380.403 Application Requirements**

Each Application to be an LAA shall include the information required by this Section and, in the case of the Authority, any additional information the Authority may require to promote efficient program administration and quality of performance, provided that those requirements are included in the Authority's RFP and are consistent with this Section.

- a) **Unit Types:** Each Application shall include, but not be limited to, two, three, and four-bedroom Units among those Units proposed for Rental Assistance. Each Applicant shall determine and document the need for and availability of two, three, and four-bedroom Units in its proposed Service Area. The Authority may adjust the number of these larger Units if the information in the Application indicates a greater or lesser need for specific Unit types. All LAAs must make a good faith effort to comply with the final determination of the number of two, three, and four bedroom Units to receive Rental Assistance in the Service Area.
- b) **Maximum Number of Units:** For buildings containing more than six Units, the number of Units proposed to receive Rental Assistance for RHS shall not exceed 30% of the Units in the building.
- c) **Rents:** Each Application shall include a schedule of rents for the proposed Units, the proposed Tenant Contribution and a rent study. The requirements for the rent study shall be included in the Program Guide.
- d) **Required Outreach:** As provided in Section 380.302 of this Part, each Applicant must demonstrate that it has made extensive efforts to establish working relationships with organizations serving populations in need of Rental Assistance, including, without limitation, local non-profit organizations and other entities serving the homeless, disabled, and senior citizens in the Service Area; public housing authorities with jurisdiction in the Service Area; and other organizations

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within the Service Area having experience in working with Extremely Low-Income Households and Severely Low-Income Households.

- e) Each Applicant must include in its Application a plan for selecting Landlords to participate in the RHS Program.
- f) Preference in Making Allocations: Applications that pledge to make efforts to offer up to 30% of the proposed Units to Special Needs Households, including persons now or imminently at risk of being required to live in institutional settings due to unavailability of suitable housing, shall receive the highest priority for an Allocation. Applications seeking this preference shall include executed written agreements with special needs service providers to refer eligible Households and a pledge to create and maintain procedures for referring the Special Needs Households. Applications shall not include a requirement that a Unit must be occupied by a Tenant having a diagnosis of a particular illness or the presence of a specific disability as a prerequisite for eligibility.
- g) Plan for Services: Each applicant shall provide its Plan for Services, which shall include a plan for advertising and making available information about the RHS Program to Landlords in its Service Area, a plan for providing information to Tenants on how to gain access to education, training, and other supportive services, and procedures for advertising available Units, and for identifying and referring prospective Tenants to Landlords for those Units.
- h) Financial Procedures: Each Application shall describe in detail the procedures for managing and disbursing the funds to be received through the requested Allocation and for making Reconciliations.
- i) Monitoring Landlords: Each LAA shall describe in detail how it proposes to monitor the performance of Landlords, including, at a minimum, the LAA's procedures for conducting physical inspections of Units, how the LAA will monitor the Landlord's procedures for verifying the Annual Income of Tenants and the Landlord's adherence to its Tenant Selection Plan.
- j) Readiness to Proceed: The Authority may give preference to Applicants who demonstrate a readiness to proceed, should they receive an Allocation. Readiness to proceed may be shown by a list of Households that have been pre-qualified to be Tenants, letters of intent from Landlords who own rental Units, or other factors, provided that the other factors are listed in the RFP. Letters of intent should include a certification from the Landlord that he/she is the owner of the



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rental Unit; the address of, the proposed rent for, and the number of bedrooms in, the Unit; a statement as to whether the Unit is accessible to disabled individuals or is adaptable so that it can be made accessible to disabled individuals; a statement that he/she will make the Unit available to eligible Households when funding is made available under the RHS Program; the signature of the owner; an executed acknowledgement by an authorized signatory of the Applicant; and other information as the Authority may require in the RFP.

**Section 380.404 Service Area for Multiple Geographic Areas**

If an Applicant designates a Service Area that includes areas in more than one Geographic Area, the Applicant must submit a separate Application for that portion of the proposed Service Area in each Geographic Area; provided, however, that for such Applications, if the Authority charges an Application Fee, the Authority may charge only one Application fee.

**Section 380.405 Qualification Requirements**

- a) Applicants to be an LAA must be financially viable, as determined through the Agency's review of the Applicant's audited financial statements for the two most recent years. If the Applicant is an entity formed as a non-profit corporation wholly-owned or controlled by another entity solely for the purpose of applying for and administering Rental Assistance programs, audited financial statements of the parent company shall be submitted to satisfy this requirement.
- b) Applicants must demonstrate that they have the experience and knowledge necessary to administer an Allocation by documenting: their experience in verifying Tenant income eligibility and other aspects of administering Rental Assistance programs; their existing relationships with local Landlords; their capability to evaluate properties to determine whether the properties satisfy Housing Quality Standards; their ability to monitor procedures of Landlords in satisfying RHS Program requirements; their experience and performance in administering grants or other funds from outside sources; the extent and nature of their established relationships with service providers serving the homeless, disabled, or senior citizens in the Applicant's proposed Service Area; and any other factors established by the Authority and published in the RFP.
- c) Applicants may form partnerships with more experienced entities in order to satisfy the requirements of this Section. In such a case, all partners shall execute, and will be jointly responsible for compliance with, the terms of the Commitment.

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- d) This Section shall not apply to Municipalities.

**Section 380.406 Administration of Allocations**

- a) **Commitment:** Each LAA shall enter into a Commitment with the Agency that is providing its Allocation; the Allocation may be less than the amount requested in the Application. The term of Commitments may be one, two or three years, subject to the availability of funds from an Appropriation or a Fund Distribution, and may be renewed.
- b) **Record Retention:** Each LAA shall maintain records in connection with all Units receiving Rental Assistance under the LAA's Commitment for five years after the date of termination of the Commitment.
- c) **Agency Monitoring:** Each Agency shall have the right to monitor all records of LAAs relating to the administration of the Allocation granted by the Agency. Each Agency may perform its own physical inspection of Units in addition to the physical inspections that the LAA is required to perform. Each LAA shall make all records relating to its Commitment available for inspection by the funding Agency upon the Agency's request. The required documentation may include a copy of the LAA's response to the RFP, if applicable; all physical inspection records; occupancy records for all Units; a description of all outreach efforts made by the LAA; records of payments or Rental Assistance to Landlords and Reconciliation payments made to the Agency; copies of contracts with Landlords, the Agency and, where applicable, sub-contractors; documentation of the LAA's administrative expenses; and any other documentation required by the Agency.
- d) **Tenant Income Certifications:** Each LAA shall obtain, maintain, and forward to the Agency annual Tenant Income Certifications for all Tenants benefiting from Rental Assistance from the LAA.
- e) **Landlord Procedures:** Each LAA shall be responsible for monitoring the Landlord's compliance with its Tenant Selection Plan and the Landlord's performance in certifying and recertifying Tenants' Annual Income, including verification of all family income and assets, family characteristics and other factors that may affect a Tenant's eligibility or level of assistance.

**Section 380.407 Inspection Requirements**

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Before releasing Rental Assistance funds for a Unit, the LAA or its agent shall inspect the Unit and the common areas and grounds of the building in which the Unit is located, and shall certify that the Unit and the common areas and grounds of the building comply with Housing Quality Standards. LAAs shall also make inspections of all Units, together with the common areas and grounds of the Unit's building, at least bi-annually. In other years, LAAs shall inspect a sampling of Units to visually observe the physical condition of the Units, including appliances, doors, locks, and smoke detectors and other health and safety items. In other years, if a Landlord receives Rental Assistance for fewer than three Units, the LAA shall perform a visual inspection of all Units; but if a Landlord is receiving Rental Assistance for three or more Units, the LAA may inspect a sample of these Units in each building in which the Units are located, but no fewer than three Units in each building. An Agency may decide to conduct inspections of Units itself, in the manner set forth in this Section. If an LAA or an Agency determines that one or more Units do not satisfy the Housing Quality Standards, it shall give the Landlord of the Unit or Units a period not to exceed 30 days in which to correct the deficiencies discovered in the inspection; provided, however, that if the deficiency is in an occupied Unit and poses a serious threat to the health and safety of the Tenant, the deficiency must be corrected within 72 hours. If the deficiency is not corrected within such 72 hour period, the LAA shall use its best efforts to find a replacement Unit for the Tenant.

**Section 380.408 Selection of Landlords**

- a) An LAA shall select Landlords to participate in the RHS Program in accordance with its plan for selecting Landlords.
- b) An LAA may select as a Landlord a fully- or partially-owned subsidiary of the LAA only if it provides for an independent third party acceptable to the Authority to perform the inspection of Units required under Section 380.407 of this Part, at its own cost. If the LAA acts as a Landlord, it must supply to the Authority the certifications required in Sections 380.502, 380.503 and 380.506.

**Section 380.409 Contracts with Landlords**

LAAs shall enter into a payment contract with each Landlord for all Units for which the Landlord wants to receive Rental Housing Assistance. The contract shall provide that the LAA will make quarterly Rental Assistance payments to Landlords in advance. The contract shall identify the Landlord and LAA; have a term not less than one year and not greater than three years; identify the Units to receive Rental Assistance by address and Unit type; set forth the rent to be charged for each Unit, which shall not be greater than the Maximum Rent unless otherwise approved by the Authority pursuant to Section 380.306(c); and require that the Landlord abide by the requirements of the RHS Program. The contract shall also provide that the Landlord is

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responsible for determining the family size and Annual Income of each Tenant and reporting this information to the LAA, but that the LAA shall assist the Landlord in determining the Annual Income of each prospective Tenant; and that the Landlord shall not reveal any information in connection with the prospective Tenant's Annual Income except to the LAA, the applicable Agency or as otherwise required by law.

**Section 380.410 Reporting Requirements**

Each LAA shall provide reports to its funding Agency, on forms provided by the Agency, at the end of each quarter of the term of its Commitment. The report shall identify each Unit that is receiving Rental Assistance and shall state the amount of Rental Assistance received from the Agency for each Unit; the amount paid to each Landlord for Rental Assistance, including any adjustments made in accordance with Section 380.411 of this Part; the Tenant Contribution for each Unit; any vacancies, including the full rent of each vacant Unit; a statement of the extent to which the LAA was successful in meeting the preference goals set forth in the LAA's Application; and other information as the Agency may require. The LAA shall provide all new and updated Tenant Income Certifications along with its report.

**Section 380.411 Reconciliations**

Each LAA shall perform a Reconciliation every six months during the term of its Commitment and, if the Reconciliation indicates that the LAA has received funds in excess of the amount required for Rental Assistance payments, the LAA shall return all excess funds to its funding Agency; provided, however, that an LAA created by a Municipality must use the excess funds to provide Rental Assistance for additional Units. The funding Agency may reduce the amount of subsequent quarterly payments to the LAA under the Commitment to offset Reconciliation amounts owing to, but not forwarded to, the Agency.

**Section 380.412 Funding of Allocations**

During the term of each Commitment with an LAA, the Agencies shall provide funds to LAAs in quarterly installments. An Agency shall increase the amount of an LAA's Allocation if the Agency has approved an annual rent increase for occupied Units, provided that the rent for each Unit, including the Rental Assistance, does not exceed the Maximum Rent for each Unit and funding is available from an Appropriation.

**Section 380.413 Renewal of Commitments**

- a) LAAs may apply for a renewal of their Commitments, which shall be granted at the discretion of the applicable Agency, subject to the restrictions set forth in this

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Section. Agencies shall review the performance of each LAA at the end of the LAA's Commitment term. Agencies shall only renew the Commitments of those LAAs that have satisfactorily performed their obligations under their Commitments, as determined by the Agency. The performance review shall include, without limitation, the LAA's compliance with requirements for Tenant eligibility, Tenant Contribution, and rent charged for the Units; the number of two, three, and four bedroom Units included among the Units receiving Rental Assistance; the adequacy, frequency, and sufficiency of inspections of Units; the proper and timely submission of quarterly reports and Reconciliations; the LAA's compliance with its service plan and its outreach plan, including outreach activities conducted by the LAA within and around the LAA's Service Area; the LAA's compliance with its selection plan for Landlords; the implementation of the LAA's pledge to offer Rental Assistance for Units for Special Needs Households, if applicable; the LAA's responsiveness in addressing concerns about the LAA's performance under its Commitment; and proper documentation of the LAA's operating expenses and other program requirements.

- b) If an LAA does not wish to renew its Commitment or the Agency does not renew the Commitment of an LAA, the Agency shall seek another LAA to provide Rental Assistance for Units receiving Rental Assistance under the unrenewed Commitment. The Agency may offer a temporary Commitment to an LAA working in the same Service Area, and if the substitute LAA's performance is satisfactory, may extend the temporary Commitment for a period not to exceed three years. If the Agency is unable to find a replacement LAA, the Agency shall give 90 days notice to the Tenants and Landlords of its intention to terminate Rental Assistance for the Units, and shall reallocate the Rental Assistance funds for these Units.
- c) In the event an Agency does not renew an LAA Commitment due to poor performance, the Agency shall inform the LAA in writing of the reasons for the non-renewal. The written notification of non-renewal shall also indicate that the LAA will have 30 days to submit a written appeal to the Agency. The LAA's appeal shall be addressed to the Agency General Counsel and shall include a written statement of the LAA's position, including, without limitation, responses to any allegations of poor performance, along with all relevant supporting documentation. The Agency will review and make a final decision as to the renewal of the Commitment within 30 days after receiving the written appeal. Commitments not renewed due to lack of funding are not subject to appeal.

**Section 380.414 Leases**

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Landlords shall enter into a written lease with each Tenant that shall have a term of no less than 12 months and that shall contain a Rental Assistance Rider. The LAA shall review each lease and certify to the applicable Agency that the leases do not violate any provision of State or local law or this Part. The lease shall indicate which party is responsible for paying the utilities. Landlords shall provide each Tenant and the LAA with a copy of the lease.

**Section 380.415 Requirements for LAAs Designated by Municipalities**

LAAs designated by Municipalities must comply with Sections 380.301, 380.303, 380.305, 380.306, 380.307, 380.308, 380.309, 380.310, 380.311, 380.401, 380.406, 380.407, 380.408, 380.409, 380.410 and 380.414 and Subpart F of this Part and the RHS Program Act.

**Section 380.416 Reporting Requirements for Municipalities**

Within 120 days after the close of each Fiscal Year, each Municipality shall provide a report to the Authority documenting the use of funds from its Fund Disbursement. The report shall include a list of all Units receiving the benefits of Rental Housing Assistance, the addresses of the Units, the number of bedrooms in each Unit, the income level of the Tenants in each Unit, the outreach efforts made by the Municipality or its designated LAA in connection with Special Needs Households, the compliance of the Municipality or its designated LAA in connection with Special Needs Households, the compliance of the Municipality or its designated LAA with the Plan for Services of the Municipality of its designated LAA and such other information as the Authority may require to ascertain the effectiveness of the operation of the RHS Program.

## SUBPART E: LANDLORD RESPONSIBILITIES

**Section 380.501 Income Eligibility and Verification**

Landlords shall verify the Annual Income of each prospective Tenant prior to occupancy of a Unit and thereafter prior to lease renewal, using the Tenant Income Certification form prescribed by the Agency. Landlords shall verify all Household income and assets, following the rules and requirements provided by the Authority, as set forth in this Part.

**Section 380.502 Record Submission and Retention**

Landlords shall maintain monthly records of the Tenant Contribution and Rental Assistance payments received for each Unit, including Unit vacancies, for the term of the lease plus three years from the date of termination of the lease. Landlords shall submit copies of these records to

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the LAA at least quarterly, unless the contract between the Landlord and the LAA requires more frequent submittals.

**Section 380.503 Lead-Based Paint**

All Units eligible for Rental Assistance payments must be free of lead-based paint hazards. For Units in buildings constructed prior to January 1, 1978, Landlords must certify to the LAA and the Agency that they have visually inspected the Unit for lead-based paint hazards and, if such hazards have been found, have performed remediation, abatement, or encapsulation, in conformance with federal and State law. For buildings constructed on or after January 1, 1978, Landlords shall certify, using the form prescribed by the Agency to the LAA, that the buildings or Units contain no lead-based paint.

**Section 380.504 Housing Quality Standards**

Landlords must maintain each Unit in compliance with the Housing Quality Standards.

**Section 380.505 Compliance with State and Local Law**

The Landlord must certify to the LAA, in the form provided by the Agency, that the lease for each Unit receiving Rental Assistance does not violate State and local law or this Part.

**Section 380.506 Eviction**

Landlords shall have the right to evict Tenants from Units for good cause, as permitted under State and local law.

**Section 380.507 Reconciliations**

Landlords shall make Reconciliations to their funding LAAs at least every six months.

SUBPART F: LONG-TERM OPERATING SUPPORT (LTOS)  
PROGRAM REQUIREMENTS**Section 380.601 Allocations**

Agencies shall reserve at least 10% of each year's Appropriation or Fund Distribution, as applicable, for LTOS Allocations. Agencies are not required to spend those funds in the year reserved, but may combine these funds with the reserved amounts from past or subsequent years; provided, however, that such funds must be used within three years after their Appropriation or

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Fund Distribution. A Municipality may delegate its responsibilities under Subpart F to establish and administer an LTOS Program to its designated LAA.

**Section 380.602 Allocations Only for New Units**

Grants under an LTOS Program will only be available for Projects involving housing Units newly created for Extremely Low-Income Households or Severely Low-Income Households.

**Section 380.603 Application Procedures**

- a) From time to time, Agencies shall accept Applications from prospective Developers for funding under the LTOS Program in a manner described in the Program Guide or the Municipality Program Guide, as applicable.
- b) The Authority shall prescribe forms and consider Applications for funding under the LTOS Program for Units to be located outside the Municipalities. Municipalities shall prescribe forms and consider Applications for funding under the LTOS Program for Units to be located within the Municipalities. All Applications must satisfy the applicable requirements of this Part.

**Section 380.604 Developer Qualifications**

To be eligible to receive funding under an LTOS Program, a Developer must be financially viable, as determined by the applicable Agency at the time of its Application. In making this determination, the applicable Agency shall review, among other things, the Developer's audited financial statements for the most recent year or, if it does not have an audited financial statement, its federal income tax return for the most recent year. Developers must also demonstrate to the satisfaction of the Agency experience in or capacity for the operation and management of affordable housing developments, including housing developments that serve Extremely Low-Income Households and Severely Low-Income Households.

**Section 380.605 Application Requirements**

- a) Applicants shall specify the number of Units for which they are requesting an Allocation. For supportive housing Projects containing more than 16 Units, and for all other Projects containing more than six Units, the number of Units proposed to receive Rental Assistance shall not exceed 30% of the Units in the Project.



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- b) Developers shall specify in their Applications how vacancies in Units will be advertised and shall include in their Application provisions for outreach to local homeless shelters, organizations that work with Special Needs Households, and others interested in affordable housing.

**Section 380.606 Agency Review**

The Agency shall review each complete Application and approve or reject it. The Agency's review of an Application may include, but is not limited to, the following criteria:

- a) the availability of funds under the RHS Program that have been reserved for the LTOS Program;
- b) the increase of the geographic diversity of Projects funded under the LTOS Program;
- c) the level of local government and community support for the proposed Project;
- d) the suitability of the Project site;
- e) cost per Unit of the Project, including soft costs (non-construction costs);
- f) the need for funding for the Project;
- g) the affordability of the Units to Extremely Low-Income Households and Severely Low-Income Households;
- h) the amount of LTOS Program funds requested;
- i) the number of Units to be available for Special Needs Households;
- j) the proposed term of the Allocation, which shall not exceed 30 years from the date of completion, construction or rehabilitation;
- k) the site and market study for the Project; and
- l) the Developer's Plan for Services.

**Section 380.607 Waiver**

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An Agency may waive any LTOS Program requirements only when special circumstances exist under which the Application of those requirements would hinder the purpose of the RHS Program.

**Section 380.608 Commitments**

- a) Upon the approval of a Project under the LTOS Program, the Agency shall enter into a Commitment with the Developer. The term of the Commitment may be for a maximum of 15 years, provided, however, that Agencies may provide long-term financing to Developers for a period not to exceed 30 years. The Commitment shall also be subject to the Agency's annual review of the Developer's performance under the Commitment, and may be revoked in the event of clearly unsatisfactory performance. Except in the case of long-term financing, the Commitment shall contain a provision that continued funding of the Allocation shall be conditioned on receipt of sufficient Appropriations for the RHS Program.
- b) Except in the case of long-term financing, during the term of each Commitment the Agency shall provide regular funding for Units in the Project, but not more frequently than in quarterly installments each year.
- c) Except in the case of long-term financing, the Agency shall provide increased funding if the Agency has approved an annual rent increase for occupied Units in accordance with Section 380.307 of this Part, provided that the rent for each Unit, including the funds for Rental Assistance, does not exceed the Maximum Rent for each Unit, except as provided in Section 308.306(c), and funding is available from an Appropriation.
- d) In the case of long-term financing, the Developer will be required to enter into a regulatory agreement with the applicable Agency pursuant to which, among other requirements, it will agree to rent a set number of Units to Households who meet the income qualifications for the RHS Program.

**Section 380.609 Income Eligibility and Verification**

Developers shall verify the Annual Income of each prospective Tenant prior to occupancy of a Unit and thereafter prior to lease renewal, using the Tenant Income Certification form prescribed by the Agency. Developers shall verify all Household income and assets, as required in this Part and the Program Guide or the Municipality Program Guide, as applicable. Developers shall maintain records in connection with all Units receiving Rental Assistance under their Commitments for five years after the date of termination of the Commitment.

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**Section 380.610 Over-Income Tenants**

Developers must recertify the Annual Income of each Tenant prior to the renewal of the Tenant's lease. If the Annual Income of a Tenant exceeds the Extremely Low-Income Household limit as a result of an increase in the Tenant's Annual Income, Rental Assistance shall be terminated no later than 12 months after the date of expiration of the Tenant's lease in effect when the Tenant's Annual Income exceeds the Extremely Low-Income Household limit. The Transitional Contribution during this period shall be the Tenant's Tenant Contribution prior to such increase plus one half of the difference between the Tenant Contribution and the current rent for the Unit.

**Section 380.611 Leases**

Developers must enter into a written lease with each Tenant having a term of no less than 12 months. The lease shall contain a Rental Assistance Rider. The lease shall indicate which party is responsible for paying the utilities. Developers shall provide each Tenant and the LAA with a copy of the lease.

**Section 380.612 Evictions**

Developers shall have the right to evict Tenants from Units for good cause, as permitted under State and local law.

**Section 380.613 Housing Quality Standards**

- a) Prior to the initial occupancy of a Project, the applicable Agency shall inspect the Project to determine whether the Project satisfies the Housing Quality Standards. If the Project does not satisfy the Housing Quality Standards, the Agency shall not provide an Allocation for the Project until all deficiencies have been removed to the satisfaction of the Agency.
- b) During the period in which the Developer is receiving funding under the LTOS Program or, in the case of long-term financing, during the term of such long-term financing, the Project must continue to meet the Housing Quality Standards. Agencies shall make annual inspections of the Units in each Project, as provided in Section 380.407 of this Part.
- c) If an Agency determines that one or more Units do not satisfy the Housing Quality Standards, it shall give the Developer a period not to exceed 30 days in which to correct the deficiencies discovered in the inspection; provided, however,

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that if the deficiency is in an occupied Unit and poses a serious threat to the health and safety of the Tenant, the deficiency must be corrected within 72 hours.

**Section 380.614 Lead-Based Paint**

All Projects involving rehabilitation must be free of lead-based paint hazards. For all buildings constructed prior to January 1, 1978, Developers shall certify to the Agency that they have visually inspected the building for lead-based paint hazards and, if such hazards have been found, have performed remediation, abatement, or encapsulation, in conformance with federal and State law. For buildings constructed on or after January 1, 1978, Developers shall certify, using the form prescribed by the Agency, that the building contains no lead-based paint.

**Section 380.615 Reconciliations**

Each Developer shall, every six months during the term of its Commitment, perform a Reconciliation and, if the Reconciliation indicates that the Developer has received funds in excess of the amount required for Rental Assistance payments, the Developer shall return all excess funds to its funding Agency. The funding Agency may reduce the amount of subsequent quarterly payments to the Developer under the Commitment to offset Reconciliation amounts owing to, but not forwarded to, the Agency.

**Section 380.616 Reporting Requirements**

Each Developer shall provide reports to its funding Agency, on forms provided by the Agency, at the end of each quarter of the term of its Commitment. The report shall identify each Unit that is receiving Rental Assistance and shall state the amount of Rental Assistance received from the Agency for each Unit; the Tenant Contribution for each Unit; and any vacancies, including the rent of each vacant Unit. The Developer shall provide all new and updated Tenant Income Certifications along with its report.

**Section 380.617 Agency Monitoring**

Each Agency shall have the right to monitor all records of Developers relating to the administration of Allocations granted by the Agency. Developers shall make all records relating to its Commitment available for inspection by the funding Agency upon the Agency's request. The records for review may include, without limitation, a copy of the Developer's response to the RFP, if applicable; all physical inspection records; occupancy records for all Units; a description of all outreach efforts; Reconciliation payments to the Agency; and any other documentation required by the Agency.

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**Section 380.618 Continuing Eligibility Requirements**

If a Developer does not perform in accordance with the provisions of its Commitment with an Agency, as determined upon review by the Agency, the Agency shall not renew the Commitment. In determining whether a Developer has adequately performed under its Commitment, the Agency may review, without limitation, the Developer's compliance with Authority requirements for Tenant eligibility, Tenant Contribution, and rent charged for the Units; the compliance of the Project with the Housing Quality Standards; responsiveness to the Agency, including, without limitation, all reporting requirements; the Developer's compliance with the Project's Tenant Selection Plan; and outreach activities conducted by the Developer within and surrounding the area in which the Project is located, where applicable. In the case of long-term financing, if the Developer does not perform in accordance with the requirements of the regulatory agreement with the Agency required under Section 380.608(d), the Agency shall have the right to recapture all or part of the Rental Assistance for the Project if the Developer is unable to correct any material violations of the regulatory agreement within a reasonable period of time.

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- 1) Heading of the Part: Sewer Discharge Criteria
- 2) Code Citation: 35 Ill. Adm. Code 307
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
307.1001	Amend
307.1005	Amend
307.1006	New Section
307.1101	Amend
307.2003	Amend
307.2400	Amend
307.2410	Amend
307.3001	Amend
307.3002	Amend
307.3121	Amend
307.3404	Amend
307.6503	Amend
307.6505	Amend
307.7401	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3 and 27
- 5) Effective Date of Amendments: October 26, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. Part 307 sets forth the body of the federally derived categorical pretreatment standards. This Part accomplishes this in large part by incorporation of the federal standards by reference. The present amendments update incorporations by reference to include the pretreatment segments of the December 13, 2005 federal amendments:

The incorporation of 40 C.F.R. 420.16 at Section 307.3001; and

The incorporation of 40 C.F.R. 420.26 at Section 307.3002.

The Board has used this opportunity to add incorporations of federal provisions by reference that were previously omitted:

The incorporation of 40 C.F.R. 414.11 by reference at Section 307.2410; and

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The incorporation of 40 C.F.R. 464.02 by reference at Section 307.7401.

The Board has used this opportunity to correct three incorporations by reference:

The incorporation of 40 C.F.R. 421.131 by reference to 40 C.F.R. 421.231 at Section 307.3121;

The incorporation of 40 C.F.R. 424.11 by reference to 40 C.F.R. 424.41 at Section 307.3404; and

The incorporation of 40 C.F.R. 455.46 by reference to 40 C.F.R. 455.47 at Section 307.6503; and

The incorporation of 40 C.F.R. 455.56 by reference to 40 C.F.R. 455.57 at Section 307.6505.

Finally, the amendments further generally update the incorporations of segments of the *Code of Federal Regulations* to the 2005 edition, which is the latest edition available, in all open segments of the rules.

- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted October 19, 2006, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of proposal published in the Illinois Register: August 18, 2006; 30 Ill. Reg. 13645
- 10) Has JCAR issued a statement of objection to this rulemaking? No. Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.
- 11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of October 19, 2006 in docket R06-13 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated August 4, 2006, in docket R06-13. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

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The sole difference is limited to a change in the format of a citation to a federal regulation. The change is intended to have no substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR? Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 18, 2006 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR. The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of October 19, 2006 in docket R06-13, as indicated in item 11 above. See the October 19, 2006 opinion and order in docket R06-13 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The following briefly describes the subjects and issues involved in the docket R06-13 rulemaking of which the amendments to Part 307 are a single segment. Also affected is 35 Ill. Adm. Code 310, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of October 19, 2006, adopting amendments in docket R06-13, which opinion and order is available from the address below.

This proceeding updates the Illinois wastewater pretreatment rules to correspond with amendments adopted by the United States Environmental Protection Agency (USEPA) that appeared in the *Federal Register* during a single update period: July 1, 2005 through December 31, 2005. The R06-13 docket amends rules in Parts 307 and 310. The amendments to the two Parts are inter-related. The following table briefly summarizes the federal actions in the update period:



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**70 Fed. Reg. 59848 (October 13, 2005)**

USEPA adopted requirements for electronic filing of required documents, such as permit applications and reports, under the various federal programs, including federally authorized state programs. The Cross-Media Electronic Reporting Rule (CROMERR) affects, *inter alia*, the wastewater pretreatment regulations.

**70 Fed. Reg. 60134 (October 14, 2005)**

USEPA adopted streamlining amendments to the general wastewater pretreatment requirements. USEPA stated that the amendments were intended to make the wastewater requirements more consistent with those applicable to direct dischargers. USEPA intends that the amendments will decrease the regulatory burden on industrial users without adverse effects on environmental protection and that the amendments will allow a greater focus of oversight resources on industrial users that have the greatest potential to affect POTW operations.

**70 Fed. Reg. 73618 (December 13, 2005)**

USEPA adopted amendments to the effluent guidelines and wastewater pretreatment requirements applicable to sources in the Iron and Steel Manufacturing Point Source category. USEPA stated that the amendments shift the focus from the discharges from an individual outfall to the overall discharges from all outfalls for a single source. USEPA called this the "water bubble" concept. This may require adjustment of a particular pollutant either upward or downward for any single outfall.

Specifically, the amendments to Part 307 implement segments of the federal amendments of December 13, 2005. The amendments incorporate the federal amendments to the rules applicable to the Iron and Steel Manufacturing Point Source category. The amendments further add a provision that renders electronic filings under Part 307 subject to the federal October 13, 2005 CROMERR.

Tables appear in the Board's opinion and order of October 19, 2006 in docket R06-13 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the October 19, 2006 opinion and order in docket R06-13.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to

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this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

- 16) Information and questions regarding these adopted amendments shall be addressed to:  
Please reference consolidated docket R06-13 and direct inquiries to the following person:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago IL 60601

312-814-6924

Request copies of the Board's opinion and order of October 19, 2006 at 312-814-3620.  
Alternatively, you may obtain a copy of the Board's opinion and order from the Internet  
at <http://www.ipcb.state.il.us>.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD

PART 307  
SEWER DISCHARGE CRITERIA

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## 307.APPENDIX A References to Previous Rules (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R70-5, at 1 PCB 426, March 31, 1971; amended in R71-14, at 4 PCB 3, March 7, 1972; amended in R74-3, at 19 PCB 182, October 30, 1975; amended in R74-15, 16, at 31 PCB 405, at 2 Ill. Reg. 44, p. 151, effective November 2, 1978; amended in R76-17, at 31 PCB 713, at 2 Ill. Reg. 45, p. 101, effective November 5, 1978; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1625, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2592, effective January 13, 1988; amended in R88-11 at 12 Ill. Reg. 13094, effective July 29, 1988; amended in R88-18 at 13 Ill. Reg. 1794, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19288, effective November 17, 1989; amended in R88-9 at 14 Ill. Reg. 3100, effective February 20, 1990; amended in R89-12 at 14 Ill. Reg. 7620, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7377, effective April 27, 1992; amended in R93-2 at 17 Ill. Reg. 19483, effective October 29, 1993; amended in R94-10 at 19 Ill. Reg. 9142, effective June 23, 1995; amended in R95-22 at 20 Ill. Reg. 5549, effective April 1, 1996; amended in R97-23 at 21 Ill. Reg. 11930, effective August 12, 1997; amended in R99-4 at 23 Ill. Reg. 4413, effective March 31, 1999; amended in R99-17 at 23 Ill. Reg. 8421, effective July 12, 1999; amended in R00-15 at 24 Ill. Reg. 11640, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1735, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10867, effective August 14, 2001; amended in R03-13 at 27 Ill. Reg. 15095, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3076, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10661, effective July 13, 2004; amended in R05-4/R05-15 at 29 Ill. Reg. 6921, effective April 26, 2005; amended in R06-13 at 30 Ill. Reg. 17811, effective October 26, 2006.

## SUBPART A: GENERAL PROVISIONS

**Section 307.1001 Preamble**

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) This Part places certain restrictions on the types, concentrations, and quantities of contaminants that can be discharged into sewer systems in the State.
  - 1) Subpart B of this Part includes standards for the discharge of contaminants to sewer systems. These apply to dischargers to publicly owned treatment works (POTWs) and to dischargers to other types of treatment works, as specified in each Section.
  - 2) Subparts F through CT of this Part include standards for the discharge of contaminants from certain industrial source categories into POTWs.
- b) The provisions of 35 Ill. Adm. Code 310 specifyspecifies requirements for pretreatment programs for POTWs.
- c) This Part incorporates federal regulations by reference.
  - 1) Such incorporations include no later amendments or editions.
  - 2) Except where the contrary is clearly indicated, the Board intends to set forth all procedural requirements in full in this Part and 35 Ill. Adm. Code 310, and to utilize only the definitions, requirements, or standards from the incorporated material.
  - 3) Except where the contrary is clearly indicated, references to other federal regulations within incorporated material are to be construed as referencing Board regulations derived from the referenced material, rather than the other federal regulation.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

**Section 307.1005 Toxic Pollutants**

- a) The Board incorporates by reference 40 CFR 401.15 (2005)(1986). This incorporation includes no later amendments or editions.
- b) A "toxic pollutant" is one of the materials listed in 40 CFR 401.15 or in table II or III in appendix D to 40 CFR 122, Appendix D, Table II or III, incorporated by reference in 35 Ill. Adm. Code 310.107.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 307.1006 Electronic Reporting**

The filing of any document pursuant to any provision of this Part as an electronic document is subject to 35 Ill. Adm. Code 310.106.

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 403.8(g) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

**Section 307.1101 General and Specific Requirements**

No person may introduce the following types of pollutants into a POTW:

- a) General requirements.
  - 1) Pollutants that pass through the POTW; or
  - 2) Pollutants that interfere with the operation or performance of the POTW.
- b) Specific requirements.
  - 1) Pollutants that create a fire or explosion hazard within the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 60° C (140° F) using the test methods specified in 35 Ill. Adm. Code 721.121;
  - 2) Pollutants that would cause safety hazards to the personnel operating the treatment works;
  - 3) Pollutants that will cause corrosive damage to the POTW;
  - 4) Pollutants that would be injurious in any other way to sewers, treatment works, or structures;
  - 5) Discharges with a pH less than 5.0, unless the POTW is specifically designed to accommodate such discharges;

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- 6) Solid or viscous pollutants in amounts that will cause obstruction to the flow in the POTW resulting in interference;
- 7) Any pollutant, including ~~oxygen-demanding~~ oxygen-demanding pollutants, at a flow rate or concentration that will cause interference with the POTW;
- 8) Heat in amounts that will inhibit biological activity in the POTW and interfere with the POTW;
- 9) Heat in amounts that result in temperatures in the influent to the POTW treatment plant in excess of 40° C (104° F) unless the Agency approves alternate temperature limits in pretreatment plan;
- 10) Pollutants that would cause the effluent from the treatment works to violate applicable effluent standards;
- 11) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
- 12) Pollutants that result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; or
- 13) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

BOARD NOTE: Derived from 40 CFR 403.3 and 403.5 (2005)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART K: TEXTILE MILLS

**Section 307.2003 Low Water Use Processing**

- a) **Applicability.** This Section applies to discharges resulting from the following types of textile mills: yarn manufacture, yarn texturizing, unfinished fabric manufacture, fabric coating, fabric laminating, tire cord and fabric dipping, and carpet tufting and carpet backing. Rubberized or rubber coated fabrics regulated by 40 CFR ~~Part~~ Part 428 are specifically excluded.

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- b) Specialized definitions. The Board incorporates by reference 40 CFR 410.31 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 410.34 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
  - 1) The Board incorporates by reference 40 CFR 410.36 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
  - 3) "New source" means any building, structure, facility, or installation the construction of which commenced after October 10, 1979.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART O: ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

**Section 307.2400 General Provisions**

- a) General definitions. The Board incorporates by reference 40 CFR 414.10 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
- b) Applicability.
  - 1) This Subpart O applies to process wastewater discharges from all establishments or portions of establishments that manufacture the organic chemicals, plastics, and synthetic fibers (OCPSF) products or product groups that are covered by Sections 307.2402 through 307.2408 and which

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are included in the following SIC major groups, as defined in the Standard Industrial Classification Manual, incorporated by reference in 35 Ill. Adm. Code 310.107:

- A) SIC 2821: Plastic materials, synthetic resins, and nonvulcanizable elastomers.
  - B) SIC 2823: Cellulosic man-made fibers.
  - C) SIC 2824: Synthetic organic fibers, except cellulosic.
  - D) SIC 2865: Cyclic crudes and intermediates, dyes, and organic pigments.
  - E) SIC 2869: Industrial organic chemicals, not elsewhere classified.
- 2) This Subpart O applies to wastewater discharges from OCPSF research and development, pilot plant, technical service, and laboratory bench-scale operations if such operations are conducted in conjunction with and related to existing OCPSF manufacturing activities at the plant site.
- 3) Notwithstanding subsection (b)(1) of this Section, this Subpart O does not apply to discharges resulting from the manufacture of OCPSF products if the products are included in the following SIC subgroups, as defined in the Standard Industrial Classification Manual, incorporated by reference in 35 Ill. Adm. Code 310.107, and if the products have in the past been reported by the establishment under these subgroups and not under the SIC groups listed in subsection (b)(1) of this Section:
- A) SIC 2843085: Bulk surface active agents.
  - B) SIC 28914: Synthetic resin and rubber adhesives.
  - C) Chemicals and chemical preparations not elsewhere classified:
    - i) SIC 2899568: Sizes, all types.
    - ii) SIC 2899597: Other industrial chemical specialities, including fluxes, plastic wood preparations, and embalming fluids.

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- D) SIC 2911058: Aromatic hydrocarbons manufactured from purchased refinery products.
- E) SIC 2911632: Aliphatic hydrocarbons manufactured from purchased refinery products.
- 4) Notwithstanding subsection (b)(1) of this Section, this Subpart O does not apply to any discharges for which a different set of previously promulgated standards in this Part apply, unless the facility reports OCPSF products under SIC codes 2865, 2869, or 2821, as defined in the Standard Industrial Classification Manual, incorporated by reference in 35 Ill. Adm. Code 310.107, and the facility's OCPSF wastewaters are discharged separately to a POTW.
- 5) This Subpart O does not apply to any process wastewater discharge from the manufacture of organic chemical compounds solely by extraction from plant and animal raw materials or by fermentation processes.
- 6) Discharges of chromium, copper, lead, nickel, and zinc in "complexed metal-bearing waste streams," listed in Section 307.2491, are not subject to this Subpart O.
- 7) Non-amenable cyanide.
  - A) Discharges of cyanide in "cyanide-bearing waste streams," listed in Section 307.2490, are not subject to the cyanide limitations of this Subpart O if both of the following occur:
    - i) The Control Authority determines that the cyanide limitations are not achievable due to elevated levels of non-amenable cyanide (i.e., cyanide that is not oxidized by chlorine treatment) that result from the unavoidable complexing of cyanide at the process source of the cyanide-bearing waste stream, and
    - ii) The control authority establishes an alternative total cyanide or amenable cyanide limitation that reflects the best available technology economically achievable.



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- B) The control authority must base its determination made pursuant to subsection (b)(7)(A) of this Section on a review of the relevant engineering, production, and sampling and analytical information at its disposal, including measurements of both total and amenable cyanide in the waste stream.
  - C) The control authority must set forth its determination made pursuant to subsection (b)(7)(A) of this Section in a written analysis of the extent of complexing in the waste stream and its impact on cyanide treatability, based on the information at its disposal.
  - D) Alternative cyanide discharge limitation determinations made pursuant to this subsection (b)(7) are subject to the limitations of Section 307.1103. Provided, however, Section 307.1103 may not be used to allow a discharge of total cyanide in excess of that otherwise allowed by this subsection (b)(7).
- 8) Allowances for non-metal-bearing waste streams.
- A) The control authority must establish discharge limitations for lead and zinc for waste streams not listed in Section 307.2490 and not otherwise determined to be "metal-bearing waste streams" if it determines that the wastewater metals contamination is due to background levels that are not reasonably avoidable, from such sources as intake water, corrosion of materials of construction, or contamination of raw materials.
  - B) The control authority must base its determination made pursuant to subsection (b)(8)(A) of this Section on a review of relevant plant operating conditions, process chemistry, engineering, and sampling and analytical information.
  - C) The control authority must set forth its determination made pursuant to subsection (b)(8)(A) of this Section in a written analysis of the sources and levels of the metals, based on the information at its disposal.
  - D) The control authority may establish limitations for lead and zinc for non-metal-bearing waste streams for the purposes of subsection

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(b)(8)(A) of this Section between the following levels:

- i) The lowest level that the control authority determines, based on best professional judgment, can be reliably measured; and
  - ii) The concentration of such metals present in the waste streams, but not to exceed the applicable limitations contained in Sections 307.2401 through 307.2407.
  - iii) For zinc, the applicable limitations that the discharge must not exceed are those appearing in the tables in Sections 307.2401 through 307.2407, not the alternative limitations for rayon fiber manufacture by the viscose process, as set forth in footnote 2 to the table in 40 CFR 414.25, incorporated by reference at Section 307.2401(c)(1), or the alternative limitations for acrylic fiber manufacture by the zinc chloride/solvent process, as set forth in footnote 2 to the table in 40 CFR 414.35, each incorporated by reference at Section 307.2402(c)(1).
- E) The limitations for individual dischargers must be set on a mass basis, by multiplying the concentration allowance established by the control authority times the process wastewater flow from the individual waste streams in which incidental metals are present.
- c) Compliance date. All dischargers subject to a pretreatment standard for existing sources in this Subpart O must have complied with the standard by no later than November 5, 1990.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

**Section 307.2410 Indirect Discharge Point Sources**

- a) Applicability. The Board hereby incorporates 40 CFR 414.11 (2005). This incorporation includes no later amendments or editions. This Section applies to discharge of process wastewater resulting from the manufacture of the OCPSF products and product groups defined by 40 CFR 414.11 ~~(2003)~~ from any indirect discharge point source.

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- b) Specialized definitions. None.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 414.111 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources. All sources are treated as existing sources.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART U: IRON AND STEEL MANUFACTURING

**Section 307.3001 Cokemaking**

- a) Applicability. This Section applies to discharges resulting from byproduct and other cokemaking operations.
- b) Specialized definitions. The Board incorporates by reference 40 CFR 420.11 ~~(2005)(2002), as amended at 67 Fed. Reg. 64216 (October 17, 2002)~~. This incorporation includes no later amendments or editions.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 420.15 ~~(2005)(2002), as amended at 67 Fed. Reg. 64216 (October 17, 2002)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
  - 1) The Board incorporates by reference 40 CFR 420.16 ~~(2005)(2002)~~, as amended at ~~7067 Fed. Reg. 73623 (December 13, 2005)~~ ~~64216 (October~~

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~~17, 2002~~). This incorporation includes no later amendments or editions.

- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
  - 3) "New source" means any building, structure, facility, or installation the construction of which commenced after January 7, 1981.
- e) Compliance date. The Board incorporates by reference 40 CFR 420.18 ~~(2005)~~, as added at ~~67 Fed. Reg. 64216 (October 17, 2002)~~.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

**Section 307.3002 Sintering**

- a) Applicability. This Section applies to discharges resulting from sintering operations conducted by the heating of iron bearing wastes (mill scale and dust from blast furnaces and steelmaking furnaces) together with fine iron ore, limestone, and coke fines in an ignition furnace to produce an agglomerate for charging to the blast furnace.
- b) Specialized definitions. The Board incorporates by reference 40 CFR 420.21 ~~(2005)~~, as added at ~~67 Fed. Reg. 64216 (October 17, 2002)~~.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 420.25 ~~(2005)(2002)~~, as amended at ~~67 Fed. Reg. 64216 (October 17, 2002)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
  - 1) The Board incorporates by reference 40 CFR 420.26 ~~(2005)(2002)~~, as amended at ~~7067 Fed. Reg. 73623 (December 13, 2005)64216 (October 17, 2002)~~. This incorporation includes no later amendments or editions.

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- 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- 3) "New source" means any building, structure, facility, or installation the construction of which commenced after January 7, 1981.
- e) Compliance date. The Board incorporates by reference 40 CFR 420.28 ~~(2005), as added at 67 Fed. Reg. 64216 (October 17, 2002).~~
- f) Point of compliance monitoring. The Board incorporates by reference 40 CFR 420.29(b) ~~(2005), as added at 67 Fed. Reg. 64216 (October 17, 2002).~~

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART V: NONFERROUS METALS MANUFACTURING

**Section 307.3121 Primary Nickel and Cobalt**

- a) Applicability. This Section applies to discharges resulting from the production of nickel or cobalt by primary nickel or cobalt facilities processing ore concentrate raw materials.
- b) Specialized definitions. The Board incorporates by reference 40 CFR ~~421.231 (2005)~~421.231 ~~(2003)~~. This incorporation includes no later amendments or editions.
- c) Existing sources. These sources must comply with the general and specific pretreatment requirements of Subpart B of this Part.
- d) New sources.
  - 1) The Board incorporates by reference 40 CFR 421.236 ~~(2005)~~(2003). This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

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- 3) "New source" means any building, structure, facility, or installation the construction of which commenced after June 27, 1984.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART Y: FERROALLOY MANUFACTURING

**Section 307.3404 Covered Calcium Carbide Furnaces With Wet Air Pollution Control Devices**

- a) Applicability. This Section applies to discharges resulting from the production of calcium carbide in covered electric furnaces that use wet air pollution control devices. This subcategory includes those electric furnaces of such construction or configuration (known as covered, closed, sealed, semi-covered, or semi-closed furnaces) that the furnace off-gases are not burned prior to collection and cleaning, and which off-gases are cleaned after collection in a wet air pollution control device such as a scrubber, "wet" baghouse, etc. This subcategory does not include noncontact cooling water or those furnaces that utilize dry dust collection techniques, such as dry baghouses.
- b) Specialized definitions. The Board incorporates by reference 40 CFR [424.41 \(2005\)](#)~~424.11 (2003)~~. This incorporation includes no later amendments or editions.
- c) Existing sources. These sources must comply with the general and specific pretreatment requirements of Subpart B of this Part.
- d) New sources. All sources are regulated as existing sources.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART CD: PESTICIDE CHEMICALS

**Section 307.6503 Pesticide Chemicals Formulating and Packaging**

- a) Applicability.
- 1) The Board incorporates by reference 40 CFR 455.40 [\(2005\)](#)~~(2003)~~. This incorporation includes no later amendments or additions.

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- 2) This Section applies to discharges resulting from all pesticide formulating and packaging operations, as defined in the materials incorporated in subsection (a)(1) of this Section.
- b) Specialized definitions. The Board incorporates by reference 40 CFR 455.41 ~~(2005)(2003)~~. This incorporation includes no later amendments or additions.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 455.46 ~~(2005)(2003)~~. This incorporation includes no later amendments or additions.
  - 2) No person subject to the pretreatment standards incorporated by reference in section subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
  - 1) The Board incorporates by reference 40 CFR ~~455.47 (2005)455.46 (2003)~~. This incorporation includes no later amendments or additions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
  - 3) New source means any building, structure, facility, or installation the construction of which commenced after April 14, 1994.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

**Section 307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments**

- a) Applicability.
  - 1) The Board incorporates by reference 40 CFR 455.60 ~~(2005)(2003)~~. This incorporation includes no later amendments or additions.
  - 2) This Section applies to discharges resulting from all pesticide formulating

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and packaging operations, as defined in the materials incorporated in subsection (a)(1) of this Section.

- b) Specialized definitions. The Board incorporates by reference 40 CFR 455.61 (2005)(2003). This incorporation includes no later amendments or additions.
- c) Existing sources.
  - 1) The Board incorporates by reference 40 CFR 455.66 (2005)(2003). This incorporation includes no later amendments or additions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
  - 1) The Board incorporates by reference 40 CFR 455.67 (2005)455.66 (2003). This incorporation includes no later amendments or additions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
  - 3) New source means any building, structure, facility, or installation the construction of which commenced after April 14, 1994.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

## SUBPART CM: METAL MOLDING AND CASTING

**Section 307.7401 Aluminum Casting**

- a) Applicability. This Section applies to discharges resulting from aluminum casting operations, as defined in 40 CFR 464.02, incorporated by reference in Section 307.7400(b).
- b) Specialized definitions. The Board incorporates by reference 40 CFR 464.11 (2005)(2003). This incorporation includes no later amendments or editions.



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- c) Existing sources.
- 1) The Board incorporates by reference 40 CFR 464.15 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
- 1) The Board incorporates by reference 40 CFR 464.16 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
  - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
  - 3) "New source" means any building, structure, facility, or installation the construction of which commenced after November 15, 1982.

(Source: Amended at 30 Ill. Reg. 17811, effective October 26, 2006)

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- 1) Heading of the Part: Pretreatment Programs
- 2) Code Citation: 35 Ill. Adm. Code 310
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
310.106	New Section
310.107	Amend
310.110	Amend
310.111	Amend
310.112	New Section
310.202	Amend
310.210	Amend
310.211	Amend
310.220	Amend
310.221	Amend
310.222	Amend
310.230	Amend
310.232	Amend
310.233	Amend
310.301	Amend
310.303	Amend
310.320	Amend
310.510	Amend
310.511	New Section
310.601	Amend
310.602	Amend
310.605	Amend
310.610	Amend
310.611	Amend
310.612	Amend
310.613	Amend
310.621	Amend
310.631	Amend
310.632	Amend
310.633	Amend
310.634	Amend
310.636	New Section
310.637	Amend
310.705	Amend
310.711	Amend

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310.801 Amend  
310.912 Amend

- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3 and 27
- 5) Effective Date of Amendments: October 26, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. Section 310.107 is the centralized location of all documents incorporated by reference for the purposes of Part 310. It is also the centralized location of all documents incorporated by reference for the purposes of Part 307, except for the categorical pretreatment standards of 40 C.F.R. 405 through 499. The categorical standards are the only pretreatment standards incorporated by reference in appropriate segments of Part 307, rather than in Section 310.107.

The present amendments make the following changes to the centralized incorporations by reference in Section 310.107:

The amendments add an incorporation of the USEPA document, "Confined Sewer Overflow (CSO) Control Policy (1994)," by reference to accommodate the federal amendments;

The amendments add incorporations of segments of the federal CROMERR by reference, as codified in 40 C.F.R. 3, to accommodate the federal amendments;

The amendments include the incorporation of specific provisions of the federal Clean Water Act by reference where only a general incorporation of the entire Clean Water Act by reference existed in the past;

The amendments correct the citation to the federal Resource Conservation and Recovery Act to the specific provisions incorporated by reference;

The amendments update the version of each federal statute or regulation incorporated by reference to the latest edition available, including a *Federal Register* citation to later amendments where necessary;

The amendments standardize the format and add the title of each of the federal regulations incorporated by reference; and

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The amendments add to each incorporation by reference a citation or citations to the Illinois wastewater pretreatment rules for which the incorporation is made.

- 8) Statement of Availability: The adopted amendments, a copy of the Board's opinion and order adopted October 19, 2006, and all materials incorporated by reference are on file at the Board's principal office and are available for public inspection and copying.
- 9) Notice of Proposal Published in the Illinois Register: August 18, 2006; 30 Ill. Reg. 13681
- 10) Has JCAR issued a statement of objections to these rules? No

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

- 11) Differences between the proposal and the final version: A table that appears in the Board's opinion and order of October 19, 2006 in docket R06-13 summarizes the differences between the amendments adopted in that order and those proposed by the Board in an opinion and order dated August 4, 2006, in docket R06-13. Many of the differences are explained in greater detail in the Board's opinion and order adopting the amendments.

The substantive differences are intended to allow the continued use of any existing electronic document receiving system for the maximum time allowed by USEPA. Other differences are not intended to have a substantive effect. The intent is to add clarity to the rules without deviation from the substance of the federal amendments on which this proceeding is based.

- 12) Have all the changes agreed upon by the Board and JCAR been made as indicated in the agreements issued by JCAR?

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by JCAR.

Since the Notices of Proposed Amendments appeared in the August 18, 2006 issue of the *Illinois Register*, the Board received a number of suggestions for revisions from JCAR.

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The Board evaluated each suggestion and incorporated a number of changes into the text as a result, as detailed in the opinion and order of October 19, 2006 in docket R06-13, as indicated in item 11 above. See the October 19, 2006 opinion and order in docket R06-13 for additional details on the JCAR suggestions and the Board actions with regard to each. One table in that opinion itemizes the changes made in response to various suggestions. Another table indicates JCAR suggestions not incorporated into the text, with a brief explanation for each.

- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The amendments to Part 310 are a single segment of the docket R06-13 rulemaking that also affects 35 Ill. Adm. Code 307, which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the docket R06-13 rulemaking in this Illinois Register only in the answer to question 15 in the Notice of Adopted Amendment for 35 Ill. Adm. Code 307. A comprehensive description is contained in the Board's opinion and order of October, 2006, adopting amendments in docket R06-13, which opinion and order is available from the address below.

Specifically, the amendments to Part 310 implement segments of the October 13, 2005 federal Cross-Media Electronic Reporting Rule (CROMERR). The amendments also incorporate the October 14, 2005 streamlining amendments to the general wastewater pretreatment requirements.

Tables appear in the Board's opinion and order of October 19, 2006 in docket R06-13 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the October 19, 2006 opinion and order in docket R06-13.

Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

Please reference consolidated docket R06-13 and direct inquiries to the following person:

Michael J. McCambridge  
Staff Attorney  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601

312-814-6924

Request copies of the Board's opinion and order of October 19, 2006 at 312-814-3620.  
Alternatively, you may obtain a copy of the Board's opinion and order from the Internet  
at <http://www.ipcb.state.il.us>.

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

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TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE C: WATER POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARDPART 310  
PRETREATMENT PROGRAMS

## SUBPART A: GENERAL PROVISIONS

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310.103	Federal Law
310.104	State Law
310.105	Confidentiality
<a href="#">310.106</a>	<a href="#">Electronic Reporting</a>
310.107	Incorporations by Reference
310.110	Definitions
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<a href="#">310.112</a>	<a href="#">Significant Industrial User</a>

## SUBPART B: PRETREATMENT STANDARDS

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310.211	<a href="#">Status of</a> Local Limits
310.220	Categorical Standards
310.221	<a href="#">Source</a> Category Determination Request
310.222	Deadline for Compliance with Categorical Standards
310.230	Concentration and Mass Limits
310.232	Dilution <a href="#">Prohibited as a Substitute for Treatment</a>
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## SUBPART C: REMOVAL CREDITS

Section	
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**AUTHORITY:** Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

**SOURCE:** Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective October 26, 2006.

## SUBPART A: GENERAL PROVISIONS

**Section 310.106 Electronic Reporting**

The submission of any document pursuant to any provision of this Part as an electronic document in lieu of a paper document is subject to this Section.

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- a) Scope and Applicability.
- 1) The USEPA, the Board, or the Agency, may allow for the submission of electronic documents in lieu of paper documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:
- A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
- B) To the Board, the Agency, or the Control Authority pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
- 2) Electronic document submission under this Section can occur only as follows:
- A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or
- B) For submissions of documents to the State or the Control Authority, submissions may occur only under the following circumstances:
- i) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board, the Agency, or the Control Authority to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;

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- ii) As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board, the Agency, or the Control Authority may use that system until USEPA disapproves its use in writing; or
  - iii) The Board, the Agency, or the Control Authority may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 C.F.R. 3.1000, so long as the system complies with 40 C.F.R. 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.
- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) of this Section:
- A) Any document submitted via facsimile;
  - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
  - C) Any data transfer between USEPA, any state, or any local government and any of the Board, the Agency, or the Control Authority as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B) of this Section, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their

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submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) of this Section is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 611.102(c).
- c) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
- 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 611.102(c); and
  - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A) of this Section.

BOARD NOTE: Subsection (c) of this Section is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- d) Procedures for submission of electronic documents in lieu of paper documents to the Board, the Agency, or the Control Authority.
- 1) The Board, the Agency, or the Control Authority may, but is not required to, establish procedures for the electronic submission of documents. The Board or the Agency must establish any such procedures under the Administrative Procedure Act [5 ILCS 100/5]. The Control Authority must establish such procedures pursuant to applicable State and local laws.

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- 2) The Board, the Agency, or the Control Authority may accept electronic documents under this Section only as provided in subsection (a)(2)(B) of this Section.

BOARD NOTE: Subsection (d) of this Section is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- e) Effects of submission of an electronic document in lieu of paper documents.
  - 1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
  - 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
  - 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
  - 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) of this Section is derived from 40 CFR 3.4 and 3.2000(c), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

- f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
  - 1) The Administrative Procedure Act [5 ILCS 100];
  - 2) The Freedom of Information Act [5 ILCS 140];

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- 3) The State Records Act [5 ILCS 160];
  - 4) The Electronic Commerce Security Act [5 ILCS 175];
  - 5) The Environmental Protection Act [415 ILCS 5];
  - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
  - 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1) of this Section will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) of this Section is derived from 40 CFR 3.2(c), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

BOARD NOTE: Derived from 40 CFR 3, as added, and 40 CFR 403.8(g) (2005), as amended at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.107 Incorporations by Reference**

- a) The following publications are incorporated by reference:
- 1) The consent decree in NRDC v. Costle, 1978 WL 23471, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978).
  - 2) Standard Industrial Classification Manual (1987) (document no. PB87-100012), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.
- Combined Sewer Overflow (CSO) Control Policy (1994) (USEPA document number EPA-830/Z-94-001) available from NCEPI, 11029 Kenwood Rd., Bldg. 5, Cincinnati, OH 45242; fax (513) 891-6685, referenced in Section 310.320.



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BOARD NOTE: USEPA published the Combined Sewer Overflow (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr. 19, 1994), and the USEPA, Office of Water has made it available on the Internet: [www.epa.gov/npdes/pubs/owm0111.pdf](http://www.epa.gov/npdes/pubs/owm0111.pdf).

The consent decree in NRDC v. Costle, 1978 WL 23471, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978), referenced in Section 310.320.

Standard Industrial Classification Manual (1987) (document no. PB87-100012), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201, 307.2400, 307.2402 through 307.2407, and 307.3901 and Section 310.602.

- b) The following provisions of the Code of Federal Regulations are incorporated by reference:

40 CFR 2.302 (2005) (Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105. (2003)

40 CFR 3.2, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000, as added at 70 Fed. Reg. 59848 (Oct. 13, 2005) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 (2005) (Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act), referenced in Section 310.510. (2003)

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Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D to 40 CFR 122 (2005) (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005, Appendix D, Tables II and III (2003)

40 CFR 128.140(b) (1977)

40 CFR 136 (2005) (Guidelines Establishing Test Procedures for the Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and Sections 310.605, 310.610, and 310.611 (2003), as amended at 68 Fed. Reg. 43272 (July 21, 2003) and 68 Fed. Reg. 54934 (September 19, 2003).

40 CFR 403 (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005) (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432 (2003)

40 CFR 403.12 (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005) (Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

Appendix D to 40 CFR 403 (2005) (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233, Appendix D (2003)

Appendix G to 40 CFR 403 (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005) (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 (2005) (Standards for the Use or Disposal of Sewage Sludge), referenced in Section 310.303.

- c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 (2003)), referenced in Section 310.633.

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The federal Clean Water Act (CWA) (33 USC 1251 et seq. (2003)), referenced in Section 310.110.

Section 204(b) of the federal Clean Water Act (33 USC 1284(b) (2003)), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 USC 1292(2) (2003)), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 USC 1318 (2003)), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 USC 1319(c)(4) (2003)), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 USC 1319(c)(6) (2003)), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 USC 1345 (2003)), referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939e and 6941-6949a) (2002)), referenced in Section 310.510.

- 1) ~~Section 1001 of federal Crimes and Criminal Procedure (18 USC 1001 (2000))~~
- 2) ~~The federal Clean Water Act (33 USC 1251 et seq. (2000)) as amended through November 7, 2000~~
- 3) ~~Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6901 et seq. (2000)) as amended through March 26, 1996~~

d) This Part incorporates no future editions or amendments.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.110 Definitions**

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"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"Approval Authority" means the Agency.

BOARD NOTE: Derived from 40 CFR 403.3(c) (2005)~~(2003)~~.

"Approved POTW pretreatment program~~Pretreatment Program~~" or "program~~Program~~" or "POTW pretreatment program~~Pretreatment Program~~" means a program administered by a POTW that has been approved by the Agency in accordance with Sections 310.541 through 310.546.

BOARD NOTE: Derived from 40 CFR 403.3(d) (2005)~~(2003)~~.

"Authorization to discharge" means an authorization issued to an industrial user by a POTW that has an approved pretreatment program. The authorization may consist of a permit, license, ordinance, or other mechanism as specified in the approved pretreatment program.

"Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 310.201(a) and (c) and 310.202. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOARD NOTE: Derived from 40 CFR 403.3(e), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Blowdown" means the minimum discharge of recirculating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding limits established by best engineering practice.

BOARD NOTE: Derived from 40 CFR 401.11(p) (2005)~~(2003)~~.

"Board" means the Illinois Pollution Control Board.

"CWA" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, incorporated by reference in Section 310.107.

BOARD NOTE: Derived from 40 CFR 403.3(b) (2005)~~(2003)~~.

"Control Authority " refers to the appropriate of the following: is as defined in

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~~Section 310.601.~~

The POTW, if the POTW's pretreatment program submission has been approved in accordance with the requirements of Section 310.540 through 310.546; or

The Agency, if the submission has not been approved.

BOARD NOTE: Derived from 40 CFR 403.3(f) (2005), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

"Indirect ~~discharge~~Discharge" or "Discharge" means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the CWA (33 USC1317(b), (c), or (d)).

BOARD NOTE: Derived from 40 CFR 403.3(i) (2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~403.3(g) (2003)~~.

"Industrial ~~user~~User" or "User" means a source of indirect discharge. As used in this Part, an industrial user includes any person who meets any of the following criteria:

The person discharges toxic pollutants, as defined by 35 Ill. Adm. Code 307.1005;

The person is subject to a categorical standard adopted or incorporated by reference in 35 Ill. Adm. Code 307;

The person discharges more than fifteen percent of the total hydraulic flow received by the POTW treatment plant;

The person discharges more than fifteen percent of the total biological loading of the POTW treatment plant as measured by the five-day biochemical oxygen demand;

The person has caused pass through or interference; or

The person has presented an imminent endangerment to the health or welfare of persons.

BOARD NOTE: Derived from 40 CFR 403.3(j) (2005), as renumbered at 70 Fed.

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Reg. 60134 (Oct. 14, 2005)403.3(h)-(2003).

"Industrial wastewater" means waste of a liquid nature discharged by an industrial user to a sewer tributary to a POTW.

"Interference" means a discharge, alone or in conjunction with a discharge or discharges from other sources, for which both of the following is true:

The discharge inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

As a result of the inhibition or disruption, the discharge is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge disposal in compliance with any sludge requirements.

BOARD NOTE: Derived from 40 CFR 403.3(k) (2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005)403.3(i)-(2003).

"Municipal sewage" is sewage treated by a POTW exclusive of its industrial component.

"Municipal sludge" is sludge produced by a POTW treatment works.

"Municipality." See "unit of local government."

"New source" means new source as defined in Section 310.111.

BOARD NOTE: Derived from 40 CFR 401.11(c) and 403.3(m) (2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)403.3(k)-(2003).

"Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product or finished product.

BOARD NOTE: Derived from 40 CFR 401.11(n) (2005)(2003).

"Noncontact cooling water pollutants" means pollutants present in noncontact cooling waters.

BOARD NOTE: Derived from 40 CFR 401.11(o) (2005)(2003).

"NPDES permitPermit" means a permit issued to a POTW pursuant to Section

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402 of the CWA, or Section 12(f) of the Act and Subpart A of 35 Ill. Adm. Code 309.

BOARD NOTE: Derived from 40 CFR [403.3\(n\) \(2005\)](#), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005) ~~403.3(1) (2003)~~.

"O and M" means operation and maintenance.

"Pass through" means a discharge of pollutants that exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

BOARD NOTE: Derived from 40 CFR [403.3\(p\) \(2005\)](#), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005) ~~403.3(n) (2003)~~.

"Person" means an individual, corporation, partnership, association, State, "unit of local government" or any interstate body. This term includes the United States government, the State of Illinois, and their political subdivisions.

BOARD NOTE: Derived from 40 CFR 401.11(m) ~~(2005)(2003)~~ and 33 USC 1362(5).

"Pollutant" means dredged spoil; solid waste; incinerator residue; sewage; garbage; sewage sludge; munitions; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; and industrial, municipal, and agricultural waste discharged into a sewer.

BOARD NOTE: Derived from 40 CFR 401.11(f) ~~(2005)(2003)~~.

"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

BOARD NOTE: Derived from 40 CFR 401.11(g) ~~(2005)(2003)~~.

"POTW ~~treatment plant~~ Treatment Plant" means that portion of the POTW that is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial wastewater.

BOARD NOTE: Derived from 40 CFR [403.3\(r\) \(2005\)](#), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005) ~~403.3(p) (2003)~~.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a

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POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or by other means, except as prohibited by Section 310.232. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with Section 310.233.

BOARD NOTE: Derived from 40 CFR [403.3\(s\) \(2005\)](#), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005) [403.3\(q\) \(2003\)](#).

"Pretreatment permit" means an authorization to discharge to a sewer that is issued by the Agency as the Control Authority.

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

BOARD NOTE: Derived from 40 CFR [403.3\(t\) \(2005\)](#), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005) [403.3\(r\) \(2003\)](#).

"Pretreatment standard" or "standard" means any regulation containing pollutant discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits established pursuant to Section 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101. This term also includes more stringent prohibitions and standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code 307.1101, 307.1102, and 307.1103. The term also includes local limits pursuant to Section 310.211 that are a part of an approved pretreatment program.

BOARD NOTE: Derived from 40 CFR [403.3\(l\) \(2005\)](#), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005) [403.3\(j\) \(2003\)](#).

"Process wastewater" means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

BOARD NOTE: Derived from 40 CFR 401.11(q) [\(2005\)\(2003\)](#).

"Process wastewater pollutants" means pollutants present in process wastewater.

BOARD NOTE: Derived from 40 CFR 401.11(r) [\(2005\)\(2003\)](#).



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"Project XL" means the federal Project for eXcellence and Leadership or a federally approved facility- or community-based regulatory reinvention (XL) pilot project, as such are described in the Federal Register notices of May 23, 1995 (60 Fed. Reg. 27282) and November 1, 1995 (60 Fed. Reg. 55569).

"Publicly owned treatment works" or "POTW" means a "treatment works" that is owned by the State of Illinois or a "unit of local government." This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the "unit of local government" that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

BOARD NOTE: Derived from 40 CFR [403.3\(q\) \(2005\)](#), as renumbered at [70 Fed. Reg. 60134 \(Oct. 14, 2005\)](#)~~403.3(e) (2003)~~.

"Schedule of compliance" means a schedule of remedial measures included in an authorization to discharge or a pretreatment permit, or an NPDES permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with this Part and 35 Ill. Adm. Code 307. A schedule of compliance does not protect an industrial user or POTW from enforcement.

BOARD NOTE: Derived from 40 CFR 401.11(m) [\(2005\)](#)~~(2003)~~ and 33 USC 1362(17).

"Significant industrial user" means [significant industrial user as defined in Section 310.112](#)~~the following~~:

~~All industrial users subject to categorical pretreatment standards under Section 310.220 through 310.233 and 35 Ill. Adm. Code 307, and~~

~~Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process waste stream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority, as defined in Section 310.601, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with Section~~

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~~310.510(f)); except, upon a finding that an industrial user meeting the criteria of this second subsection of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority, as defined in Section 310.601, may at any time, on its own initiative or in response to a petition received from an industrial user or POTW may determine in accordance with Section 310.510(f) that such industrial user is not a significant industrial user.~~

BOARD NOTE: Derived from 40 CFR 403.3(v) (2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~403.3(t) (2003)~~.

"Sludge requirements" means any of the following permits or regulations: 35 Ill. Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste Permits), the federal Toxic Substances Control Act (15 USC 2601), or the federal Marine Protection, Research and Sanctuaries Act (33 USC 1401), Section 39(b) of the Act (NPDES Permits) [415 ILCS 5/39(b)], and Section 405(b) of the federal Clean Water Act (federally-imposed sludge use and management requirements).

BOARD NOTE: Derived from 40 CFR 403.3(k)(2) (2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005),~~403.3(i) and 403.7(a) (2005)(2003)~~.

"Submission" means a request to the Agency by a POTW for approval of a pretreatment program, or for authorization to grant removal credits.

BOARD NOTE: Derived from 40 CFR 403.3(w) (2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~403.3(t) (2003)~~.

"Treatment works" is as defined in 33 USC 1292(2), incorporated by reference in Section 310.107(c)(1987). It includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal or industrial wastewater to implement 33 USC 1281, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment.

BOARD NOTE: Derived from 40 CFR 403.3(q) (2005), as renumbered at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~403.3(o) (2003)~~ and 33 USC 1292(2).

"Unit of local government" means a unit of local government, as defined by Art. 7, Sec. 1 of the Illinois Constitution, having jurisdiction over disposal of sewage.

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Unit of local government includes, but is not limited to, municipalities, and sanitary districts.

BOARD NOTE: Derived from 40 CFR 401.11(m) ~~(2005)(2003)~~ and 33 USC 1362(4).

"USEPA" means the United States Environmental Protection Agency.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.111 New Source**

- a) "New ~~source~~~~Sourcee~~" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the date specified in 35 Ill. Adm. Code 307 for the particular source~~that~~ category or subcategory to which the source, provided that one of the following is true:
- 1) The building, structure, facility, or installation is constructed at a site at which no other source is located;
  - 2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - 3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- b) Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility, or installation that meets~~meeting~~ the criteria of subsections~~subsections~~ (a)(2) or (a)(3) of this Section, but which otherwise alters, replaces, or adds to existing process or production equipment.
- c) Construction of a new source, as defined in this Section, has commenced if the owner or operator has done either~~one~~ of the following:

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- 1) ~~It has begun~~**Begun** or caused ~~either one~~ of the following to begin as part of a continuous onsite construction program:
  - A) Any placement assembly or installation of facilities or equipment;  
or
  - B) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  
- 2) ~~It has entered~~**Entered** into a binding contractual obligation for the purchases of facilities or equipment that are intended to be used in its operation within a reasonable time. ~~An option~~**Options** to purchase or ~~a contract~~**contracts** that can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies ~~does~~**do** not constitute a contractual obligation under this subsection (c)(2).
  
- d) ~~A new source~~**New Sources** must install and have in operating condition and must "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), ~~a new source~~**sources** must meet all applicable pretreatment standards.

BOARD NOTE: Derived from 40 CFR 403.3(m) (2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~403.3(k) (2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.112 Significant Industrial User**

- a) Except as provided in subsections (b) and (c) of this Section, the term "significant industrial user" means the following:
  - 1) An industrial user subject to any of the categorical pretreatment standards under Sections 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307; and

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- 2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with Section 310.510(f)).
- b) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under Sections 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307 is a non-significant categorical industrial user, rather than a significant industrial user, on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard), and the industrial user meets the following conditions:
  - 1) That, prior to the Control Authority's finding, the industrial user has consistently complied with all applicable categorical pretreatment standards and requirements;
  - 2) That the industrial user annually submits the certification statement required in Section 310.636 together with any additional information necessary to support the certification statement; and
  - 3) The industrial user never discharges any untreated concentrated wastewater.
- c) Upon a finding that an industrial user meeting the criteria in subsection (a)(2) of this Section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with Section 310.510(f), determine that such industrial user is not a significant industrial user.

BOARD NOTE: Derived from 40 CFR 403.3(v) (2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

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(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

## SUBPART B: PRETREATMENT STANDARDS

**Section 310.202 Specific Prohibitions**

No person may cause or allow the introduction into a POTW of the pollutants specified in 35 Ill. Adm. Code 307.1101(b).

BOARD NOTE: Derived from 40 CFR 403.5(b) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.210 Local~~Specific~~ Limits Developed by POTW**

- a) Each POTW that is required to develop a pretreatment program must develop and enforce, as part of the program, local~~local specific~~ limits to implement the prohibitions listed in Sections 310.201(a) and 310.202. Each POTW with an approved pretreatment program must continue to develop these local limits as necessary and to effectively enforce such limits.
- b) A POTW that is not required to develop a pretreatment program must, in cases where pollutants contributed by one or more industrial users result in interference or pass through, and such violation is likely to recur, develop and enforce local specific discharge limits for industrial users, which, together with appropriate changes in the POTW treatment plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit, and sludge requirements.
- c) Prior to developing local specific discharge limits, a POTW must give individual notice and an opportunity to respond to persons or groups that have requested notice.
- d) A POTW may develop best management practices (BMPs) to implement subsections (a) and (b) of this Section. Such BMPs are to be considered local limits and pretreatment standards for the purposes of this Part.
- e)d) The POTW must base limitations developed pursuant to this Section on the characteristics and treatability of the wastewater by the POTW, effluent

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limitations that the POTW must meet, sludge requirements, water quality standards in the receiving stream, and the pretreatment standards and requirements of this Part and 35 Ill. Adm. Code 307.

BOARD NOTE: Subsections (a) through (d) of this Section are derived~~Derived~~ from 40 CFR 403.5(c) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005). The Board added subsection (e) to provide standards for development of local limits.~~(2003).~~

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.211 Status of Local Limits**

If a POTW develops local limits in the form of, in accordance with Section 310.210, specific prohibitions or limits on pollutants, ~~or pollutant parameters,~~ or BMPs, such local limits are ~~to~~must be considered~~deemed~~ pretreatment standards for the purposes of this Part.

BOARD NOTE: Derived from 40 CFR 403.5(d) (2005)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.220 Categorical Standards**

Pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by an existing or new industrial user~~users~~ in specific industrial source category or subcategory~~subcategories~~ will be established as separate regulations under 35 Ill. Adm. Code 307. These standards, unless specifically noted otherwise, must be in addition to the standards and requirements set forth at 35 Ill. Adm. Code 307.1101 and 310.

BOARD NOTE: Derived from 40 CFR 403.6 preamble (2005)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.221 Source Category Determination Request**

- a) Application deadline.
  - 1) The industrial user or POTW may request that the Agency provide written certification as to whether the industrial user falls within that particular

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source category or subcategory. If an existing industrial user adds or changes a process or operation that may be included in a source category or subcategory, the existing industrial user must request this certification prior to commencing discharge from the added or changed processes or operation. With respect to new standards, the following apply:

- A) The POTW or industrial user must direct to USEPA any source category determination requests for pretreatment standards adopted by USEPA prior to authorization of the Illinois program.
  - B) After authorization of the Illinois program, the POTW or industrial user must direct to the Agency any source category determination requests within 60 days after the Board adopts or incorporates by reference a pretreatment standard for a source category or subcategory under which an industrial user may be included.
- 2) A new source must request this certification prior to commencing discharge.
  - 3) If a request for certification is submitted by a POTW, the POTW must notify any affected industrial user of such applications. The industrial user may provide written comments on the POTW submissions to the Agency within 30 days of notification.
- b) Contents of application. Each request must contain a statement that includes the following information:
- 1) Describing which source category or subcategories might be applicable; and
  - 2) Citing evidence and reasons why a particular source category or subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this Section must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the



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system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- c) Deficient requests. The Agency must act only on written requests for determinations that contain all of the information required. The Agency must notify persons who have made incomplete submissions that their requests are deficient and that, unless the time period is extended, they have 30 days to correct the deficiency. If the deficiency is not corrected within 30 days, or within an extended period allowed by the Agency, the Agency must deny the request for a determination.
- d) Final determination.
  - 1) When the Agency receives a submission, the Agency shall, if it determines that the submission contains all of the information required by subsection (b) of this Section, consider the submission, any additional evidence that may have been requested and any other available information relevant to the request. The Agency must then make a written determination of the applicable source category or subcategory and state the reasons for the determination.
  - 2) The Agency must forward the determination described in subsection (d)(1) of this Section to USEPA. If USEPA does not modify the Agency's decision within 60 days after its receipt, the Agency's decision is final.
  - 3) If USEPA modifies the Agency's decision, USEPA's decision will be final.
  - 4) The Agency must send a copy of the determination to the affected industrial user and the POTW. If the final determination is made by USEPA, the Agency must send a copy of the determination to the user.
- e) Requests for hearing or legal decision.
  - 1) Within 30 days following the date of receipt of notice of the final determination as provided for by subsection (d)(4) of this Section, the requester may submit a petition to reconsider or contest the decision to

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USEPA, which will act pursuant to 40 CFR 403.6(a)(5).

- 2) Within 35 days following the date of receipt of notice of the final determination as provided for by subsection (c), (d)(2), or (d)(4) of this Section, the requester may appeal a final decision made by the Agency to the Board.

BOARD NOTE: Derived from 40 CFR 403.6(a) (2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.222 Deadline for Compliance with Categorical Standards**

- a) If a compliance date for an existing or new source categorical pretreatment standard is adopted or incorporated by reference in 35 Ill. Adm. Code 307, then industrial users must comply with the standard by the latest of the following times:
  - 1) The date specified or incorporated by reference; or
  - 2) The date the Board adopts or incorporates the standard by reference; or
  - 3) The date USEPA approves the Illinois pretreatment program.
- b) If no compliance date for a categorical pretreatment standard is adopted or incorporated by reference in 35 Ill. Adm. Code 307, then industrial users must comply with the standard by the latest of the following times:
  - 1) The date the Board adopts or incorporates the standard by reference; or
  - 2) The date USEPA approves the Illinois pretreatment program.
- c) This Section must not be construed as extending compliance dates for enforcement of categorical pretreatment standards pursuant to statutes and regulations existing prior to authorization of the Illinois pretreatment program.

BOARD NOTE: Derived from 40 CFR 403.6(b) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

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**Section 310.230 Concentration and Mass Limits**

- a) Pollutant discharge limits in categorical pretreatment standards will be expressed either as concentration or mass limits. Limits in categorical pretreatment standards must apply to the discharge from the process regulated by the standard or as otherwise specified by the standard.
- b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
- c) A Control Authority calculating equivalent mass-per-day limitations under subsection (b) of this Section must calculate such limitations by multiplying the limits in the standard by the industrial user's average rate of production. This average rate of production must be based not upon the designed production capacity, but rather upon a reasonable measure of the industrial user's actual long-term daily production during a representative year. For new sources, actual production must be estimated using projected production.
- d) A Control Authority calculating equivalent concentration limitations under subsection (b) of this Section must calculate such limitations by dividing the mass limitations derived under subsection (c) of this Section by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate must be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.
- e) When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the Control Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Control Authority may establish equivalent mass limits only if the industrial user meets all the following conditions in subsections (e)(1)(A) through (e)(1)(E) of this Section.
  - 1) To be eligible for equivalent mass limits, the industrial user must undertake the following actions:

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- A) It must employ or demonstrate that it will employ water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;
  - B) It must currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and it must not have used dilution as a substitute for treatment;
  - C) It must provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;
  - D) It must not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
  - E) It must have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.
- 2) An industrial user subject to equivalent mass limits must undertake the following actions:
- A) It must maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - B) It must continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - C) It must continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subsection (e)(1)(C) of this Section. Upon notification of a revised production rate, the Control Authority

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must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

- D) It must continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (e)(1)(A) of this Section so long as it discharges under an equivalent mass limit.
- 3) A Control Authority that chooses to establish equivalent mass limits must undertake the following actions:
- A) It must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated processes of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
- B) Upon notification of a revised production rate, it must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
- C) It may retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 310.232. The industrial user must also be in compliance with Subpart J of this Part (regarding the prohibition of bypass).
- 4) The Control Authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants that cannot appropriately be expressed as mass.
- f) The Control Authority may convert the mass limits of the categorical pretreatment standards of Subparts O, T, and CD of 35 Ill. Adm. Code 307 to concentration limits for purposes of calculating limitations applicable to individual industrial users under the following conditions. When converting such limits to concentration limits, the Control Authority must use the concentrations listed in

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the applicable provisions of Subparts O, T, and CD of 35 Ill. Adm. Code 307 and document that dilution is not being substituted for treatment as prohibited by Section 310.232.

- g)e) Equivalent limitations calculated in accordance with subsections (c) through (f) and (d) of this Section are deemed pretreatment standards. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the industrialIndustrial users must be required to comply with the equivalent limitations instead of the promulgated categorical standards from which the equivalent limitations were derived.
- h)f) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average or four-day average limitations. Where such standards are being applied, the same production or~~of~~ flow figure must be used in calculating both the average and the maximum equivalent limitation~~types of equivalent limitations~~.
- i)g) Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard must notify the Control Authority within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Control Authority of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

BOARD NOTE: Derived from 40 CFR 403.6(c) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.232 Dilution Prohibited as a Substitute for Treatment**

Except where expressly authorized to do so by an applicable categorical pretreatment standard or requirement, no industrial user may increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Control Authority may impose mass limitations on industrial users that are using dilution to meet applicable pretreatment standards or in other cases where the imposition of mass limitations is appropriate. A POTW

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~~may allow dilution to meet local limits developed under Section 310.210.~~

BOARD NOTE: Derived from 40 CFR 403.6(d) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.233 Combined Waste Stream Formula**

Where process wastewater is mixed prior to treatment with wastewaters other than those generated by the regulated process, the Control Authority (or the industrial user with the written concurrence of the Control Authority) must derive fixed alternative discharge limits, ~~which the Control Authority must apply to the mixed discharge~~. When it is deriving alternative categorical limits, the Control Authority must calculate both an alternative daily maximum value using the daily maximum values specified in the appropriate categorical pretreatment standards and an alternative consecutive sampling day average value using the average monthly values specified in the appropriate categorical pretreatment standards. The industrial user must comply with the alternative daily maximum and average monthly limits fixed by the Control Authority until the Control Authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user must immediately report any such material or significant change to the Control Authority. Where appropriate, the Control Authority must calculate new alternative categorical limits within 30 days.

- a) Alternative limit calculation. For purposes of these formulas, the "average daily flow" means a reasonable measure of the average daily flow for a 30-day period. For new sources, flows must be estimated using projected values. The Control Authority must derive the alternative limit for a specified pollutant by the use of either of the following formulas:

- 1) Alternative concentration limit.

$$C = \frac{(T - D)\sum C_i F_i}{(T)\sum F_i}$$

where

C = The alternative concentration limit for the combined waste stream.

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- $C_i$  = The categorical pretreatment standard concentration limit for a pollutant in the regulated stream  $i$ .
- $F_i$  = The average daily flow (at least a 30-day average) of stream  $i$  to the extent that it is regulated for such pollutant.
- $\Sigma G_i$  = The sum of the results of calculation  $G$  for streams  $i = 1$  to  $i = N$ .
- $N$  = The total number of regulated streams.
- $T$  = The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes  $F_i$ ,  $D$  and unregulated streams).
- $D$  = The average daily flow (at least a 30-day average) from:
- A) Boiler blowdown streams, non-contact cooling streams, stormwater streams and demineralizer backwash streams, subject to the proviso of subsection (d) of this Section;
  - B) Sanitary waste streams where such waste streams are not regulated by a categorical pretreatment standard; and
  - C) From any process waste streams that were or could have been entirely exempted from categorical pretreatment standards as specified in subsection (e) of this Section.

## 2) Alternative mass limit.

$$M = \frac{(T - D)\Sigma M_i}{\Sigma F_i}$$

where

- $M$  = The alternative mass limit for a pollutant in the



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combined waste stream.

- $M_i$  = The categorical pretreatment standard mass limit for a pollutant in the regulated stream  $i$  (the categorical pretreatment mass limit multiplied by the appropriate measure of production).
- $F_i$  = The average daily flow (at least a 30-day average) of stream  $i$  to the extent that it is regulated for such pollutant.
- $\Sigma G_i$  means the sum of the results of calculation  $G$  for streams  $i = 1$  to  $i = N$ .
- $N$  = The total number of regulated streams.
- $T$  = The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes  $F_i$ ,  $D$  and unregulated streams).
- $D$  = The average daily flow (at least a 30-day average) from:
- A) Boiler blowdown streams, non-contact cooling streams, stormwater streams and demineralizer backwash streams subject to the proviso of subsection (d) of this Section;
  - B) Sanitary waste streams where such waste streams are not regulated by a categorical pretreatment standard; and
  - C) From any process waste streams that were or could have been entirely exempted from categorical pretreatment standards, as specified in subsection (e) of this Section.

- b) Alternative limits below detection. An alternative pretreatment limit must not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

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- c) Self-monitoring. Self-monitoring required to insure compliance with the alternative categorical limit must be as follows:
- 1) The type and frequency of sampling, analysis, and flow measurement must be determined by reference to the self-monitoring requirements of the appropriate categorical pretreatment standards.
  - 2) Where the self-monitoring schedules for the appropriate standards differ, monitoring must be done according to the most frequent schedule.
  - 3) Where flow determines the frequency of self-monitoring in a categorical pretreatment standard, the sum of all regulated flows ( $F_i$ ) is the flow that must be used to determine self-monitoring frequency.
- d) Proviso to subsections (a)(1) and (a)(2) of this Section. Where boiler blowdown, non-contact cooling streams, stormwater streams, and demineralizer backwash streams contain a significant amount of a pollutant, and the combination of such streams, prior to pretreatment, with the industrial user's regulated process waste streams will result in a substantial reduction of that pollutant, the Control Authority, upon application of the industrial user, must determine whether such waste streams should be classified as diluted or unregulated. In its application to the Control Authority, the industrial user must provide engineering, production, sampling, and analysis and such other information so the Control Authority can make its determination.
- e) Exemptions from categorical pretreatment standards. Process waste streams were or could have been entirely exempted from categorical pretreatment standards pursuant to paragraph 8 of the NRDC v. Costle consent decree, incorporated by reference in Section 310.107, for one or more of the following reasons (see [appendix D to 40 CFR 403](#), ~~Appendix D~~, incorporated by reference in Section 310.107):
- 1) The pollutants of concern are not detectable in the discharge from the industrial user;
  - 2) The pollutants of concern are present only in trace amounts and are neither causing nor are likely to cause toxic effects;
  - 3) The pollutants of concern are present in amounts too small to be

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effectively reduced by technologies known to USEPA;

- 4) The waste stream contains only pollutants that are compatible with the POTW.
  
- f) Where a treated regulated process waste stream is combined prior to treatment with wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste stream for the purpose of determining compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process waste stream, it must apply the applicable categorical pretreatment standard. If the user chooses to monitor the combined waste stream, it must apply an alternative discharge limit calculated using the combined waste stream formula as provided in this Section. The industrial user may change monitoring points only after receiving approval from the Control Authority. The Control Authority must ensure that any change in an industrial user's monitoring point or points will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

BOARD NOTE: Derived from 40 CFR 403.6(e) [\(2005\)](#), as amended at [70 Fed. Reg. 60134 \(Oct. 14, 2005\)](#)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

## SUBPART C: REMOVAL CREDITS

**Section 310.301 Special Definitions**

For purposes of this Subpart C, the following definitions apply:

"Consistent removal" means the average of the lowest 50% of the removals measured according to Section 310.311. All sample data obtained for the measured pollutant during the time period prescribed in Section 310.311 must be reported and used in computing consistent removal. If a substance is measurable in the influent but not in the effluent, the effluent level may be assumed to be the limit of measurement, and those data may be used by the POTW at its discretion and subject to approval by the Agency. If the substance is not measurable in the influent, the data may not be used. Where the number of samples with concentrations equal to or above the limit of measurement is between eight and twelve, the average of the lowest six removals must be used. If there are less than

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eight samples with concentrations equal to or less than the limit of measurement, the Agency may approve alternate means of demonstrating consistent removal.

"Measurement" refers to the ability of the analytical method or protocol to quantify as well as identify the presence of the substance in question.

BOARD NOTE: Derived from 40 CFR 403.7 (2005)(2003), as modified to reflect NRDC v. USEPA, 790 F.2d 289 (3d Cir. 1986).

"Industrial user" means industrial user or users, as is appropriate from the context.

"Overflow" means the intentional or unintentional diversion of flow from the POTW before the POTW treatment plant.

BOARD NOTE: ~~CONSISTENT~~ Derived from 40 CFR 403.7 (2005)(2003), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005) modified to reflect NRDC v. USEPA, 790 F.2d 289 (3d Cir. 1986).

"Removal" means a reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical, or biological means and may be the result of specifically designed POTW capabilities, or may be incidental to operation of the treatment system. Removal does not mean dilution of a pollutant in a POTW.

BOARD NOTE: Derived from 40 CFR 403.7(a) (2005)(2003).

"Sludge requirements" is as defined in Section 310.110.

BOARD NOTE: Derived from 40 CFR 403.7(a) (2005)(2003).

"Standard" means standard or standards as is appropriate from the context.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.303 Conditions for Authorization to Grant Removal Credits**

The Agency must authorize a POTW to grant removal credits only if the following conditions are met:

- a) The POTW applies for and receives authorization from the Agency to grant a removal credit in accordance with the requirements and procedures specified in Sections 310.330 and 310.340.
- b) The POTW demonstrates and continues to achieve consistent removal of the

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pollutant.

- c) The POTW has an approved pretreatment program in accordance with and to the extent required by this Part; provided, however, that a POTW that does not have an approved pretreatment program may, pending approval of such a program, give removal credits conditionally as provided in Section 310.330.
- d) The granting of removal credits will not cause the POTW to violate sludge requirements that apply to the sludge management method chosen by the POTW. ("Sludge requirements" is defined in Section 310.110.) Alternatively, the POTW demonstrates to the Agency that even though it is not presently in compliance with applicable sludge requirements, it will be in compliance when each industrial user to whom the removal credit would apply is required to meet its categorical pretreatment standard as modified by the removal credit. Removal credits may be made available for any of the following pollutants:
- 1) For any pollutant listed in appendix G, section I of 40 CFR 403, incorporated by reference in Section 310.107, for the use or disposal practice employed by the POTW, when the requirements in 40 CFR 503, incorporated by reference in Section 310.107, for that practice are met;
  - 2) For any pollutant listed in appendix G, section II of 40 CFR 403, incorporated by reference in Section 310.107, for the use or disposal practice employed by the POTW when the concentration for a pollutant listed in appendix G, section II of 40 CFR 403 in the sewage sludge that is used or disposed of does not exceed the concentration for the pollutant in appendix G, section II of 40 CFR 403; or
  - 3) For any pollutant in sewage sludge when the POTW disposes all of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in 35 Ill. Adm. Code 810 through 813 that are derived from 40 CFR 258.
- e) The granting of removal credits will not cause a violation of the POTW's NPDES permit limitations or conditions. Alternatively, the POTW demonstrates to the Agency that even though it is not presently in compliance with applicable limitations and conditions in its NPDES permit, it will be in compliance when each industrial user to whom the removal credit would apply is required to meet its categorical pretreatment standard, as modified by the removal credit.

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BOARD NOTE: Derived from 40 CFR 403.7(a)(3) ~~(2005)~~(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.320 Compensation for Overflow**

A POTW that overflows untreated wastewater to receiving waters one or more times in a year may claim consistent removal of a pollutant only by complying with subsection (a) or (b) of this Section. However, this Section ~~will~~**must** not apply where an industrial user demonstrates that overflow does not occur between the industrial user and the POTW treatment plant.

- a) The industrial user provides containment or otherwise ceases or reduces discharges from the regulated processes that contain the pollutant for which an allowance is requested during all circumstances in which an overflow event can reasonably be expected to occur at the POTW or at a sewer to which the industrial user is connected. Discharges must cease or be reduced, or pretreatment must be increased, to the extent necessary to compensate for the removal not being provided by the POTW. The Agency must allow allowances under this subsection only if the POTW demonstrates the following to the Agency:
  - 1) That all industrial users to which the POTW proposes to apply this subsection (a) have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an overflow event can reasonably be expected to occur, discharges from the regulated processes that contain pollutants for which an allowance is requested;
  - 2) That the POTW has identified circumstances in which an overflow event can reasonably be expected to occur, and has a notification or other viable plan to insure that industrial users will learn of an impending overflow in sufficient time to contain, cease, or reduce discharging to prevent untreated overflows from occurring. The POTW must also demonstrate that it will monitor and verify the data required in subsection (a)(3) of this Section to insure that industrial users are containing, ceasing, or reducing operations during POTW system overflow; and
  - 3) That all industrial users to which the POTW proposes to apply this subsection have demonstrated the ability and commitment to collect and make available upon request by the POTW or the Agency daily flow reports or other data sufficient to demonstrate that all discharges from regulated processes containing the pollutant for which the allowance is

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requested were contained, reduced, or otherwise stopped as appropriate during all circumstances in which an overflow event was reasonably expected to occur; or

- b) Reduction in removal.
- 1) The consistent removal claimed is reduced pursuant to the following equation:

$$r = \frac{(8760 - z)r_m}{8760}$$

$$r_c = \frac{(8760 - Z)r_m}{8760}$$

where:

$r_m$  = POTW's consistent removal rate for that pollutant as established under this Subpart.

$r_c$  = Removal corrected by the overflow factor.

$Z$  = Hours per year that overflow occurred between the industrial user and the POTW treatment plant, the hours either to be shown in the POTW's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular industrial user's discharge overflows between the industrial user and the POTW treatment plan.

- 2) The industrial user can claim consistent removal only where the POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree that affects combined sewer overflows. These requirements include, but are not limited to, any combined sewer overflow requirements that conform to the "Combined Sewer Overflow (CSO) Control Policy," USEPA document number EPA-830/Z-94-001, incorporated by reference in Section 310.107. Conditions for use of formula.

~~A) The POTW can claim consistent removal only where efforts to correct conditions resulting in untreated discharges by the POTW~~

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~~are underway and in accordance with its NPDES permit requirements. The POTW must make revisions to discharge limits in categorical pretreatment standards only where the POTW has committed to efforts to minimize pollution from overflows. At a minimum, the POTW must have completed the analysis required by its NPDES permit and be making an effort to implement the plan.~~

- B) ~~If a POTW has begun the analysis required by its NPDES permit but, due to circumstances beyond its control, has not completed the analysis, the POTW may, subject to approval of the Agency, continue to claim consistent removal according to the formula in this subsection, so long as the POTW acts in a timely fashion to complete the analysis and makes an effort to implement the nonstructural, cost-effective measures identified by the analysis. Subject to the approval of the Agency, according to the formula in this subsection where the POTW has completed and the Agency has accepted the analysis required by the POTW's NPDES permit and the POTW has requested inclusion in its NPDES permit of an acceptable compliance schedule providing for timely implementation of cost-effective measures identified in the analysis. In considering what is timely implementation, the Agency must consider the availability of funds, cost of control measures, and seriousness of the water quality problem.~~

BOARD NOTE: Derived from 40 CFR 403.7(h) (2005)(2003), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005) modified to reflect NRDC v. USEPA, 790 F.2d 289 (3d Cir. 1986).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

## SUBPART E: POTW PRETREATMENT PROGRAMS

**Section 310.510 Pretreatment Program Requirements: Development and Implementation by POTW**

A POTW pretreatment program must be based on the following legal authority and include the following procedures, and these authorities and procedures must at all times be fully and effectively exercised and implemented:

- a) Legal authority. The POTW must operate pursuant to legal authority enforceable



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in federal, State, or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of this Part and 35 Ill. Adm. Code 307. Such authority may be contained in a statute, ordinance, or series of joint powers agreements that the POTW is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority must enable the POTW to:

- 1) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit;
- 2) Require compliance with applicable pretreatment standards and requirements by industrial users;
- 3) Control, through ordinance, permit, order, or similar means, the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements, and in the case of each significant industrial users, as defined at 35 Ill. Adm. Code 310.110, this control must be achieved through individual permits or equivalent individual control mechanisms issued to each such user except as follows; such control mechanisms must be enforceable and contain, at a minimum, the following conditions:

A) At the discretion of the POTW, this control may include use of general control mechanisms if the conditions of subsection (g) of this Section are met.

BOARD NOTE: Subsection (g) is derived from. The Board moved the text of 40 CFR 403.8(f)(1)(iii)(A)(1)(i) through (f)(1)(iii)(A)(2), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005), which would normally appear at this subsection (a)(1)(A), to subsection (g) of this Section to comply with Illinois Administrative Code codification requirements.

B) All individual control mechanisms and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

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- ~~i)A)~~ A statement of duration (in no case more than five years);
  - ~~ii)B)~~ A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
  - ~~iii)C)~~ Effluent limits, including best management practices, based on applicable general pretreatment standards in this Part and 35 Ill. Adm. Code 307, categorical pretreatment standards, local limits, and local law;
  - ~~iv)D)~~ Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Section 310.605(b), or a specific waived pollutant in the case of an individual control mechanism, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards of this Part and 35 Ill. Adm. Code 307, categorical pretreatment standards, local limits, and local law; ~~and~~
  - ~~v)E)~~ A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; however, such schedules may not extend the compliance date beyond applicable federal deadlines; and
  - ~~vi)~~ Requirements to control slug discharges, if such are determined by the POTW to be necessary;
- 4) Require the following:
- A) The development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements; and
  - B) The submission of all notices and self-monitoring reports from

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industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including, but not limited, to the reports required in Subpart F of this Part;

- 5) Carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW must be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under Section 310.634 to assure compliance with pretreatment standards. Such authority must be at least as extensive as the authority provided under section 308 of the federal CWA (33 USC 1318), [incorporated by reference in Section 310.107\(c\)](#);
- 6) Obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement.
  - A) All POTWs must be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards or requirements. All POTWs must also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by industrial users of pretreatment standards and requirements.
  - B) Pretreatment requirements that will be enforced through the remedies set forth in subsection (a)(6)(A) of this Section will include but not be limited to: the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in individual control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW, this Part or 35 Ill. Adm. Code 307. The POTW must have authority and procedures (after notice to the industrial user) immediately and effectively to halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW must also have authority and procedures (which must include notice to the affected industrial users and an opportunity to respond) to halt or prevent

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any discharge to the POTW that presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Agency must have authority to seek judicial relief when the POTW has sought a monetary penalty that the Agency finds to be insufficient; and

- 7) Comply with the confidentiality requirements set forth in Section 310.105.
- b) Procedures. The POTW must develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures must enable the POTW to do the following:
- 1) Identify and locate all possible industrial users that might be subject to the POTW pretreatment program. Any compilation, index, or inventory of industrial users made under this subsection (b)(1) of this Section must be made available to the Agency upon request;
  - 2) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified under subsection (b)(1) of this Section. This information must be made available to the Agency upon request;
  - 3) Notify industrial users identified under subsection (b)(1) of this Section of applicable pretreatment standards and any applicable requirements under sections 204(b) and 405 of the federal CWA (33 USC 1284(b) and 1345) and Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939e and 6941-6949a), each incorporated by reference in Section 310.107. Within 30 days after approval, pursuant to subsection (f) of this Section, of a list of significant industrial users, notify each significant industrial user or its status as such and of all requirements applicable to it as a result of such status;
  - 4) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements in Subpart D of this Part;
  - 5) Randomly sample and analyze the effluent from industrial users and conduct surveillance and inspection activities in order to identify, independent of information supplies by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each significant industrial user at least once a

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~~year, except as otherwise specified in subsections (b)(5)(A) through (b)(5)(C) of this Section. Evaluate, at least once every two years, whether each such significant industrial user needs a plan to control slug discharges. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. The results of these activities must be made available to the Agency upon request. If the POTW decides that a slug control plan is needed, the plan must contain, at a minimum, the following elements:~~

- ~~A) Where the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with Section 310.605(c), the POTW must sample for the waived pollutants at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the industrial user's operations, the POTW must immediately begin at least annual effluent monitoring of the industrial user's discharge and inspection.~~
  - ~~B) Where the POTW has determined that an industrial user meets the criteria for classification as a non-significant categorical industrial user, the POTW must evaluate at least once per year whether an industrial user continues to meet the definition of significant industrial user in Section 310.110.~~
  - ~~C) In the case of industrial users subject to reduced reporting requirements under Section 310.605(c), the POTW must randomly sample and analyze the effluent from the industrial user and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in Section 310.605(c), the POTW must immediately begin sampling and inspecting the industrial user at least once a year.~~
- 6) Evaluate whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; an additional significant

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industrial user must be evaluated within one year after being designated a significant industrial user. For purposes of this subsection (b)(6), a slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant industrial users are required to notify the POTW immediately of any changes at its facility affecting potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- A) Description of discharge practices, including non-routine batch discharges;
- B) Description of stored chemicals;
- C) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under Section 310.202 with procedures for follow-up written notification within five days;
- D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), or measures and equipment for emergency response;
- A) ~~A description of discharge practices, including non-routine batch discharges;~~
- B) ~~A description of stored chemicals;~~
- C) ~~Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under Section 310.202 and 35 Ill. Adm. Code 307.Subpart B, with procedures for follow up written notification~~

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~~within five days; and~~

~~D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response;~~

~~7)6)~~ Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under Subpart D of this Part or as indicated by analysis, inspection, and surveillance activities described in subsection (b)(5) of this Section. Sample taking and analysis, and the collection of other information, must be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

~~8)7)~~ Comply with the public participation requirements of 40 CFR 25, incorporated by reference in Section 310.107, in the enforcement of pretreatment standards. These procedures must include provision for providing, at least annually, public notification, in a newspaper of general circulation in the ~~jurisdictions served by~~ ~~unit of local government in which the POTW is located~~, of industrial users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant ~~an~~ industrial user (or any industrial user that violates subsection (b)(8)(C), (b)(8)(D), or (b)(8)(H) of this Section) is in significant noncompliance if its violation meets one or more of the following criteria:

- A) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as such are defined in Section 310.110 ~~the daily maximum limit or the average limit for the same pollutant parameter;~~
- B) "Technical review criteria" (TRC) violations, which mean those violations in which 33 percent or more of all of the measurements

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~~taken for the same~~~~each~~ pollutant parameter ~~taken~~ during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as such are defined in Section 310.110, daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants, except pH);

- C) Any other violation of a pretreatment standard or requirement, as such are defined in Section 310.110, effluent limit (daily maximum, long-term or longer-term average, instantaneous limit, or narrative standard) that the POTW Control Authority determines has caused, alone or in combination with other discharges, interference, or pass through (including endangering the health of POTW personnel or the general public);
  - D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under subsection (a)(6)(B) of this Section to halt or prevent such a discharge;
  - E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
  - F) Failure to provide, within ~~45~~30 days after the due date, required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - G) Failure to accurately report noncompliance; or
  - H) Any other violation or group of violations, which may include a violation of best management practices, that the POTW Agency determines will adversely affect the operation or implementation of the local pretreatment program.
- c) The POTW must have sufficient resources and qualified personnel to carry the



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authorities and procedures described in subsections (a) and (b) of this Section.

- d) Local limits. The POTW must develop local limits as required in Section 310.210 or demonstrate that they are not necessary.
- e) The POTW must develop and implement an enforcement response plan. This plan must contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum, do the following:
- 1) Describe how the POTW will investigate instances of noncompliance;
  - 2) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
  - 3) Identify (by title) the officials responsible for each type of response; and
  - 4) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in subsections (a) and (b) of this Section.
- f) The POTW must prepare and maintain a list of its industrial users meeting the criteria in the first paragraph of the definition of "significant industrial user" at Section 310.110. The list must identify the criteria in the first paragraph of the definition of "significant industrial user" at Section 310.110 applicable to each industrial user and, ~~where applicable, for industrial users meeting the criteria in the second paragraph of that definition,~~ must also indicate whether the POTW has made a determination pursuant to the caveat in the second paragraph of that definition that such industrial user should not be considered a significant industrial user. The initial list must be submitted to the Approval AuthorityAgency pursuant to Sections 310.521 through 310.533 as a non-substantial program modification pursuant to Section 310.923. Any modificationModifications to the list must be submitted to the Approval AuthorityAgency pursuant to Section 310.612(a).
- g) Alternative use of general control mechanisms.
- 1) A POTW may use a single general control mechanism that applies to several facilities in place of several individual control mechanisms

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applicable to individual facilities. To use a general control mechanism, the following must be true of all of the facilities to be covered by the general control mechanism:

- A) The covered facilities must all involve the same or substantially similar types of operations;
- B) The covered facilities must all discharge the same types of wastes;
- C) The covered facilities must all require the same effluent limitations;
- D) The covered facilities must all require the same or similar monitoring; and
- E) In the opinion of the POTW, the covered facilities are more appropriately controlled under a general control mechanism than under individual control mechanisms.

- 2) To be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with Section 310.605(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with Section 310.605(b). The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in subsections (a)(3)(i)(A) through (a)(3)(i)(E) of this Section, and a copy of the significant industrial user's written request for coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for a significant industrial user whose

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limits are based on the combined wastestream formula or net/gross calculations (Sections 310.233 and 310.801).

BOARD NOTE: Subsection (g) is derived from 40 CFR 403.8(f)(1)(iii)(A)(1)(i) through (f)(1)(iii)(A)(2), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005). The Board moved the text of these subsections, which would normally appear at this subsection (a)(1)(A), to this subsection (g) to comply with Illinois Administrative Code codification requirements.

BOARD NOTE: Derived from 40 CFR 403.8(f) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.511 Receiving Electronic Documents**

A POTW that chooses to receive electronic documents must satisfy the requirements of Section 310.106.

BOARD NOTE: Derived from 40 CFR 403.8(g), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

## SUBPART F: REPORTING REQUIREMENTS

**Section 310.601 Definition of Control Authority (Repealed)**

~~The term "Control Authority" as it is used in this Subpart F refers to the appropriate of the following:~~

- ~~a) The POTW, if the POTW's submission for its pretreatment program (Section 310.110) has been approved in accordance with the requirements of Section 310.540 through 310.546; or~~
- ~~b) The Agency, if the submission has not been approved.~~

~~BOARD NOTE: Derived from 40 CFR 403.12(a) (2003).~~

(Source: Repealed at 30 Ill. Reg. 17847, effective October 26, 2006)

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**Section 310.602 Baseline Report**

Within the time limits specified in subsection (h) of this Section, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW must submit to the Control Authority a report that contains the information listed in subsections (a) through (g) of this Section. New sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, must submit to the Control Authority a report that contains the information listed in subsections (a) through (e) of this Section. Where reports containing this information already have been submitted to the USEPA in compliance with 40 CFR 128.140(b) (1977), ~~incorporated by reference in Section 310.107~~, the industrial user must not be required to submit this information again. New sources must also include in the report information on the method of pretreatment the source intended to use to meet applicable pretreatment standards. New sources must give estimates of the information requested in subsections (d) and (e) of this Section.

- a) Identifying information. The industrial user must submit the name and address of the facility including the name of the operator and owners;
- b) Permits. The industrial user must submit a list of any environmental control permits held by or for the facility;
- c) Description of operations. The industrial user must submit a brief description of the nature, average rate of production, and standard industrial classification (SIC Code) of the operations carried out by such industrial user, as determined using the Standard Industrial Classification Manual, incorporated by reference in Section 310.110(a). This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes;
- d) Flow measurement. The industrial user must submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
  - 1) Regulated process streams; and
  - 2) Other streams as necessary to allow use of the combined waste stream formula of Section 310.233. (See subsection ~~(e)(4)(e)(5)~~ of this Section.) ~~The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations;~~

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- e) Measurement of pollutants.
- 1) The industrial user must identify the pretreatment standards applicable to each regulated process.
  - 2) In addition, the industrial user must submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or Control Authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) must be reported. The sample must be representative of daily operations. In cases where the categorical standard requires compliance with a best management practice or pollution prevention alternative, the industrial user shall submit documentation as required by the Control Authority or the applicable categorical standards to determine compliance with the categorical standard.
  - ~~3) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control Authority must waive flow proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples must be obtained through time proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.~~
  - ~~3)4) The user must take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.~~
  - ~~4)5) Samples must be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the industrial user must measure the flows and concentrations necessary to allow use of the combined waste stream formula of Section 310.233 in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Section 310.233, this adjusted limit along with supporting data must be submitted~~

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to the Control Authority.

- ~~5)6)~~ Analytical methods. Sampling and analysis must be performed in accordance with the techniques prescribed in 35 Ill. Adm. Code 307.1003. When 35 Ill. Adm. Code 307.1003 does not reference sampling or analytical techniques for the pollutant in question or where USEPA has determined that sampling and analysis techniques are inappropriate pursuant to 40 CFR 403.12(b), incorporated by reference in Section 310.107(c), sampling and analysis must be performed by using validated analytical methods or any other applicable sampling and analytical procedures approved by the Agency, including procedures suggested by the POTW or other parties.
- ~~A)~~ ~~The Board incorporates by reference 40 CFR 403.12(b) (2003). This Part incorporates no future amendments or editions.~~
- ~~B)~~ ~~Sampling and analysis must be performed in accordance with the techniques prescribed in 35 Ill. Adm. Code 307.1003. When 35 Ill. Adm. Code 307.1003 does not reference sampling or analytical techniques for the pollutant in question, or where USEPA has determined that sampling and analysis techniques are inappropriate pursuant to 40 CFR 403.12(b), sampling and analysis must be performed by using validated analytical methods or any other applicable sampling and analytical procedures, approved by the Agency, including procedures suggested by the POTW or other parties.~~
- ~~6)7)~~ The Control Authority may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- ~~7)8)~~ The baseline report must indicate the time, date, and place of sampling, and methods of analysis, and must certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- f) Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in Section 310.633) and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and

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M) or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements;

- g) Compliance schedule. If additional pretreatment or O and M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment or O and M. The completion date in this schedule must not be later than the compliance date established for the applicable pretreatment standard.
- 1) Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (Subpart C of this Part), by the combined waste stream formula (Section 310.233) or a fundamentally different factors determination (Subpart E of this Part) at the time the user submits the report required by this Section, the information required by subsections (f) and (g) of this Section must pertain to the modified limits.
  - 2) If the categorical pretreatment standard is modified by a removal allowance (Subpart C of this Part), by the combined waste stream formula (Section 310.233) or a fundamentally different factors determination (Subpart E of this Part) after the user submits the report required by this Section, any necessary amendments to the information requested by subsections (f) and (g) of this Section must be submitted by the user to the Control Authority within 60 days after the modified limit is approved.
- h) Deadlines for baseline reports.
- 1) For standards adopted by USEPA prior to authorization of the Illinois pretreatment program, baseline reports must be submitted pursuant to 40 CFR 403.12(b).
  - 2) For standards adopted by USEPA after authorization of the Illinois pretreatment program:
    - A) Baseline reports for existing sources are due within 180 days after the Board adopts or incorporates a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under Section 310.221(d), whichever is later.
    - B) New sources and sources that become industrial users subsequent

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to the promulgation of an applicable categorical standard must submit the baseline report within 90 days before beginning discharge.

- C) New sources already in existence and discharging on the date the Board adopts or incorporates a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under Section 310.221(d), as described for existing sources under subsection (h)(1)(A) of this Section, are considered existing sources for the purposes of the due date provisions of this subsection.

BOARD NOTE: Derived from 40 CFR 403.12(b) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.605 Periodic Reports on Compliance**

- a) Any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user as defined in Section 310.110), after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, must submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Control Authority, a report indicating the nature and concentration of pollutants in the effluent that are limited by such categorical pretreatment standards. In addition, this report must include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 310.602(d), except that the Control Authority may require more detailed reporting of flows. In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the industrial user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the industrial user. In consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may alter the months during which the reports required by this subsection (a) are to be submitted.
- b) The Control Authority must authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical



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pretreatment standard if it determines that the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or that the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

- 1) The Control Authority may authorize a waiver only where it determines that a pollutant is present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard, and the sanitary wastewater otherwise includes no process wastewater;
- 2) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism;
- 3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Section 310.631 and include the certification statement in Section 310.221(b)(2). Non-detectable sample results may only be used as a demonstration that a pollutant is not present only if the USEPA-approved method from 40 CFR 136, incorporated by reference in Section 310.107(b), with the lowest minimum detection level for that pollutant was used in the analysis;
- 4) Any grant of a monitoring waiver by the Control Authority must be included as a condition in the industrial user's control mechanism. The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the Control Authority for three years after expiration of the waiver;
- 5) Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the Control Authority, the industrial user must certify on each report with the statement below, that there has been

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no increase in the pollutant in its wastestream due to activities of the industrial user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutants] in the wastewaters due to the activities at the facility since filing of the last periodic report under 35 Ill. Adm. Code 310.605(a);

- 6) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the industrial user must immediately comply with the monitoring requirements of subsection (a) of this Section or other more frequent monitoring requirements imposed by the Control Authority; and it must notify the Control Authority; and
- 7) This subsection (b) does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- c)b) Where the Control Authority has imposed mass limitations on industrial users as provided by Section 310.232, the report required by subsection (a) of this Section must indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.
- d)e) For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in Section 310.230, the report required by subsection (a) of this Section must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (a) of this Section must include the user's actual average production rate for the reporting period.

BOARD NOTE: Derived from 40 CFR 403.12(e) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

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(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.610 Monitoring and Analysis**

- a) Except in the case of a non-significant categorical user, the reports required in Sections~~Section~~ 310.602(e), 310.604, ~~and 310.605, and 310.611~~ must contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the Control Authority of pollutants contained in the discharge that are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the Control Authority instead of the industrial user. Where the POTW performs the required sampling and analysis instead of the industrial user, the user is not required to submit the compliance certification required under Sections 310.602(f) and 310.604. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user is not required to submit the report.
- b) If sampling performed by an industrial user indicates a violation, the user must notify the Control Authority with 24 hours after becoming aware of the violation. The user must also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the industrial user, the Control Authority must perform the repeat sampling and analysis, unless it notifies the industrial user of the violation and requires the industrial user to perform the repeat analysis. Resampling is not required if the following conditions are fulfilled, except the industrial user is not required to resample if either of the following occurs:
- 1) The Control Authority performs sampling at the industrial user at a frequency of at least once per month; or
  - 2) The Control Authority performs sampling at the user between the time when the user performs its initial sampling was conducted and the time when the industrial user or the Control Authority receives the results of this sampling.
- c) The reports required in Sections 310.602, 310.604,~~Section~~ 310.605, and 310.611 must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Control Authority must

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require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR 136, incorporated by reference in Section 310.107(b), and appropriate USEPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in USEPA-approved methodologies may be authorized by the Control Authority, as appropriate.

- d) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 310.602 and 310.604, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by Sections 310.605 and 310.611, the Control Authority must require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.
- e)d) All analyses must be performed in accordance with procedures referenced in 35 Ill. Adm. Code 307.1003, or with any other test procedure approved by the Agency. Sampling must be performed in accordance with the techniques approved by the Agency. Where 35 Ill. Adm. Code 307.1003 does not reference sampling or analytical techniques for the pollutants in question, or where USEPA has determined as provided in Section 310.602 that sampling and analytical techniques are inappropriate, sampling and analyses must be performed using validated analytical methods or any other sampling and analytical procedures including procedures approved by the POTW or other persons.

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- f)e) If an industrial user subject to the reporting requirement in Section 310.605 monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in subsection (e)(d) of this Section, the results of this monitoring must be included in the report.

BOARD NOTE: Derived from 40 CFR 403.12(g) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.611 Requirements for Non-Categorical Users**

The Control Authority must require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant non-categorical~~noncategorical~~ industrial users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the industrial user must submit documentation required by the Control Authority to determine the compliance status of the industrial user. These reports must be based on sampling and analysis performed in the period covered by the report, and ~~performed~~ in accordance with the techniques described in 40 CFR 136, incorporated by reference at Section 310.107. ~~Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Agency determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis must be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Agency. Where the POTW itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.~~ For the purposes of this Section, "significant non-categorical~~noncategorical~~ industrial user" means a significant industrial user that is not subject to categorical pretreatment standards.

BOARD NOTE: Derived from 40 CFR 403.12(h) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.612 Annual POTW Reports**

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POTWs with approved pretreatment programs must provide the Approval Authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section must be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter. The report must include, at a minimum, the following:

- a) An updated list of the POTW's industrial users, including their names and addresses or a list of deletions and additions keyed to a previously submitted list. The POTW must provide a brief explanation of each deletion. This list must identify which industrial users are subject to categorical pretreatment standards and specify which standards are applicable to each industrial user. The list must indicate which industrial users are subject to more stringent than the categorical pretreatment standards. The POTW must also list the industrial users that are subject only to local requirements. The list must also identify industrial users that are subject to categorical pretreatment standards and which are subject to reduced reporting requirements under Section 310.605(c), and the list must identify which industrial users are non-significant categorical industrial users.
- b) A summary of the status of industrial user compliance over the reporting period.
- c) A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period.
- d) A summary of changes to the POTW's pretreatment program that have not been previously reported to the Agency.

BOARD NOTE: Derived from 40 CFR 403.12(i) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.613 Notification of Changed Discharge**

An industrial user must promptly notify the Control Authority (and the POTW if the POTW is not the Control Authority) in advance of any substantial change in the volume or character of pollutants in its discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under Section 310.635.

BOARD NOTE: Derived from 40 CFR 403.12(j) (2005), as amended at 70 Fed. Reg. 60134

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(Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.621 Compliance Schedule for POTWs**

The following conditions and reporting requirements must apply to the compliance schedule for development of an approvable POTW pretreatment program required by Section 310.501 through 310.510.

- a) The schedule must contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a POTW pretreatment program (e.g., acquiring required authorities, developing funding mechanisms, acquiring equipment);
- b) No increment referred to in Section 310.621(a) must exceed nine months;
- c) Not later than 14 days following each date in the schedule and the final date for compliance, the POTW must submit a progress report to the Agency including as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event must more than nine months elapse between such progress reports to the Agency.

BOARD NOTE: Derived from 40 CFR 403.12(k) 403.12(h)(2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.631 Signatory Requirements for Industrial User Reports**

The reports required by Sections 310.602, 310.604, and 310.605 must include the certification statement as set forth in Section 310.221(b)(2) and must be signed as follows:

- a) By a responsible corporate officer, if the industrial user submitting the reports required in Sections 310.602, 310.604, and 310.605 is a corporation. For the purposes of this Section, a responsible corporate officer means one of the following:
  - 1) A president, secretary, treasurer, or vice-president of the corporation in

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charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

- 2) The manager of one or more manufacturing, production, or ~~operating~~ ~~operation~~ facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where ~~employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars) if~~ authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- b) A general partner or proprietor, if the industrial user submitting the report required by Sections 310.602, 310.604, and 310.605 is a partnership or sole proprietorship, respectively.
- c) A duly authorized representative of the individual designated in subsection (a) or (b) of this Section, if:
  - 1) The authorization is made in writing by the individual described in subsection (a) or (b) of this Section;
  - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field superintendent, or a position of equivalent responsibility or having overall responsibility for environmental matters for the company; and
  - 3) The written authorization is submitted to the Control Authority.
- d) If an authorization under subsection (c) of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (c) of this



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Section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

BOARD NOTE: Derived from 40 CFR 403.12(l) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.632 Signatory Requirements for POTW Reports**

Reports submitted to the Agency by the POTW in accordance with Section 310.~~612624~~ must be signed by a principal executive officer, ranking elected official, or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility if such employee is responsible for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submittedPOTW.

BOARD NOTE: Derived from 40 CFR ~~40 CFR~~ 403.12(m) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.633 Fraud and False Statements**

The reports required by this Subpart are subject to the provisions of Section 1001 of Crimes and Criminal Procedure (18 USC 1001), incorporated by reference in Section 310.107, relating to fraud and false statements; the provisions of section 309(c)(4) of the CWA (33 USC 1319(c)(4)), incorporated by reference in Section 310.107(c), governing false statements, representations, or certifications in reports required under the CWA; the provisions of section 309(c)(6) of the CWA (33 USC 1319(c)(6)), incorporated by reference in Section 310.107(c), regarding responsible corporate officers; and to the provisions of Title XII of the Act.

BOARD NOTE: Derived from 40 CFR 403.12(n) (2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.634 Recordkeeping Requirements**

- a) Any industrial user and POTW subject to the reporting requirements established

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in this Subpart must maintain records of all information resulting from any monitoring activities required by this Subpart F, including documentation associated with best management practices. Such records must include the following information for all samples:

- 1) The date, exact place, method, and time of sampling, and the names of the person or persons taking the samples;
  - 2) The dates analyses were performed;
  - 3) Who performed the analyses;
  - 4) The analytical techniques/methods use; and
  - 5) The results of such analyses.
- b) Any industrial user or POTW subject to the reporting requirements established in this Subpart F (including documentation associated with best management practices) must be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this Section) and must make such records available for inspection and copying by the Agency (and POTW in the case of an industrial user). This period of retention is extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the Agency.
- c) Any POTW to which reports are submitted by an industrial user pursuant to Sections 310.602, 310.604, 310.605, and 310.611 must retain such reports for a minimum of three years and must make such reports available for inspection and copying by the Agency. This period of retention must be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the Agency.

BOARD NOTE: Derived from 40 CFR 403.12(o) (2005)-403.12(1), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.636 Annual Certification by Non-Significant Categorical Users**

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A facility defined as a non-significant categorical industrial user in Section 310.110 must annually submit the following certification statement, signed in accordance with the signatory requirements in Section 310.631. The following certification must accompany any alternative report required by the Control Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief during the period from [insert beginning month, day, year], to [insert ending month, day, year]:

- a) The facility described as [insert facility name] met the definition of a non-significant categorical industrial user, as such is defined in 35 Ill. Adm. Code 310.110;
- b) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
- c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based upon the following information: [insert the information]

BOARD NOTE: Derived from 40 CFR 403.12(q), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

### **Section 310.637 Receiving Electronic Documents**

A Control Authority that chooses to receive electronic documents must satisfy the requirements of Section 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(r), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

### SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

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**Section 310.705 Factors that are Not Fundamentally Different**

A FDF request or portion of such a request under this Subpart G must be granted on any of the following grounds:

- a) The feasibility of installing the required waste treatment equipment within the time the federal CWA (33 USC 1251 et seq.), incorporated by reference in Section 310.107(c), allows;
- b) The assertion that the standards cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factors listed in Section 310.704;
- c) The industrial user's ability to pay for the required waste treatment; or
- d) The impact of a discharge on the quality of the POTW's receiving waters.

BOARD NOTE: Derived from 40 CFR 403.13(e) (2005)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

**Section 310.711 Application Deadline**

- a) Request for an FDF determination and supporting information must be submitted in writing to the Agency.
- b) In order to be considered, requests for FDF determinations must be submitted within the following time limits:
  - 1) Prior to authorization of the Illinois program, FDF requests must be directed to USEPA pursuant to 40 CFR 403.13 ~~(2003)~~.
  - 2) For standards adopted by USEPA after authorization of the Illinois pretreatment program, the industrial user must request an FDF determination within 180 days after the Board adopts or incorporates the standard by reference unless the user has requested a category determination pursuant to Section 310.221.
- c) Where the industrial user has requested a category determination pursuant to

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Section 310.221, the user may elect to await the results of the category determination before submitting a request for an FDF determination. Where the user so elects, the user must submit the request within 30 days after a final decision has been made on the categorical determination pursuant to Section 310.221(d).

BOARD NOTE: Derived from 40 CFR 403.13(g) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~(2003)~~.

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

## SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

**Section 310.801 Net/Gross Calculation ~~by USEPA~~**

The Control Authority~~USEPA~~ may adjust categorical pretreatment standards to reflect the presence of pollutants in the industrial user's intake water as provided in 40 CFR 403.15, incorporated by reference in Section 310.107(b)~~(2003)~~.

BOARD NOTE: Derived from 40 CFR 403.15 (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

## SUBPART J: BYPASS

**Section 310.912 Notice**

- a) If an industrial user knows in advance of the need for a bypass, it must submit prior notice to the Control Authority, if possible at least 10 days before the date of the bypass.
- b) An industrial user must submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Control Authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission must also be provided within five days after the time the industrial user becomes aware of the bypass. The written submission must contain the following:
  - 1) A description of the bypass and its cause;

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- 2) The duration of the bypass, including exact dates and times ~~and~~; and
  - 3) If the bypass has not been corrected, the anticipated time it is expected to continue and the steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.
- c) The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

BOARD NOTE: Derived from 40 CFR 403.17(c) ~~(2003)~~ (2005).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

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- 1) Heading of the Part: Women's Health Code
- 2) Code Citation: 77 Ill. Adm. Code 970
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
970.10	Amended
970.15	New
970.20	Repealed
970.30	Repealed
970.40	Amended
970.60	Repealed
970.80	Amended
970.200	New
970.210	New
970.220	New
970.230	New
970.240	New
970.310	New
970.320	New
970.330	New
970.340	New
970.350	New
- 4) Statutory Authority: Implementing and authorized by Section 2310-347 and 2310-350 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-347 and 2310-350]
- 5) Effective Date of Rulemaking: October 27, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in Illinois Register: July 21, 2006; 30 Ill. Reg. 12523
- 10) Has JCAR issued a Statement of Objection to these amendments? No

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- 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: The Department did not receive any comments.

The following changes were made in response to comments and suggestions of JCAR:

- 1) In Section 970.10, Definitions, deleted the definition "'FEIN number' means the nine digit Federal Taxpayer Identification Number also known as the Federal Employer Identification Number, Social Security Number, or Governmental Unit Code."
- 2) In Section 970.10, Definitions, changed "Not-for-profit" by adding "Profit" and striking "profit".
- 3) In Section 970.10, Definitions, reinstated the definition "'TIN number' means the nine digit Federal Taxpayer Identification Number also known as the Federal Employer Identification Number (FEIN), Social Security Number, or Governmental Unit Code."
- 4) In Section 970.10, Definitions, changed the definition "TIN number" by striking "number"; added "that includes" after "means the nine digit Federal Taxpayer Identification Number", and struck "~~also known as~~" before "the Federal Employer Identification Number (FEIN)".
- 5) In Section 970.230(a)(5), added "The TIN;" and deleted "The Social Security Number Federal Employer Identification Number (FEIN) or the Governmental Unit Code assigned by the State of Illinois, Office of the Comptroller;".
- 6) In Section 970.310, after "levies" added "(i.e., fees, fines or assessments such as tax levies, tax penalties, or association dues)".
- 7) In Section 970.320(a), replaced commas with semicolons; after the second "Illinois" added "that hold a Clinical Laboratory Improvement Act (CLIA) certificate issued by the Centers for Medicare and Medicaid Services/Department of Health and Human Services"; and after the next "Illinois" in the same paragraph added "that are certified by the Illinois Emergency Management Agency".



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- 8) In Section 970.330(a)(5), added "The TIN;" and deleted "The Social Security Number, Federal Employer Identification Number (FEIN) or the Governmental Unit Code assigned by the State of Illinois, Office of the Comptroller;".
- 9) In Section 970.340(a)(8), added "The TIN;" and deleted "The Social Security Number, Federal Employer Identification Number (FEIN) or the Governmental Unit Code assigned by the State of Illinois, Office of the Comptroller;".

In addition, various typographical, grammatical, and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking implements Public Act 94-119 and Public Act 94-120. P. A. 94-119 amends the Public Health Powers and Duties Law to include Ovarian Cancer Research and renames the Penny Severns Breast and Cervical Cancer Research Fund to Penny Severns Breast, Cervical and Ovarian Cancer Research Fund. P.A. 94-120 amends the Illinois Lottery Law to require the Department of Revenue to offer a special instant scratch-off game, "Ticket for the Cure," starting January 1, 2006 and to be discontinued on December 31, 2011. The net revenue from the game shall be deposited into the Ticket for the Cure Fund for appropriation by the General Assembly solely to the Department of Public Health for the purpose of making grants to public and private entities in Illinois to conduct breast cancer research and to fund services to breast cancer victims.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5th Floor

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Springfield, Illinois 62761

217/782-2040

e-mail: [rules@idph.state.il.us](mailto:rules@idph.state.il.us)

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 970

~~WOMEN'S HEALTH CODE PENNY SEVERNS  
BREAST AND CERVICAL CANCER RESEARCH FUND RULES~~

SUBPART A: GENERAL PROVISIONS

Section	
970.10	Definitions
<u>970.15</u>	<u>Referenced Materials</u>
970.20	Eligibility ( <u>Repealed</u> )
970.30	Application Procedures ( <u>Repealed</u> )
970.40	Application Review Criteria
970.50	Notification of Award
970.60	Award and Use of Grant Funds ( <u>Repealed</u> )
970.70	Monitoring Criteria
970.80	Contract Expiration
970.90	Termination of the Grant Agreement or Funding
970.100	Denial, Suspension or Revocation of Grant Application or Grant Agreement
970.110	Procedures for Hearings

SUBPART B: PENNY SEVERNS BREAST, CERVICAL,  
AND OVARIAN CANCER RESEARCH FUND

<u>Section</u>	
<u>970.200</u>	<u>Purpose</u>
<u>970.210</u>	<u>Penny Severns Breast, Cervical, and Ovarian Cancer Research Fund</u>
<u>970.220</u>	<u>Eligibility</u>
<u>970.230</u>	<u>Application Procedures</u>
<u>970.240</u>	<u>Award and Use of Grant Funds</u>

SUBPART C: TICKET FOR THE CURE

<u>Section</u>	
<u>970.310</u>	<u>Ticket for the Cure Fund</u>
<u>970.320</u>	<u>Eligibility</u>

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<a href="#">970.330</a>	<a href="#">Application Procedures for Research Concerning Breast Cancer</a>
<a href="#">970.340</a>	<a href="#">Application Procedures for Services for Breast Cancer Victims</a>
<a href="#">970.350</a>	<a href="#">Award and Use of Grant Funds</a>

AUTHORITY: Implementing and authorized by Sections 2310-347 and 2310-350 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-347 and 2310-350].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 9549, effective June 10, 1994, for a maximum of 150 days; emergency expired on November 7, 1994; adopted at 18 Ill. Reg. 17919, effective December 5, 1994; amended at 24 Ill. Reg. 7543, effective May 15, 2000; amended at 30 Ill. Reg. 17924, effective October 27, 2006.

SUBPART A: GENERAL PROVISIONS**Section 970.10 Definitions**

"Act" means [Sections 2310-347 and Section 2310-350](#) of the [Department of Public Health Powers and Duties Law of the](#) Civil Administrative Code of Illinois [20 ILCS 2310/[2310-347 and](#) 2310-350].

"Applicant" means any eligible physician, hospital, laboratory, education institution, other organization or person in Illinois whose intent is to conduct breast, ~~cervical, and ovarian~~ ~~and cervical~~ cancer research; [public or private entities in Illinois whose intent is to conduct research concerning breast cancer or to fund services for breast cancer victims](#); or [any of the above whose intent is to support a fellowship in the area of breast, Breast cervical, and Cervical and ovarian cancer](#). [\(Section 21.5 of the Illinois Lottery Law\)](#)

"Breast, ~~and Cervical, and Ovarian~~ Cancer Advisory Committee" means a committee chaired by the Director or his/[her](#) designee and composed of at least six additional members appointed by the Director, of which four must be representatives of the State Board of Health, Y-Me, Susan G. Komen Foundation, and American Cancer Society-Illinois Chapter and the remaining individuals must be knowledgeable of either breast, ~~or cervical, or ovarian~~ cancer or representative of an at-risk population. With the exception of the Chair, no appointee shall be an employee of the Department.

"Breast Cancer" means malignant tumor of the breast characterized by

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uncontrolled, abnormally rapid division of cells that originate in the breast and surrounding tissue and may spread to other organs.

"Cervical Cancer" means malignant tumor of the narrow lower end or neck of the uterus (cervix) characterized by uncontrolled, abnormally rapid division of cells that originate in the cervix and surrounding tissue and may spread to other organs.

"Clinical Diagnosis" means the process of identifying a disease by its characteristic signs, symptoms and laboratory findings.

"Clinical Trial" means the testing of diagnostic, treatment, and prevention techniques by comparing results in patients randomly assigned to receive one of two or more techniques being tested.

"Cure" means the eradication of disease through removal of the risk of death invoked by the disease that was treated.

"Department" means the Illinois Department of Public Health.

"Detection" means the discovery of breast, ~~or~~ cervical, or ovarian cancer in a woman previously thought to be free of such cancer.

"Diagnostic Evaluation" means use of various techniques including physical exams, mammography, and evaluation by a pathologist of breast, ~~or~~ cervical, or ovarian cells removed from the body to determine the presence and type of cancer.

"Director" means the Director of the Illinois Department of Public Health.

"Early Detection" means discovery of breast, ~~or~~ cervical, or ovarian cancer at the first possible time when spread to other organs is least likely to occur.

"Fellowship" means supervised practical experience for an individual in a health care or scientific specialty beyond that required to earn a doctorate or, in the case of medicine, beyond that provided to hospital resident physicians to broaden expertise in breast, ~~and~~ cervical, and ovarian cancer.

"Funding Period" means the time (usually twelve months coinciding with the Department's Fiscal Year) during which money is to be spent in support of a

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particular research project or training course.

"General Award" means presentation of funds by the Department to an applicant to conduct research on breast, ~~and~~ cervical, and/or ovarian cancer and for funding services to breast cancer victims.

"Governmental Unit Code" means the Illinois Comptroller's preassigned vendor identification number for governmental agencies and municipalities.

"Grant Agreement Period" (see Funding Period).

"Not-for-~~Profit~~profit" means a corporation as described in the General Not-for-Profit Corporation Act of 1986 [805 ILCS 105].

"Ovarian Cancer" means malignant tumor of the ovaries characterized by uncontrolled, abnormally rapid division of cells, which originates in the ovaries and may spread to other organs.

"Peer Review Panel" means a group appointed by the Director, whose members demonstrate and are acknowledged to have expertise in areas dealing with breast, ~~and~~ cervical, and ovarian cancer research.

"Prevention" means using various techniques including drugs, diet, and/or lifestyle changes to stop cancer from developing in healthy women.

"Principal Investigator" means the person with prime responsibility for conducting a research project.

"Project Period" means a minimum of one year and a maximum of three years (possibility of two continuation grants).

"Referral" means the process of linking persons who may be or who have been diagnosed with breast, ~~or~~ cervical, and ovarian cancer with services in response to those needs.

"Research" means a scientific investigation into possible causes, location, progression, treatment, care and cure for breast, ~~and~~ cervical, and ovarian cancer. *Research includes, but is not limited to, expenditures to develop and advance the understanding, techniques, and modalities effective in early detection, prevention,*

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*cure, screening, and treatment of breast, ~~and~~ cervical, and ovarian cancer and may include clinical trials. (Section 2310-350 of the Act)*

"Research Fund" means the Penny Seaverns Breast, ~~and~~ Cervical, and Ovarian Cancer Research Fund, which is a special fund in the State Treasury as described in Section 2310-350 of the Civil Administrative Code of Illinois.

"Research Fund Checkoff" means a voluntary process by which an Illinois taxpayer may use a provision on the standard individual income tax form to contribute to the Penny Seaverns Breast, ~~and~~ Cervical, and Ovarian Cancer Research Fund.

"Research Grant" means funding provided to qualified principal investigators to investigate specific questions related to breast, ~~and~~ cervical, and ovarian cancer research.

"Services for Breast Cancer Victims" means any type of assistance to aid in the lives of victims of breast cancer.

"Services for Breast Cancer Victims Grants" means funding to non-research grantees that provide services to breast cancer victims.

"Screening" means examining and testing for cancer in women who have no overt symptoms of cancer.

"Ticket for the Cure Board" means an advisory board within the Department created by Section 2310-347 of the Act.

"Ticket for the Cure Fund" means a special fund created by Section 21.5 of the Illinois Lottery Law [20 ILCS 1605].

"TIN~~number~~" means the nine digit federal Taxpayer Identification Number that includes also known as the Federal Employer Identification Number (FEIN), Social Security Number, or Governmental Unit Code.

"Training and Continuing Education" means extending or updating the knowledge of research scientists, health care professionals and other allied persons.

"Treatment" means the management and care of a woman for the purpose of

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combating breast, ~~or~~ cervical, or ovarian cancer.

(Source: Amended at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.15 Referenced Materials**

The following State and federal laws and State administrative rules are referenced in this Part:

- a) State of Illinois Laws:
- 1) The Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-347 and 2310-350]
  - 2) General Not-for-Profit Corporation Act of 1986 [805 ILCS 105]
  - 3) Illinois Lottery Law [20 ILCS 1605]
  - 4) Illinois Human Rights Act [775 ILCS 5]
  - 5) Illinois Procurement Code [30 ILCS 500]
- b) State of Illinois Administrative Rules:
- Local Health Protection Grant Rules (77 Ill. Adm. Code 200)
- c) Federal Laws:
- 1) The Civil Rights Act of 1964 (42 USC 1981)
  - 2) The Drug-Free Workplace Act of 1988 (41 USC 701-707)
  - 3) The Davis-Bacon Act of 1931 (40 USC 3141-3144, 3146, 3147)

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.20 Eligibility (Repealed)**

- a) ~~Eligible applicants include physicians licensed in Illinois to practice medicine in all of its branches, licensed hospitals in Illinois, certified laboratories in Illinois,~~



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~~certified mammography professionals and facilities, post-secondary higher educational institutions in Illinois and other medically affiliated organizations in Illinois and persons who are Illinois residents or sponsored by an Illinois facility guaranteeing benefits to Illinois residents.~~

- b) ~~All certified local health departments which provide public health programs as defined in 77 Ill. Adm. Code 615.200.~~

(Source: Repealed at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.30 Application Procedures (Repealed)**

~~The Department shall provide written application instructions and forms to potential applicants.~~

- a) ~~All applications shall include the following:~~
- ~~1) the principal investigator's name, address, and telephone and FAX and teletypewriter (TTY) numbers, if available;~~
  - ~~2) the name, address, and telephone and FAX and TTY numbers, if available, of the entity (such as a university) through which the application is being submitted, if different from the information provided in subsection (a)(1) of this Section;~~
  - ~~3) the curriculum vitae of the principal investigator;~~
  - ~~4) a one-page non-technical abstract, which describes the significance of the applicant's project for breast and/or cervical cancer research;~~
  - ~~5) the Social Security Number, Taxpayer Identification Number (TIN) or the Governmental Unit Code assigned by the State of Illinois, Office of the Comptroller;~~
  - ~~6) the signature of principal investigator or agency official authorized to certify the application;~~
  - ~~7) an approximate timetable for project completion;~~
  - ~~8) a detailed budget for the funding period, documenting sufficient resources~~

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~~to carry out the project. The budget shall be by line item category and shall provide sufficient detail to justify the use of grant funds to support project activities. The applicant shall indicate the total cost of conducting the project(s), the anticipated funding request for year 2 and 3 of the project (if applicable), the source of other funds supporting the project(s), the amount of support requested from the Department;~~

- ~~9) a signed Statement of Assurances indicating compliance with applicable State and federal requirements, such as the Fiscal Control and Internal Auditing Act, Office of Management and Budget (OMB) Circular A-128 (local governments), OMB Circular A-133 (not for profit organizations), bribery certification, contract debarment, unlawful discrimination, Illinois Human Rights Act, Federal Civil Rights Act, Drug Free Workplace Act, Davis-Bacon Act, conflict of interest as specified in the Illinois Procurement Code [30 ILCS 500], and protection of the confidentiality of services;~~
  - ~~10) a statement of whether funds are being requested for a fellowship or a general award;~~
  - ~~11) a statement of the research question or hypothesis, or a description of intervention(s) or model program(s) on which the research will be based;~~
  - ~~12) a prioritized listing of measurable objectives for the funding period;~~
  - ~~13) for each objective proposed for the first year of the project, a sequential listing of activities to achieve the objective, the time line for completing each activity, identification of the individual responsible for coordinating the implementation of each objective; and~~
  - ~~14) the evaluation methods to be used to measure progress in achieving objectives and a plan for monitoring the overall project.~~
- b) ~~If the funds are being requested to support a fellowship, the following information shall be provided in addition to the information required in subsection (a) of this Section:~~
- ~~1) the name of individual to be supported through the fellowship;~~

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- 2) ~~the curriculum vitae of individual; and~~
- 3) ~~at least one letter of recommendation from the principal investigator or agency official authorized to certify the application.~~
- e) ~~All continuation applications shall contain the information required in subsection (a) and, in addition, shall include the following:~~
  - 1) ~~a progress report which contains a description of the status of each activity of the project to date, utilizing the evaluation methods and monitoring plan specified in subsection (a)(14) of this Section;~~
  - 2) ~~documentation of progress in meeting each project objective;~~
  - 3) ~~the project objectives for the new grant year, along with activities and timelines for completion of each activity; and~~
  - 4) ~~any revisions in the evaluation methods or the monitoring plan, along with the rationale for such revisions.~~

(Source: Repealed at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.40 Application Review Criteria**

A non-technical and technical review shall be conducted for each application received by the Department:

- a) Criteria for the non-technical review shall include:
  - 1) ~~The~~ inclusion of all required forms specified in ~~Sections~~Section 970.230, 970.330 and 970.340~~30~~; and
  - 2) ~~The~~the inclusion of a response to each required item as specified in ~~Sections~~Section 970.230, 970.330 and 970.340~~30~~.
- b) Criteria for the technical review shall be as follows:
  - 1) ~~The~~the activities identified by the applicant will lead to achievement of the objectives;

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- 2) ~~The~~ project objectives are achievable in the stated time frame;
- 3) ~~The~~ evaluation methods will measure progress toward the identified objectives;
- 4) ~~The~~ budget (~~Section 970.30(a)(8)~~) provides sufficient resources and justifies the need for funds to carry out the project; and
- 5) ~~Continuation~~ applicants have documented the status of each activity in support of the current year's objectives and have provided an estimate of the extent to which each current year objective will be met.

(Source: Amended at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.60 Award and Use of Grant Funds (Repealed)**

- a) ~~Project funds shall only be used for the direct cost of administering, operating and maintaining a project. The following direct costs are examples of those that may be incurred when specified in the grant agreement:~~
  - 1) ~~personal services costs, including gross salaries and employer paid fringe benefits for full-time and part-time employees of the project;~~
  - 2) ~~contractual services costs, including but not limited to, fees for consultants and specialists, exclusive of consultant services for patient care; conference registration fees; repair and maintenance of furniture and equipment; postage and postal services; subscriptions; training and education costs; software; and telecommunications costs;~~
  - 3) ~~travel of personnel in carrying out authorized activities. Travel costs are the expenses for transportation, lodging and subsistence for personnel who are on travel status on official business for the applicant. Out-of-State travel requires prior written approval of the Department;~~
  - 4) ~~supplies/commodities as required in the operation of the project which are directly related to its operation. Supplies include, but are not limited to, office, medical and educational supplies; equipment items costing less than \$100.00 each; printing; and paper; and~~

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- 5) ~~equipment directly related to the operation of the project. (Equipment is defined as items costing over \$100.00 each, with a useful life of more than one year (Section 20 of the State Finance Act; Ill. Rev. Stat. 1991, ch. 127, par. 156 [30 ILCS 105/20]). Equipment costs shall include all freight and installation costs. Purchase of equipment items, other than those included in the approved budget, require prior written approval from the Department.)~~
- b) ~~Payments to the grantee shall be made on a reimbursement basis.~~
- 1) ~~The grantee shall use the Department's Reimbursement Certification Form or a reasonable facsimile to request reimbursement.~~
- 2) ~~The grantee shall document actual expenditures incurred for the purchase of goods and services necessary for conducting program activities.~~
- A) ~~Expenditures shall be itemized on the Reimbursement Certification Form in such a manner as to establish an audit trail for future verification of appropriate use of grant funds.~~
- B) ~~Each item claimed on the Reimbursement Certification Form must be based on an expenditure traceable through the grantee's internal accounting system and shall include:~~
- i) ~~the check number or internal ledger transfer code;~~
- ii) ~~date of payment;~~
- iii) ~~dates goods or services were received or the period covered;~~
- iv) ~~a description of the goods or services and gross amount of the check or transfer; and~~
- v) ~~the amount claimed for reimbursement from the Department.~~
- 3) ~~The grantee shall submit requests for reimbursement periodically (monthly~~

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~~or quarterly) throughout the period of the grant. The final request for reimbursement shall be submitted within 45 calendar days after the end of the grant agreement period.~~

- e) ~~Requests for budget adjustments shall be submitted to the Department in writing and shall be received by the Department no later than 45 calendar days before the end of the grant agreement period.~~

(Source: Repealed at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.80 Contract Expiration**

All projects shall end on the date specified in the grant agreement and shall not be extended or renewed. A continuation application, as provided for in [Sections 970.230\(c\) and 970.330\(c\)](#), [Section 970.30\(e\)](#) may result in a new grant agreement with a new expiration date.

(Source: Amended at 30 Ill. Reg. 17924, effective October 27, 2006)

SUBPART B: PENNY SEVERNS BREAST, CERVICAL,  
AND OVARIAN CANCER RESEARCH FUND

**Section 970.200 Purpose**

The purpose of the Penny Severns Breast, Cervical, and Ovarian Cancer Research Fund is to support research, which includes, but is not limited to, expenditures to develop and advance the understanding, techniques, and modalities effective in early detection, prevention, cure, screening, and treatment of breast, cervical, and ovarian cancer and may include clinical trials. [20 ILCS 2310/2310-350]

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.210 Penny Severns Breast, Cervical, and Ovarian Cancer Research Fund**

From funds appropriated from the Penny Severns Breast, Cervical, and Ovarian Cancer Research Fund, the Department shall award grants to eligible physicians, hospitals, laboratories, education institutions, and other organizations and persons to enable organizations and persons to conduct research. Disbursements from the Penny Severns Breast, Cervical, and Ovarian Cancer Research Fund for the purpose of ovarian cancer research shall be subject to appropriations. [20 ILCS 2310/2310-350]

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(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.220 Eligibility**

Eligible applicants include:

- a) Physicians licensed in Illinois to practice medicine in all of its branches, licensed hospitals in Illinois, certified laboratories in Illinois, certified mammography professionals and facilities, post-secondary higher education institutions in Illinois, and other medically affiliated organizations in Illinois and persons who are Illinois residents or sponsored by an Illinois facility guaranteeing benefits to Illinois residents.
- b) All certified local health departments that provide public health programs as defined in Section 615.200 of the Local Health Protection Grant Rules (77 Ill. Adm. Code 615.200).

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.230 Application Procedures**

The Department will provide written application instructions and forms to potential applicants.

- a) All applications shall include the following:
  - 1) The principal investigator's name, address, and telephone and FAX and teletypewriter (TTY) numbers, if available;
  - 2) The name, address, and telephone and FAX and TTY numbers, if available, of the entity (such as a university) through which the application is being submitted, if different from the information provided in subsection (a)(1) of this Section;
  - 3) The curriculum vitae of the principal investigator;
  - 4) A one-page non-technical abstract that describes the significance of the applicant's project for breast and/or cervical and/or ovarian cancer research;

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- 5) The TIN;
- 6) The signature of principal investigator or agency official authorized to certify the application;
- 7) An approximate timetable for project completion;
- 8) A detailed budget for the funding period, documenting sufficient resources to carry out the project. The budget shall be by line item category and shall provide sufficient detail to justify the use of grant funds to support project activities. The applicant shall indicate the total cost of conducting the projects, the anticipated funding request for years two and three of the project (if applicable), the source of other funds supporting the projects, and the amount of support requested from the Department;
- 9) A signed Statement of Assurances indicating compliance with applicable State and federal requirements, such as the Fiscal Control and Internal Auditing Act, Office of Management and Budget (OMB) Circular A-128 (local governments), OMB Circular A-133 (not-for-profit organizations), bribery certification, contract debarment, unlawful discrimination, Illinois Human Rights Act, The Civil Rights Act of 1964, The Drug-Free Workplace Act of 1988, The Davis-Bacon Act of 1931, conflict of interest as specified in the Illinois Procurement Code [30 ILCS 500], and protection of the confidentiality of services;
- 10) A statement of whether funds are being requested for a fellowship or a general award;
- 11) A statement of the research question or hypothesis, or a description of interventions or model programs on which the research will be based;
- 12) A prioritized listing of measurable objectives for the funding period;
- 13) For each objective proposed for the first year of the project, a sequential listing of activities to achieve the objective, the time line for completing each activity, and identification of the individual responsible for coordinating the implementation of each objective; and



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- 14) The evaluation methods to be used to measure progress in achieving objectives and a plan for monitoring the overall project.
- b) If the funds are being requested to support a fellowship, the following information shall be provided, in addition to the information required in subsection (a) of this Section:
  - 1) The name of the individual to be supported through the fellowship;
  - 2) The curriculum vitae of the individual; and
  - 3) At least one letter of recommendation from the principal investigator or agency official authorized to certify the application.
- c) All continuation applications shall contain the information required in subsection (a), as well as the following:
  - 1) A progress report that contains a description of the status of each activity of the project to date, using the evaluation methods and monitoring plan specified in subsection (a)(14) of this Section;
  - 2) Documentation of progress in meeting each project objective;
  - 3) The project objectives for the new grant year, along with activities and timelines for completion of each activity; and
  - 4) Any revisions in the evaluation methods or the monitoring plan, along with the rationale for such revisions.

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.240 Award and Use of Grant Funds**

- a) Project funds shall be used only for the direct cost of administering, operating and maintaining a project. The following direct costs are examples of those that may be incurred when specified in the grant agreement:
  - 1) Personal services costs, including gross salaries and employer-paid fringe benefits for full-time and part-time employees of the project;

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- 2) Contractual services costs, including, but not limited to, fees for consultants and specialists, exclusive of consultant services for patient care; conference registration fees; repair and maintenance of furniture and equipment; postage and postal services; subscriptions; training and education costs; software; and telecommunications costs;
  - 3) Travel of personnel in carrying out authorized activities. Travel costs are the expenses for transportation, lodging and subsistence for personnel who are on travel status on official business for the applicant. Out-of-State travel requires prior written approval of the Department;
  - 4) Supplies/commodities as required in the operation of the project that are directly related to its operation. Supplies include, but are not limited to, office, medical and educational supplies; equipment items costing less than \$100 each; printing; and paper; and
  - 5) Equipment directly related to the operation of the project. (Equipment is defined as items costing over \$100 each, with a useful life of more than one year. Equipment costs shall include all freight and installation costs. Purchase of equipment items, other than those included in the approved budget, requires prior written approval from the Department.)
- b) Payments to the grantee shall be made on a reimbursement basis.
- 1) The grantee shall use the Department's Reimbursement Certification Form or a reasonable facsimile to request reimbursement.
  - 2) The grantee shall document actual expenditures incurred for the purchase of goods and services necessary for conducting program activities.
    - A) Expenditures shall be itemized on the Reimbursement Certification Form in such a manner as to establish an audit trail for future verification of appropriate use of grant funds.
    - B) Each item claimed on the Reimbursement Certification Form must be based on an expenditure traceable through the grantee's internal accounting system and shall include:

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- i) The check number or internal ledger transfer code;
  - ii) Date of payment;
  - iii) Dates goods or services were received for the period covered;
  - iv) A description of the goods or services and gross amount of the check or transfer; and
  - v) The amount claimed for reimbursement from the Department.
- 3) The grantee shall submit requests for reimbursement periodically (monthly or quarterly) throughout the period of the grant. The final request for reimbursement shall be submitted within 45 calendar days after the end of the grant agreement period.
- c) Requests for budget adjustments shall be submitted to the Department in writing and shall be received by the Department no later than 45 calendar days before the end of the grant agreement period.

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

SUBPART C: TICKET FOR THE CURESection 970.310 Ticket for the Cure Fund

From funds appropriated from the Ticket for the Cure Fund, the Department shall award grants to public or private entities in Illinois for the purpose of funding research concerning breast cancer and for funding services for breast cancer victims. For purposes of this Section, the term "research" includes, without limitation, expenditures to develop and advance the understanding, techniques, and modalities effective in the detection, prevention, screening, and treatment of breast cancer and may include clinical trials. The grant funds may not be used for institutional, organizational, or community-based overhead costs, indirect costs, or levies (i.e., fees, fines or assessments such as tax levies, tax penalties, or association dues). [20 ILCS 1605/21.5]

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

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**Section 970.320 Eligibility**

- a) Eligible applicants for the purpose of funding research concerning breast cancer include physicians licensed in Illinois to practice medicine in all of its branches; hospitals licensed in Illinois; certified laboratories in Illinois that hold a Clinical Laboratory Improvement Act (CLIA) certificate issued by the Centers for Medicare and Medicaid Services/Department of Health and Human Services; certified mammography professionals and facilities in Illinois that are certified by the Illinois Emergency Management Agency; post-secondary higher educational institutions in Illinois and other medically affiliated organizations in Illinois and persons who are Illinois residents or sponsored by an Illinois facility guaranteeing benefits to Illinois residents.
- b) Eligible applicants for the purpose of funding services for breast cancer victims include local health departments; not-for-profit organizations; governmental entities; all Illinois licensed hospitals; and community health centers.
- c) Eligible applicants for the purpose of funding services for breast cancer victims include all certified local health departments that provide public health programs as defined in Section 615.200 of the Local Health Protection Grant Rules (77 Ill. Adm. Code 615.200).

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.330 Application Procedures for Research Concerning Breast Cancer**

The Department will provide written application instructions and forms to potential applicants upon request. Information concerning the grant will be available on the Department's website, <http://www.idph.state.il.us/fundop.htm>.

- a) All applications shall include the following:
  - 1) The principal investigator's name, address, and telephone and FAX and teletypewriter (TTY) numbers, if available;
  - 2) The name, address, and telephone and FAX and TTY numbers, if available, of the entity (such as a university) through which the application is being submitted, if different from the information provided in subsection (a)(1) of this Section;

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- 3) The curriculum vitae of the principal investigator;
- 4) A one-page non-technical abstract, which describes the significance of the applicant's project for breast cancer research;
- 5) The TIN;
- 6) The signature of the principal investigator or agency official authorized to certify the application;
- 7) An approximate timetable for project completion;
- 8) A detailed budget for the funding period, documenting sufficient resources to carry out the project. The budget shall be by line item category and shall provide sufficient detail to justify the use of grant funds to support project activities. The applicant shall indicate the total cost of conducting the projects, the anticipated funding request for years two and three of the project (if applicable), the source of other funds supporting the projects, and the amount of support requested from the Department;
- 9) A signed Statement of Assurances indicating compliance with applicable State and federal requirements, such as the Fiscal Control and Internal Auditing Act, Office of Management and Budget (OMB) Circular A-128 (local governments), OMB Circular A-133 (not-for-profit organizations), bribery certification, contract debarment, unlawful discrimination, Illinois Human Rights Act, The Civil Rights Act of 1964, The Drug-Free Workplace Act of 1988, The Davis-Bacon Act of 1931, conflict of interest as specified in the Illinois Procurement Code [30 ILCS 500], and protection of the confidentiality of services;
- 10) A statement of whether funds are being requested for a fellowship or a general award;
- 11) A statement of the research question or hypothesis, or a description of interventions or model programs on which the research will be based;
- 12) A prioritized listing of measurable objectives for the funding period;

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- 13) For each objective proposed for the first year of the project, a sequential listing of activities to achieve the objective, the time line for completing each activity, identification of the individual responsible for coordinating the implementation of each objective; and
  - 14) The evaluation methods to be used to measure progress in achieving objectives and a plan for monitoring the overall project.
- b) If the funds are being requested to support a fellowship, the following information shall be provided, in addition to the information required in subsection (a) of this Section:
- 1) The name of the individual to be supported through the fellowship;
  - 2) The curriculum vitae of the individual; and
  - 3) At least one letter of recommendation from the principal investigator or agency official authorized to certify the application.
- c) All continuation applications shall contain the information required in subsection (a) and, in addition, shall include the following:
- 1) A progress report that contains a description of the status of each activity of the project to date, utilizing the evaluation methods and monitoring plan specified in subsection (a)(14) of this Section;
  - 2) Documentation of progress in meeting each project objective;
  - 3) The project objectives for the new grant year, along with activities and timelines for completion of each activity; and
  - 4) Any revisions in the evaluation methods or the monitoring plan, along with the rationale for such revisions.

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.340 Application Procedures for Services for Breast Cancer Victims**

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The Department will provide written application instructions and forms to potential applicants upon request. Information concerning the grant will be available on the Department's website, <http://www.idph.state.il.us/fundop.htm>.

- a) All applications shall include the following:
- 1) The applicant's name, address, and telephone and FAX and teletypewriter (TTY) numbers, if available;
  - 2) The name, address, and telephone and FAX and TTY numbers, if available, of the entity (such as a local health department, not-for-profit organization, governmental entity, licensed hospital, or community health center) through which the application is being submitted;
  - 3) A one-page abstract, which describes the significance of the applicant's method to provide services for breast cancer victims;
  - 4) A summary statement of the applicant's proposed plan of action to address the need for this service described in the Department's request for proposals;
  - 5) A description of the geographic area or special population group to be served by the applicant's service, a statement of the special needs of the area or groups, and a thorough explanation of the manner in which the proposed services would meet those needs;
  - 6) A statement of the measurable and relevant objectives the applicant proposes to achieve in the grant year;
  - 7) An evaluation plan that will allow documentation of the applicant's progress in meeting the particular needs of the area or group and a plan for monitoring the overall project;
  - 8) The TIN;
  - 9) The signature of agency official authorized to certify the application;
  - 10) A detailed budget for the funding period, documenting sufficient resources to carry out the project. The budget shall be by line item category and

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shall provide sufficient detail to justify the use of grant funds to support project activities. The applicant shall indicate the total cost of conducting the projects, the anticipated funding request for years two and three of the project (if applicable), the source of other funds supporting the projects, and the amount of support requested from the Department;

- 11) A signed Statement of Assurances indicating compliance with applicable State and federal requirements, such as the Fiscal Control and Internal Auditing Act, Office of Management and Budget (OMB) Circular A-128 (local governments), OMB Circular A-133 (not-for-profit organizations), bribery certification, contract debarment, unlawful discrimination, Illinois Human Rights Act, The Civil Rights Act of 1964, The Drug-Free Workplace Act of 1988, The Davis-Bacon Act of 1931, conflict of interest as specified in the Illinois Procurement Code [30 ILCS 500], and protection of the confidentiality of services.

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

**Section 970.350 Award and Use of Grant Funds**

- a) Funds shall be used only for the direct cost of administering, operating and maintaining a project or service. The following direct costs are examples of those that may be incurred when specified in the grant agreement:
  - 1) Personal services costs, including gross salaries and employer paid fringe benefits for full-time and part-time employees of the project or service;
  - 2) Contractual services costs, including, but not limited to, fees for consultants and specialists, exclusive of consultant services for patient care;
  - 3) Supplies/commodities as required in the operation of the project or service that are directly related to its operation, which may include medical supplies and equipment supplies costing less than \$100; and
  - 4) Equipment directly related to the operation of the project. (Equipment is defined as items costing over \$100 each, with a useful life of more than one year. Equipment costs shall include all freight and installation costs.



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Purchase of equipment items, other than those included in the approved budget, require prior written approval from the Department.)

- 5) The grant funds may not be used for institutional, organizational, or community-based overhead costs, indirect costs, or levies.

b) Payments to the grantee shall be made on a reimbursement basis.

- 1) The grantee shall use the Department's Reimbursement Certification Form or a reasonable facsimile to request reimbursement.

- 2) The grantee shall document actual expenditures incurred for the purchase of goods and services necessary for conducting program activities or services.

A) Expenditures shall be itemized on the Reimbursement Certification Form in such a manner as to establish an audit trail for future verification of appropriate use of grant funds.

B) Each item claimed on the Reimbursement Certification Form must be based on an expenditure traceable through the grantee's internal accounting system and shall include:

i) The check number or internal ledger transfer code;

ii) Date of payment;

iii) Dates goods or services were received for the period covered;

iv) A description of the goods or services and gross amount of the check or transfer; and

v) The amount claimed for reimbursement from the Department.

- 3) The grantee shall submit requests for reimbursement periodically (monthly or quarterly) throughout the period of the grant. The final request for

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reimbursement shall be submitted within 45 calendar days after the end of the grant agreement period.

- c) Line-item budget adjustments to reallocate awarded funds shall be submitted to the Department on Department-provided forms no later than 45 calendar days before the end of the grant agreement period.

(Source: Added at 30 Ill. Reg. 17924, effective October 27, 2006)

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- 1) Heading of the Part: Early Childhood Teacher Preparation Assistance Grant
- 2) Code Citation: 23 Ill. Adm. Code 70
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
70.10	New Section
70.20	New Section
70.30	New Section
70.40	New Section
70.50	New Section
70.60	New Section
70.70	New Section
70.80	New Section
- 4) Statutory Authority: 105 ILCS 5/1C-5 and 105 ILCS 5/2-3.71
- 5) Effective Date of Rules: October 24, 2006
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not applicable
- 7) Date Filed with the Index Department: October 24, 2006
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: P.A. 94-1054, effective July 25, 2006, amended Section 2-3.71 of the School Code (105 ILCS 5/2-3.71) to establish the Preschool for All Children program and provide funding for two years (i.e., 2006-07 and 2007-08). One of the requirements of the Preschool for All Children program – that also applies to its predecessor, the Prekindergarten Program for Children at Risk of Academic Failure – is that any teacher of preschool children who is employed by the program must hold an Early Childhood teaching certificate (i.e., Type 04 certificate).

The Preschool for All Children program significantly expands the number of young children able to receive high-quality preschool education by broadening the eligibility criteria for their participation. In addition, rapid growth over the past four years in preschool education programs funded by the Early Childhood Block Grant has fueled the demand for more Type 04 certified teachers, particularly bilingual and minority teachers

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who are willing to teach in State-funded preschool education programs that are offered in community-based settings and serve ethnically and linguistically diverse populations.

The rules are being presented as emergency rules, since the public interest is best served by providing FY 2007 funding to qualifying programs as soon as possible so that early childhood teacher preparation programs are ready to begin at the beginning of the 2007-08 school year. A planning phase for this program is essential in order to identify candidates who have the greatest potential for successfully completing the teacher training program in the least amount of time. Without emergency rules, the soonest the agency would be able to issue an RFP would be spring 2007. Allowing for a 30-day response time for applicants to submit planning proposals, it is unlikely that grants could be awarded before April or May of 2007, which may cause a delay of at least a year for program implementation.

- 10) A Complete Description of the Subjects and Issues Involved: The goal of the Early Childhood Teacher Preparation Assistance Grant program is to address the shortages experienced by all State-funded preschool education programs of teachers holding Type 04 certificates by assisting individuals to enroll as candidates in and complete a teacher preparation program leading to an Initial Early Childhood teaching certificate. The program will include a loan program that will forgive the loans of candidates who teach in a State-funded preschool education program for at least five years.

Proposed Part 70 sets forth the application requirements and review criteria for planning and implementation grants and the requirements for the loan program, including procedures and conditions for waivers and deferrals.

- 11) Are there any proposed rulemakings to this Part pending? No
- 12) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 13) Information and questions regarding these emergency rules shall be directed to:

Kay Henderson, Division Administrator  
Division of Early Childhood  
Illinois State Board of Education  
100 North First Street, E-225  
Springfield, Illinois 62777-0001

(217) 524-4835

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The full text of the Emergency Rules begins on the next page:

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## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER b: PERSONNEL

## PART 70

## EARLY CHILDHOOD TEACHER PREPARATION ASSISTANCE GRANT

## Section

70.10 Purpose and Applicability

EMERGENCY

70.20 Eligible Applicants

EMERGENCY

70.30 Planning Grants – Procedures and Content of Proposals

EMERGENCY

70.40 Criteria for Review and Approval of Planning Proposals

EMERGENCY

70.50 Implementation Grants – Procedures and Content of Proposals

EMERGENCY

70.60 Criteria for Review and Approval of Implementation Proposals

EMERGENCY

70.70 Application Content and Approval Criteria for Continuation Programs

EMERGENCY

70.80 Loans; Waiver or Deferral of Repayment

EMERGENCY

**AUTHORITY:** Implementing Sections 1C-2 and 2-3.71 of the School Code [105 ILCS 5/1C-2 and 2-3.71] and authorized by Section 1C-5 of the School Code [105 ILCS 5/1C-5].

**SOURCE:** Emergency rule adopted at 30 Ill. Reg. 17952, effective October 24, 2006, for a maximum of 150 days.

**Section 70.10 Purpose and Applicability****EMERGENCY**

The goal of the Early Childhood Teacher Preparation Assistance Grant is to address the shortages experienced by preschool education programs funded under Section 2-3.71 of the School Code [105 ILCS 5/2-3.71] of teachers holding Early Childhood certificates issued pursuant to Section 21-2.1 of the School Code [105 ILCS 5/21-2.1] and State Board of Education rules governing Standards for All Illinois Teachers (23 Ill. Adm. Code 24), Certification (23 Ill.

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Adm. Code 25) and Standards for Certification in Early Childhood and in Elementary Education (23 Ill. Adm. Code 26).

- a) This Part establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to establish programs to assist individuals employed in State-funded preschool education programs and other early childhood education programs to enroll as candidates in and complete a teacher preparation program leading to an Initial Early Childhood teaching certificate. The Early Childhood Teacher Preparation Assistance Grant program shall:
  - 1) be designed to enroll a single group of individuals who will move through their coursework and educational experiences at the same time;
  - 2) offer the coursework necessary for individuals possessing a bachelor's degree to obtain an Initial Early Childhood teaching certificate or the coursework necessary for individuals possessing an associate's degree to obtain a bachelor's degree and an Initial Early Childhood teaching certificate; and
  - 3) make a commitment to continue the program with the group of candidates so that those candidates will be able to successfully complete their education and teaching experiences in an amount of time that is commensurate with the amount of time it would take a candidate in the institution's regular program to complete the same course of study and experiences, provided that the program continues to receive State funding.
- b) The provisions of this Part shall not apply to a school district that receives funding for early childhood programs as part of its general education block grant pursuant to Section 1D-1 of the School Code [105 ILCS 5/1D-1] nor to any entity that receives a grant from that school district for early childhood programs funded under Section 1D-1 of the School Code.

**Section 70.20 Eligible Applicants**  
**EMERGENCY**

- a) An eligible applicant for the Early Childhood Teacher Preparation Assistance Grant shall be a partnership consisting of:

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- 1) One or more educational entities serving elementary and secondary schools (e.g., school districts, private schools, Regional Offices of Education) and/or one or more community-based organizations that provide early childhood education programs or related services, such as technical assistance or professional development, to early childhood programs and practitioners; and
  - 2) One or more four-year institutions of higher education with an accredited teacher education program for early childhood education.
- b) The partnership shall designate one entity to serve as the administrative agent for the grant.
- c) Preference for funding shall be provided to eligible applicants whose programs target individuals, as defined in Section 70.10(a) of this Part, who are:
- 1) from a bilingual or minority background and already possess bachelor's degrees and need only to complete coursework necessary for Early Childhood certification purposes; or
  - 2) willing to work in State-funded preschool programs in geographic areas experiencing a shortage of teachers who hold Early Childhood teaching certificates. A shortage area is defined as one in which State-funded preschool education programs operating in that area are unable to enroll additional students in their programs due to a lack of properly certified teachers or the State Board of Education is unable to fund additional programs to meet the need of a particular area for preschool education due to a lack of properly certified teachers.

**Section 70.30 Planning Grants – Procedures and Content of Proposals  
EMERGENCY**

A planning grant shall be used to support costs associated with developing a plan for implementation of an Early Childhood Teacher Preparation Assistance Grant program, which shall include the identification and recruitment of the group of individuals to be enrolled in the program.

- a) When sufficient funding is available, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their planning proposals, informing applicants of any bidders'



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conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 30 calendar days in which to submit proposals.

- b) Each proposal submitted in response to an RFP shall include the following components.
- 1) Demographic information about the area to be served by the program, which shall include statistics about number of programs funded under Section 2-3.71 of the School Code that serve the area and their need for certified teachers.
  - 2) Demographic information about individuals employed by State-funded preschool education programs and other early childhood education programs who do not hold Early Childhood teaching certificates, including, but not limited to, their race/ethnicity, language (other than English) and cultural background, and educational attainment.
  - 3) Descriptive information about each entity involved in the partnership:
    - A) the teacher preparation program must provide the specific information about the institution's success in preparing teachers for early childhood teaching positions, particularly in areas serving bilingual and minority children; and
    - B) the community-based or nonpublic educational organization must include its mission statement, organizational structure, and goals or policies regarding early childhood programs and services, including the applicant's existing competencies to provide early childhood education programs, if applicable, and a list of any early childhood accreditations that have been achieved.
  - 4) A list of the persons, and their affiliations, who will be involved in the planning process.
  - 5) A plan of work for the planning process that includes objectives, specific activities, timelines and responsible parties.

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- 6) Budget information that corresponds to the categories of allowable expenditures identified in subsection (c) of this Section, completed on the forms provided and detailing each line item of expenditure.
  - 7) Such certifications and assurances as the State Superintendent of Education may require.
- c) Allowable uses of planning grant funds shall include:
- 1) activities that are designed to secure the participation and commitment of the required partners; and
  - 2) activities that are designed to attract or identify individuals for teacher preparation who currently work in State-funded preschool education programs or other early childhood education programs and hold either a bachelor's degree or an associate's degree but do not have an Early Childhood teaching certificate; and
  - 3) activities that are designed to identify barriers to teacher certification for the individuals to be enrolled and to identify strategies and resources for mitigating those barriers.

**Section 70.40 Criteria for Review and Approval of Planning Proposals  
EMERGENCY**

- a) Planning grant proposals shall be reviewed and ranked according to the following criteria.
  - 1) The applicant demonstrates that the area proposed to be served has unmet needs that could be effectively addressed by the Early Childhood Teacher Preparation Assistance Grant program. (40 points)
  - 2) The planning activities proposed respond to the needs identified and are directed at implementing a program that will enable individuals to successfully complete requirements necessary for obtaining an Initial Early Childhood teaching certificate. (40 points)
  - 3) The activities proposed are cost-effective, as evidenced by the scope of the planning work to be conducted and the potential number of individuals proposed to be enrolled in the program. (20 points)

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- b) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:
  - 1) the total amount of funds available for the Early Childhood Teacher Preparation Assistance Grant; and
  - 2) the resources requested in the top-ranked proposals, as identified pursuant to subsection (a) of this Section.

**Section 70.50 Implementation Grants – Procedures and Content of Proposals  
EMERGENCY**

Implementation grants shall be offered in years when the level of available funding is such that one or more new partnerships can be funded, or for partnerships already funded, a new group of individuals can be supported in addition to the group of candidates already enrolled. Priority for funding shall be given in the initial implementation cycle (i.e., FY 2008) to grantees awarded funds under Section 70.40 of this Part that have successfully completed the planning process and are ready to implement an Early Childhood Teacher Preparation Assistance Grant program.

- a) When sufficient funding is available, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their implementation proposals, informing applicants of any bidders' conferences, and requiring that proposals be submitted no later than the date specified in the RFP. The RFP shall provide at least 45 calendar days in which to submit proposals.
- b) Each proposal submitted in response to an RFP shall include the following components.
  - 1) Descriptive information about each entity involved in the partnership, including the roles and responsibilities of each partner.
    - A) The teacher preparation program must indicate specific information about the institution's success in preparing teachers for early childhood teaching positions, particularly in areas serving bilingual and minority children.
    - B) The community-based organization or nonpublic educational entity must include its mission statement, organizational structure, and

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goals or policies regarding early childhood programs and services, including the applicant's existing competencies to provide early childhood education programs, if applicable, and a list of any early childhood accreditations that have been achieved.

- 2) The goals and objectives of the partnership in ensuring a program that is successful and sustainable.
- 3) A description of the need for the program, which shall include:
  - A) Demographic information about the area to be served by the program, including statistics about number of programs funded under Section 2-3.71 of the School Code that serve the area and their need for certified teachers.
  - B) Demographic information about individuals employed by State-funded preschool education programs and other early childhood education programs in the area to be served who do not hold Early Childhood teaching certificates, including, but not limited to, their race/ethnicity, language (other than English) and cultural background, and educational attainment.
- 4) A description of the program to be implemented, to include:
  - A) the partnership's plans for recruiting and providing support to individuals enrolled in the program, including working with employers to ensure that the individuals can fully participate in the program;
  - B) strategies to be employed to ensure that individuals to be enrolled are adequately prepared to successfully progress through the program, which shall include but not be limited to assistance to ensure each individual's passage of the Basic Skills Test required for admittance to a teacher preparation program [105 ILCS 5/21-1a];
  - C) coursework and experiences needed to complete the program, to include the length of the program and sample schedules;
  - D) identification of sites where student teaching will occur; and

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- E) expectations for candidates' course completion rates or the performance levels needed to continue their participation in the program.
- 5) A plan for evaluating the impact of the proposed program and activities, which shall correspond to the applicable specifications set forth in the RFP.
- 6) Budget information that corresponds to the categories of allowable expenditures identified in the RFP, completed on the forms provided and detailing each line item of expenditure. The budget information shall cover the entire period of time during which the proposed group of candidates is expected to participate in the teacher preparation program.
  - A) Applicants shall be required to demonstrate that grant funds will supplement and not supplant amounts typically devoted by the institution of higher education to, and other resources available for, assisting teacher candidates.
  - B) Applicants shall be required to describe the steps that will be taken to decrease the need for external financial support for the partnership and its program over time.
- 7) Such certifications and assurances as the State Superintendent of Education may require.

**Section 70.60 Criteria for Review and Approval of Implementation Proposals  
EMERGENCY**

- a) Proposals for implementation grants shall be evaluated in accordance with the following criteria.
  - 1) Quality of Proposed Program (40 points)
    - A) The proposal demonstrates that:
      - i) coursework and experiences required for certification will be scheduled and located to be accessible to candidates in the program; and

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- ii) supportive services (e.g., counseling, tutoring, child care) that have been identified as necessary will be offered to enable candidates to progress through the program and attain certification.
  - B) The proposal establishes a timetable or performance level for candidates as a condition for their continued receipt of assistance under this program.
  - C) The proposal includes plans for assisting candidates in tapping sources of financial aid beyond those made available under this Part and by the members of the partnership.
  - D) The plan of work for the program includes effective strategies for overcoming known barriers faced by the candidates.
  - E) The evaluation plan is designed to yield information that can be used both in judging the program's qualitative and quantitative impact and in identifying changes or new approaches that will improve the program's outcomes.
- 2) Program Need (30 points)
- A) The proposal clearly indicates that the area to be served has State-funded preschool education programs that are experiencing a shortage of teachers with Early Childhood certificates.
  - B) Criteria and indicators for identifying individuals to be enrolled in the program are clearly established and likely to target those individuals who have the greatest likelihood of successfully completing the program.
  - C) The recruitment strategies that are proposed are likely to be effective in enrolling the individuals in the program, particularly individuals who reflect the diversity of the children participating in State-funded preschool education programs that serve the targeted area.
- 3) Experience and Qualifications (20 points)

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- A) The proposal demonstrates that the institution of higher education has the capacity (i.e., faculty and other resources) to serve the group of individuals to be enrolled in its approved teacher preparation program.
  - B) The proposed roles and responsibilities of each entity that is a member of the partnership are appropriate, given the entity's qualifications, experience with early childhood initiatives and services, and the resources each will devote to the program.
  - C) The proposal demonstrates that the community organization or educational entity is familiar with the needs of early childhood education programs, in particular the needs of State-funded preschool education programs, located in the area proposed to be served and has the capacity to recruit individuals for and support them as they progress through the program.
- 4) Cost-Effectiveness (10 points)
- A) The program is cost-effective as evidenced by the cost of proposed services in relation to the individuals to be enrolled and the services to be provided.
  - B) The proposal describes commitments on the part of all the partnership's members that will enable the partnership to sustain the program over time with a reduction in the need for external resources.
- b) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Superintendent of Education in a particular RFP.
- c) The State Superintendent of Education shall determine the amount of individual grant awards. The final award amounts shall be based upon:
- 1) the total amount of funds available for the Early Childhood Teacher Preparation Assistance Grant; and
  - 2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (a) and (b) of this Section.

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**Section 70.70 Application Content and Approval Criteria for Continuation Programs  
EMERGENCY**

- a) A partnership that has received implementation funding for a group of individuals shall be subject to the requirements of this Section with respect to continued funding for that group in subsequent years.
  - 1) The partnership shall submit an application for continued funding for the candidates enrolled in the program, using a format specified by the State Superintendent of Education.
  - 2) Each application shall contain a mid-year report on the current status of the program and the candidates, documenting the activities and support provided to date and describing the degree to which the candidates are achieving the program's objectives.
  - 3) Each application shall provide an updated narrative description of the objectives, activities, timelines, and evaluation procedures for the renewal year, relating the proposed plan of work to the results that have been achieved to date.
  - 4) Each application shall include updated budget information for the renewal year, including a detailed budget breakdown, that describes any needed variances from the budget proposed in the initial year of funding.
  - 5) Each application shall include such certifications and assurances as the State Superintendent of Education may require.
- b) The State Superintendent of Education shall, contingent upon appropriation of funds for this initiative, provide continuation funding to a partnership that demonstrates:
  - 1) success in providing the supports necessary to retain candidates in the program; and
  - 2) Either:



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- A) that a majority of the candidates in the group served has completed coursework or other requirements for certification during at least one semester of the preceding year; or
- B) that funds will be used to support only those candidates who have progressed toward certification and/or have identified steps to be taken toward certification in the academic year in which funding is requested.

**Section 70.80 Loans; Waiver or Deferral of Repayment  
EMERGENCY**

Any candidate in a program administered under this Part may receive a forgivable loan for direct expenses associated with completion of the Early Childhood teacher preparation program, provided those expenditures are not otherwise paid for through grants-in-aid, other forgivable loans, or other resources of the consortium. Any amount expended for an individual's direct expenses shall be considered a part of that individual's loan, regardless of how the payment is administered and regardless of whether the individual receives any actual payment of funds. The total amount of any candidate's loan shall not exceed \$12,000.

- a) Loan funds provided to candidates as part of this program shall be fully forgiven if a graduate completes five years of service in a State-funded preschool education program established pursuant to Section 2-3.71 of the School Code. Forgiveness and repayment of loans shall be determined as provided in this Section.
- b) An individual may accrue the service required for forgiveness of loans under this Part in one or more State-funded preschool education programs.
- c) If an individual has not assumed employment in a State-funded preschool education program or position within two years after receiving a teaching certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. No interest shall apply. An individual who drops out of the program shall be required to begin repaying the amounts loaned in the month following the month when it becomes evident that he or she will not be completing any of the program's requirements for two consecutive semesters.
- d) If an individual has not completed five years of service within 10 years after receiving a teaching certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. The amount due shall be the total amount borrowed, less a percentage reflecting the relationship that any time

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taught by the individual in State-funded preschool education programs or positions bears to the total five-year commitment. Loan amounts shall be reduced in increments of 10 percent for each semester completed.

- e) Repayment of loans shall be made in no more than 60 equal installments. The minimum monthly payment will be determined by dividing the total amount due by 60. An individual may prepay the balance due on the loan in its entirety at any time or make payments in addition to the minimum amount owed each month without penalty.
- f) In addition to the loan forgiveness in accordance with subsection (a) of this Section, the State Superintendent may defer or waive an individual's obligation to repay an amount due as provided in this subsection (f).
  - 1) The State Superintendent shall waive the repayment obligation for an individual who is counseled out of a preparation program or found ineligible to continue, provided that the individual's exit from the program is not due to a violation of law or of applicable institutional policies.
  - 2) The State Superintendent shall waive the repayment obligation for an individual who drops out of a preparation program or demonstrates that he or she is unable to complete a portion of the required teaching service due to:
    - A) the onset or exacerbation of a disability;
    - B) the need to care for an immediate family member during serious illness or disability;
    - C) destruction of the individual's residence; or
    - D) other circumstances that require the individual to assume responsibilities that cannot be avoided without serious financial hardship or other family disruption (e.g., death of a spouse that results in the need to take a second job or assume operation of a business).
  - 3) The State Superintendent shall waive the repayment obligation for a candidate who does not complete a preparation program due to the

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unavailability of a State appropriation for this initiative for at least two consecutive years.

- 4) The State Superintendent shall defer the repayment obligation for a period of time specifically related to the circumstances when an individual:
  - A) is unemployed or is working for fewer than 30 hours per week; or
  - B) is experiencing a financial hardship (e.g., receiving public assistance or earning an amount per month that is no greater than 200 percent of the amount of the loan payment, or experiencing circumstances such as those outlined in subsection (f)(2) of this Section); or
  - C) has re-enrolled as a full-time student in an institution of higher education or in a program under this Part.
- 5) Each request for a waiver or deferral of repayment shall be submitted by a representative of the partnership under whose auspices the individual is or was enrolled in teacher preparation. Using a format specified by the State Superintendent, the representative and the affected individual shall describe the specific circumstances that apply. This description shall be accompanied by evidence such as a physician's statement, insurance claim, or other documentation of the relevant facts.
- g) When a teaching certificate is issued to an individual who received assistance under this Part, the certificate shall be accompanied by:
  - 1) a statement indicating the total amount of the loan received by the individual and the amount due, and identifying the dates applicable to repayment under this Section; and
  - 2) a claim form that the individual may use to claim forgiveness of the loan amount, which shall require the individual to identify the periods of service completed in a State-funded preschool education program or positions and the school administrators who can verify the individual's service.
- h) Management of Loans

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- 1) It shall be the responsibility of the four-year institution of higher education to assist the State Board of Education with the forgivable loan process in the following manner:
  - A) by keeping records of the amounts provided to or on behalf of each individual for direct expenses; and
  - B) by keeping up-to-date contact information regarding the address and telephone number of each individual during the individual's preparation at that institution; and
  - C) by notifying the State Superintendent of Education within 30 days after a candidate fails to enroll in coursework as expected or otherwise ceases to participate in the program and informing the State Superintendent of the total amount of the candidate's loan for direct expenses as of that point in time.
- 2) Each institution of higher education shall notify the State Superintendent as to who will be responsible for this information and shall provide contact information for the responsible individual within the institution.
  - i) It shall be the responsibility of the State Superintendent of Education to take such actions as may be necessary to secure repayment when necessary.

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
140.469	Amendment
140.526	Amendment
140.530	Amendment
140.860	Repeal
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: November 1, 2006
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed with the Index Department: November 1, 2006
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are needed to preserve federal matching funds. Not preserving such funds puts the public interest at risk.
- 10) Complete Description of the Subjects and Issues Involved: The Department entered into intergovernmental agreements with counties that own or operate nursing facilities that provided for intergovernmental transfers (IGTs) of funds from the counties to the State. Under federal upper payment limit policy, the Department sets rates for county owned or operated facilities at 94% of what Medicare would pay for the facility's residents, an alternate reimbursement methodology. The Center for Medicare and Medicaid (CMS) objects to what they characterize as "inefficient and uneconomic payments" to county nursing facilities, citing Section 1902(a)(30)(A) of the Social Security Act and began deferring \$10 million per quarter in September 2005. The deferral is due to the conditional nature of the reimbursement methodology whereby county facilities receive the alternate rate only if the county enters into an intergovernmental agreement to engage in the IGT process. CMS maintains that an internal policy requires States to restructure these types of arrangements. \$30 million has been deferred to date and the deferrals remain pending while CMS and the Department work on the deferral issues. To comply with CMS and preserve federal matching funds, the intergovernmental agreements will

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be terminated, and the proposed amendments will provide for continuing contributions to the Medicaid program from the counties.

- 11) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.490	Amendment	30 Ill. Reg. 12066; 07/14/06
140.492	Amendment	30 Ill. Reg. 12066; 07/14/06
140.990	New Section	30 Ill. Reg. 13633; 08/18/06
140.991	New Section	30 Ill. Reg. 13633; 08/18/06
140.992	New Section	30 Ill. Reg. 13633; 08/18/06
140.993	New Section	30 Ill. Reg. 13633; 08/18/06
140.13	Amendment	30 Ill. Reg. 14007; 8/25/06
140.15	Amendment	30 Ill. Reg. 14007; 8/25/06
140.18	Amendment	30 Ill. Reg. 14007; 8/25/06
140.20	Amendment	30 Ill. Reg. 14007; 8/25/06
140.24	Amendment	30 Ill. Reg. 14007; 8/25/06
140.25	Amendment	30 Ill. Reg. 14007; 8/25/06
140.28	Amendment	30 Ill. Reg. 14007; 8/25/06
140.30	Amendment	30 Ill. Reg. 14007; 8/25/06
140.33	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1001	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1002	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1003	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1004	Amendment	30 Ill. Reg. 14007; 8/25/06
140.1005	Amendment	30 Ill. Reg. 14007; 8/25/06

- 12) Statement of Statewide Policy Objective: These emergency amendments affect units of local government that have county-owned or -operated nursing facilities.
- 13) Information and questions regarding these emergency amendments shall be directed to:

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

217/557-7157

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 140

## MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 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 General Assistance
- 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 Eight
- 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

## Section

- 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 or Suspension 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
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring



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140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
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
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)

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- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 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)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
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140.414	Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
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140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
140.431	Services Not Covered by Independent Clinical Laboratories
140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
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140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
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140.443	Filling of Prescriptions
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140.447	Reimbursement
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- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
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- 140.458 Prior Approval for Therapy Services
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- 140.460 Clinic Services
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- 140.462 Covered Services in Clinics
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- 140.465 Speech and Hearing Clinics (Repealed)
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- 140.470 Eligible Home Health Providers
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- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
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- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
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- 140.485 Healthy Kids Program
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140.503	Cessation of Payment for Improper Level of Care
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140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds
140.520	Management of Recipient Funds – Local Office Responsibility
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140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
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140.526	<del>County Contribution to Medicaid Reimbursement Quality Incentive Standards and</del>
<u>EMERGENCY</u>	<u>Criteria for the Quality Incentive Program (QUIP) (Repealed)</u>
140.527	Quality Incentive Survey (Repealed)

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- 140.528 Payment of Quality Incentive (Repealed)
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- 140.542 Cost Reports – Filing Requirements
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- 140.545 Penalty for Failure to File Cost Reports
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- 140.552 Nursing and Program Costs
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- 140.567 Level II Incentive Payments (Repealed)
- 140.568 Duration of Incentive Payments (Repealed)
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140.576	Renovations (Repealed)
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140.870	Sponsor Responsibilities (Repealed)
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140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
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140.902	Service Needs (Recodified)
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140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
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140.908	Times and Staff Levels (Recodified)
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- 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
- 140.952 Closing an ICARE Area (Recodified)
- 140.954 Administrative Review (Recodified)
- 140.956 Payments to Contracting Hospitals (Recodified)
- 140.958 Admitting and Clinical Privileges (Recodified)
- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
- 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
- 140.964 Contract Monitoring (Recodified)
- 140.966 Transfer of Recipients (Recodified)
- 140.968 Validity of Contracts (Recodified)
- 140.970 Termination of ICARE Contracts (Recodified)
- 140.972 Hospital Services Procurement Advisory Board (Recodified)
- 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
- 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)
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- 140.TABLE A Medichex Recommended Screening Procedures (Repealed)
- 140.TABLE B Geographic Areas
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- 140.TABLE D Schedule of Dental Procedures
- 140.TABLE E Time Limits for Processing of Prior Approval Requests
- 140.TABLE F Podiatry Service Schedule
- 140.TABLE G Travel Distance Standards
- 140.TABLE H Areas of Major Life Activity
- 140.TABLE I Staff Time and Allocation for Training Programs (Recodified)
- 140.TABLE J HSA Grouping (Repealed)
- 140.TABLE K Services Qualifying for 10% Add-On (Repealed)
- 140.TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
- 140.TABLE M Enhanced Rates for Maternal and Child Health Provider Services

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**AUTHORITY:** Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI 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; codified 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; 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

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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 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended

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at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1,

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1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December

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19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25

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Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a

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maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 30 Ill. Reg. 17635, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days.

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.469 Hospice****EMERGENCY**

- a) Hospice is a continuum of palliative and supportive care, directed and coordinated by a team of professionals and volunteer workers who provide care to terminally ill persons to:
  - 1) reduce or abate pain or other symptoms of mental or physical distress, and
  - 2) meet the special needs arising out of the stresses of terminal illness, dying or bereavement.
- b) Hospice care is a covered service for all eligible clients, including residents of intermediate and skilled care facilities, when provided by a Medicare certified hospice provider and in accordance with provisions contained in 42 CFR 418.1 through 418.405.
- c) Covered services include:
  - 1) Nursing care,
  - 2) Physician services,
  - 3) Medical social services,



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- 4) Short term inpatient care,
  - 5) Medical appliances, supplies and drugs,
  - 6) Home health aide services,
  - 7) Occupational, physical and speech-language therapy services to control symptoms, and
  - 8) Counseling services.
- d) Reimbursement shall be at the established Medicare rate for the specific level of care into which each day of care is classified. The four levels of care are:
- 1) Routine Home Care. The hospice will be paid the routine home care rate for each day the patient is at home, under the care of the hospice, and not receiving continuous home care. This rate is paid without regard to the volume or intensity of routine home care services provided on any given day.
  - 2) Continuous Home Care. The continuous home care rate will be paid when continuous home care is provided. The continuous home care rate is divided by 24 hours in order to arrive at an hourly rate. A minimum of eight hours must be provided. For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice up to 24 hours a day.
  - 3) Inpatient Respite Care. The inpatient rate will be paid each day on which the beneficiary is in the approved inpatient facility and is receiving respite care. Payment for respite care may be made for a maximum of five days at a time, including the date of admission, but not counting the date of discharge. Payment for the sixth day and any subsequent days is to be made at the routine home care rate.
  - 4) General Inpatient Care. The inpatient rate will be paid when general inpatient care is provided. None of the other fixed payment rates (i.e., routine home care) will be applicable for a day on which the patient receives hospice inpatient care except for the day of discharge from an inpatient unit. In which case, the appropriate home care rate is to be paid

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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unless the patient dies as an inpatient.

- e) When the individual resides in an ICF or SNF facility, the Department shall provide payment of an add-on amount to the hospice on routine home care and continuous home care days. The add-on amount will constitute a portion of the facility rate the State would be responsible for as mandated by 42 CFR 418.1-418.205. The add-on amount for county-owned or operated nursing facilities shall be based on the rates established pursuant to Section 140.530(c)(1).
- f) The hospice shall receive an add-on amount for other physician services such as direct patient care when physician services are provided by an employee of the hospice or under arrangements made by the hospice unless those services are performed on a volunteer basis. These add-on amounts will be utilized when determining the hospice cap amount.
- g) Medicaid payment to a hospice provider for care furnished over the period of a year shall be limited by a payment cap as set forth in 42 CFR §418.309. Any overpayment shall be refunded by the hospice provider.

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days)

## SUBPART E: GROUP CARE

**Section 140.526** County Contribution to Medicaid Reimbursement~~Quality Incentive~~  
EMERGENCY ~~Standards and Criteria for the Quality Incentive Program (QUIP)~~  
~~(Repealed)~~

- a) Pursuant to the Public Aid Code [305 ILCS 5/5-5.4b], this Section shall provide for county contributions to the funding of Medicaid nursing facility services.
- b) Beginning November 1, 2006, a county that owns or operates a Medicaid certified nursing facility shall contribute to the funding of Medicaid services an amount, determined by the methodology described in subsections (h) and (i) of this Section, which shall be deposited into the Long-Term Care Provider Fund.
- c) The county contribution shall be due the fourth Tuesday of each month via electronic funds transfer.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

- d) Beginning January 1, 2007, the Department shall notify each applicable county of the amount due for the quarter, the amounts due for each month, and dates that the contributions are due. The notification shall be sent during the first week of a quarter for contributions due in the next quarter.
- e) For contribution amounts applicable for services delivered on and after April 1, 2007, a county may request a review of the contribution amount (also known as the transfer amount) by writing to the Department's Division of Medical Programs, Chief of the Bureau of Long Term Care. A letter requesting a review must be received by the Bureau of Long Term Care at least 60 days before the beginning of the quarter. The Bureau shall review the calculations and extenuating circumstances documented by the county and verified by the Bureau. The Bureau shall respond in writing no less than 30 days before the beginning of the applicable quarter.
- f) The contribution amount will be determined by estimating the Medicaid liability of each county owned/operated nursing facility for the period. Beginning September 1, 2007, the contribution shall include a reconciliation component as described in subsection (j) of this Section. The Department shall compute the estimated liability using the calculation described in subsections (h) and (i) of this Section when the Department is liable in whole or part except for when Medicare is the primary payer.
- g) Counties will be responsible for a percentage of the total liability at one of three rates: 38 percent, 39 percent or 40 percent. The rate for a given county will be determined by comparing the county's median family income to the statewide median family income, as published by the U. S. Department of Commerce (Small Area Income and Poverty Estimates, 2003). The standard deviation of the median family income for the applicable counties will be computed. If the county's median family income is below the statewide median family income minus one standard deviation, the county's contribution rate will be 38 percent; if it is above the statewide median family income plus one standard deviation, the county's contribution rate will be 40 percent. Counties with a median family income within one standard deviation of the statewide median family income shall contribute 39 percent.
- h) For the period from October 1, 2006 through December 31, 2006 (fourth quarter), the Department shall calculate the contribution amount by:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 1) calculating the average of the total number of Medicaid paid days for fourth quarter 2003, fourth quarter 2004, fourth quarter 2005 (weighted twice) to get the estimated total paid days;
  - 2) multiplying the estimated average by the Medicaid per diem rate;
  - 3) multiplying the outcome by the county contribution rate (38 percent, 39 percent or 40 percent as described in subsection (e)) to get the estimated fourth quarter payment; and
  - 4) dividing this amount by three to get the monthly county contribution to the State.
- i) Beginning January 1, 2007, the Department shall calculate the contribution amount each quarter by:
- 1) averaging the total number of Medicaid paid days for the similar quarter during the past four years to get the estimated total paid days (for example, first quarter of 2003, 2004, 2005 and 2006 will be used to calculate the first quarter 2007 total);
  - 2) multiplying the estimated average by the Medicaid per diem rate;
  - 3) multiplying the outcome by the county contribution rate (38 percent, 39 percent or 40 percent as described in subsection (e)) to get the estimated quarterly payment; and
  - 4) dividing this amount by three to get the monthly county contribution to the State.
- j) The Department shall reconcile from the estimated county contribution to an amount based on actual reimbursement to the facility. This reconciliation shall be computed quarterly and shall be applied to the contribution calculated under subsections (h) and (i).
- k) For the period between November 1, 2006 and March 31, 2007, the Department shall notify each applicable county of the monthly contributions at least 30 days before the payment is due.

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- l) For the period between November 1, 2006 and March 31, 2007, a county may request a review of the calculation of the contribution amount by writing to the Chief of the Bureau of Long Term Care. A letter requesting a review must be received by the Bureau of Long Term Care within seven calendar days of the Department's notification. The Bureau shall review the calculations and extenuating circumstances documented by the county and verified by the Bureau. The Bureau shall respond in writing within seven calendar days.
- m) The Department shall send vouchers for county nursing facilities' claims to the Comptroller within seven calendar days after the date that county contributions are due.
- n) The county nursing facility shall retain the payment from the Department.
- o) Notwithstanding the provisions set forth in Section 140.569, effective November 1, 2006, county-owned or operated nursing facilities shall no longer be reimbursed an exceptional care rate for those residents approved under the Exceptional Care Program. Additionally, no further assessments for exceptional care shall be completed for residents admitted on or after November 1, 2006.

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days)

**Section 140.530 Basis of Payment for Long Term-Care Services****EMERGENCY**

- a) The amount approved for payment for long term care services is based on the type and amount of services required by and actually being furnished to a resident and is determined in accordance with the Department's rate schedule.
- b) Costs not related to patient care, as well as costs in excess of those required for the efficient and economical delivery of care, will not be reimbursed.
- c) Rates and payments.
  - 1) Rates for long term care services shall be the sum of the reimbursable costs of capital, support, and nursing, as defined in this Part and 89 Ill. Adm. Code 147.
  - 2) Additionally, for county-owned or operated nursing facilities, rates shall

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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include allowable costs incurred in excess of the reimbursable costs defined in this Part and 89 Ill. Adm. Code 147. Costs in excess of reimbursable costs shall be certified from the signed annual cost report submitted by the county to the Department.

- 3) Payment for long term care services is on a per diem basis. In determining the number of days for which payment can be made, the day of admission to the facility is counted. The day of discharge from the facility is not counted, unless it is the day of death and death occurs in the facility or a reserved bed has been authorized for that day.
  - 4) Payments by the Department for long term care services shall not exceed reimbursable costs as defined in this Part and 89 Ill. Adm. Code 147 less what is contributed by third party liability.
- d) Definitions.
- 1) "Allowable costs" are those which are appropriate patient care expenditures as defined in this Part and 89 Ill. Adm. Code 147.
  - 2) "Reimbursable costs" are determined by the application of statistical standardizations of allowable costs for all providers within various defined groups to the costs of individual providers within such groups.
  - 3) "County-owned nursing facility" is a nursing facility owned and operated by an Illinois county.
- e) Reimbursement methodology for county-owned or operated nursing facilities~~Alternate reimbursement methodology for certain nursing facilities~~
- 1) Except for nursing facility services for which Medicare is the primary payer, the per diem rate for qualifying nursing facilities shall be 94 percent of the average rate that is determined by applying a modified Medicare reimbursement methodology to the facility's Medicaid residents. The modification to the Medicare methodology shall consist of the use of the 34-class Resource Utilization Groups (RUGs) grouper, in lieu of the grouper used by Medicare.
  - 2) For purposes of the calculation, each resident will be assigned a case mix weighting factor that is the arithmetic mean of the weighting factors

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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derived from the nursing facility Minimum Data Set (MDS) data transmitted to the State for Medicaid residents who resided in the facility on the 15<sup>th</sup> day of February preceding the beginning of the State fiscal year during which the service was provided. The resulting rates for all Medicaid-eligible residents within a facility will be averaged at the facility level. Payment rates shall be adjusted effective with any adjustments made to the Medicare Prospective Payment System (PPS) rates by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS).

- 1) **Qualification**
  - A) ~~The nursing facility must be owned or operated by an Illinois county.~~
  - B) ~~The county must enter into an intergovernmental agreement with the Department that specifies the responsibilities of the two parties with respect to services provided by the facility and the funding of those services.~~
- 2) **Reimbursement**

~~Effective for services on or after October 1, 2002, the per diem rate for qualifying nursing facilities shall be 94 percent of the average rate that is determined by applying the Medicare reimbursement methodology that is in effect for the service period to the facility's Medicaid residents. For purposes of the calculation, each resident will be assigned a case mix weighting factor that is the arithmetic mean of the weighting factors derived from the resident assessment (nursing facility Minimum Data Set (MDS)) data transmitted to the State for Medicaid residents who resided in the facility on the 15<sup>th</sup> day of February preceding the beginning of the State fiscal year during which the service was provided.~~

(Source: Amended by emergency rulemaking at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days)

SUBPART F: FEDERAL CLAIMING FOR STATE AND  
LOCAL GOVERNMENTAL ENTITIES**Section 140.860 County Owned or Operated Nursing Facilities (Repealed)**  
**EMERGENCY**

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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~~When a county owned or operated nursing facility receives payment for services under Section 140.530(e) that exceeds the payment amounts otherwise authorized for nursing facilities under this Part 140 and 89 Ill. Adm. Code 153, the county shall remit to the State an amount equal to the difference, less an administrative allowance that may be specified in an intergovernmental agreement between the county and the Department.~~

(Source: Repealed by emergency rulemaking at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days)



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

STRATTON OFFICE BUILDING  
ROOM C-1  
SPRINGFIELD, ILLINOIS  
9:00 A.M.  
NOVEMBER 14, 2006

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

*If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: [jcar@ilga.gov](mailto:jcar@ilga.gov)  
Phone: 217/785-2254*

**RULEMAKINGS CURRENTLY BEFORE JCAR**

**PROPOSED RULEMAKINGS**

Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
  - First Notice Published: 30 Ill. Reg. 12060 – 7/14/06
  - Expiration of Second Notice: 11/29/06
2. State of Illinois Dependent Care Assistance Plan (80 Ill. Adm. Code 2110)
  - First Notice Published: 30 Ill. Reg. 6204– 4/14/06
  - Expiration of Second Notice: 11/17/06
3. Commuter Savings Program (80 Ill. Adm. Code 2190)
  - First Notice Published: 30 Ill. Reg. 9218– 5/19/06
  - Expiration of Second Notice: 11/17/06
4. Administration of Funds Created by the Wireless Emergency Telephone Safety Act

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

(Repealer) (83 Ill. Adm. Code 1000)

-First Notice Published: 30 Ill. Reg. 5470 – 3/24/06

-Expiration of Second Notice: 12/7/06

Children and Family Services

5. Indian Child Welfare Services (89 Ill. Adm. Code 307)

-First Notice Published: 30 Ill. Reg. 9230– 5/19/06

-Expiration of Second Notice: 11/18/06

6. Indian Child Welfare Services (Repealer) (89 Ill. Adm. Code 307)

-First Notice Published: 30 Ill. Reg. 9239 – 5/19/06

-Expiration of Second Notice: 12/8/06

Corrections

7. Health Care (20 Ill. Adm. Code 415)

-First Notice Published: 30 Ill. Reg. 1562 – 2/10/06

-Expiration of Second Notice: 12/1/06

Debt Collection Board

8. State Agency Accounts Receivable (74 Ill. Adm. Code 910)

-First Notice Published: 30 Ill. Reg. 8730 – 5/12/06

-Expiration of Second Notice: 12/7/06

Drycleaner Environmental Response Trust Fund Council

9. Public Information (2 Ill. Adm. Code 3100)

-First Notice Published: 30 Ill. Reg. 14395 – 9/8/06

-Expiration of Second Notice: 12/7/06

10. General Program (35 Ill. Adm. Code 1500)

-First Notice Published: 30 Ill. Reg. 14411 – 9/8/06

-Expiration of Second Notice: 12/7/06

Education

11. Early Childhood Block Grant (23 Ill. Adm. Code 235)'

-First Notice Published: 30 Ill. Reg. 13298 – 8/11/06

-Expiration of Second Notice: 12/6/06

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

Financial and Professional Regulation

12. Illinois Credit Union Act (38 Ill. Adm. Code 190)
  - First Notice Published: 30 Ill. Reg. 10622 – 6/23/06
  - Expiration of Second Notice: 11/29/06
13. Banks Engaging in Payday Lending (38 Ill. Adm. Code 365)
  - First Notice Published: 30 Ill. Reg. 10689 – 6/23/06
  - Expiration of Second Notice: 11/29/06
14. Illinois Savings and Loan Act of 1985 (38 Ill. Adm. Code 1000)
  - First Notice Published: 30 Ill. Reg. 10694 – 6/23/06
  - Expiration of Second Notice: 11/29/06
15. Savings Bank Act (38 Ill. Adm. Code 1075)
  - First Notice Published: 30 Ill. Reg. 10772 – 6/23/06
  - Expiration of Second Notice: 11/29/06
16. Insurance Companies Originating Payday Loans (50 Ill. Adm. Code 902)
  - First Notice Published: 30 Ill. Reg. 10988 – 6/23/06
  - Expiration of Second Notice: 11/29/06
17. Medical Liability Insurance Rules and Rate Filings (50 Ill. Adm. Code 929)
  - First Notice Published: 30 Ill. Reg. 1702 – 2/10/06
  - Expiration of Second Notice: 11/29/06
18. Professional Liability Insurance Reporting Requirements and Resource Center (50 Ill. Adm. Code 933)
  - First Notice Published: 30 Ill. Reg. 1716 – 2/10/06
  - Expiration of Second Notice: 11/29/06
19. Medical Malpractice Data Base (50 Ill. Adm. Code 928)
  - First Notice Published: 30 Ill. Reg. 1676 – 2/10/06
  - Expiration of Second Notice: 11/29/06
20. Accident and Health Reserves (50 Ill. Adm. Code 2004)
  - First Notice Published: 30 Ill. Reg. 10993 – 6/23/06
  - Expiration of Second Notice: 11/23/06
21. Licensing of Public Adjusters (50 Ill. Adm. Code 3118)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

- First Notice Published: 30 Ill. Reg. 13044 – 8/4/06
- Expiration of Second Notice: 11/25/06

22. Illinois Dental Practice Act (68 Ill. Adm. Code 1220)
  - First Notice Published: 30 Ill. Reg. 12633 – 7/28/06
  - Expiration of Second Notice: 12/16/06
23. Genetic Counselor Licensing Act (68 Ill. Adm. Code 1251)
  - First Notice Published: 30 Ill. Reg. 8737– 5/12/06
  - Expiration of Second Notice: 11/25/06

Healthcare and Family Services

24. Practice in Administrative Hearings (89 Ill. Adm. Code 104)
  - First Notice Published: 30 Ill. Reg. 13981 – 8/25/06
  - Expiration of Second Notice: 12/8/06
25. Medical Payment (89 Ill. Adm. Code 140)
  - First Notice Published: 30 Ill. Reg. 14007 – 8/25/06
  - Expiration of Second Notice: 12/8/06
26. Medical Payment (89 Ill. Adm. Code 140)
  - First Notice Published: 30 Ill. Reg. 12066 – 7/14/06
  - Expiration of Second Notice: 12/3/06
27. Hospital Services (89 Ill. Adm. Code 148)
  - First Notice Published: 30 Ill. Reg. 9399 – 5/26/06
  - Expiration of Second Notice: 11/29/06
28. Hospital Reimbursement Changes (89 Ill. Adm. Code 152)
  - First Notice Published: 30 Ill. Reg. 9430 – 5/26/06
  - Expiration of Second Notice: 12/3/06

Higher Education

29. Noninstructional Capital Improvements and Community College Locally-Funded Capital Projects (23 Ill. Adm. Code 1040)
  - First Notice Published: 30 Ill. Reg. 14184 – 9/1/06
  - Expiration of Second Notice: 11/30/06
30. Nurse Educator Fellowship Program (23 Ill. Adm. Code 1105)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

- First Notice Published: 30 Ill. Reg. 14197 – 9/1/06
- Expiration of Second Notice: 11/30/06

Human Rights

- 31. Procedures Applicable to All Agencies (44 Ill. Adm. Code 750)
  - First Notice Published: 30 Ill. Reg. 14240 – 9/1/06
  - Expiration of Second Notice: 12/2/06
- 32. Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)
  - First Notice Published: 30 Ill. Reg. 14246 – 9/1/06
  - Expiration of Second Notice: 12/2/06

Human Services

- 33. Advisory Councils (89 Ill. Adm. Code 515)
  - First Notice Published: 30 Ill. Reg. 10241 – 6/9/06
  - Expiration of Second Notice: 11/15/06
- 34. Role of Residential Educational Facilities Operated by Illinois Department of Human Services (89 Ill. Adm. Code 750)
  - First Notice Published: 30 Ill. Reg. 10251 – 6/9/06
  - Expiration of Second Notice: 11/15/06

Labor

- 35. Six Day Week Law (56 Ill. Adm. Code 220)
  - First Notice Published: 29 Ill. Reg. 19106 – 11/28/05
  - Expiration of Second Notice: 11/23/06

Natural Resources

- 36. Public Use of State Parks and Other Properties of the Department of Natural Resources (17 Ill. Adm. Code 110)
  - First Notice Published: 30 Ill. Reg. 14087 – 8/25/06
  - Expiration of Second Notice: 11/29/06

Revenue

- 37. Income Tax (86 Ill. Adm. Code 100)
  - First Notice Published: 30 Ill. Reg. 11514 – 7/7/06

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

-Expiration of Second Notice: 12/8/06

Secretary of State

38. Illinois Safety Responsibility Law (92 Ill. Adm. Code 1070)  
-First Notice Published: 30 Ill. Reg. 7855 – 4/28/06  
-Expiration of Second Notice: 12/7/06

State Board of Investments

39. Rules and Regulations of the Board (74 Ill. Adm. Code 800)  
-First Notice Published: 30 Ill. Reg. 8050 – 5/5/06  
-Expiration of Second Notice: 12/3/06

Student Assistance Commission

40. Monetary Award Program Plus (MAP Plus) (23 Ill. Adm. Code 2734)  
-First Notice Published: 30 Ill. Reg. 13312 – 8/11/06  
-Expiration of Second Notice: 11/15/06
41. Forensic Science Grant Program (23 Ill. Adm. Code 2742)  
-First Notice Published: 30 Ill. Reg. 13320 – 8/11/06  
-Expiration of Second Notice: 11/15/06
42. Nurse Educator Scholarship Program (23 Ill. Adm. Code 2766)  
-First Notice Published: 30 Ill. Reg. 13327 – 8/11/06  
-Expiration of Second Notice: 11/15/06

Transportation

43. Minimum Safety Standards for Construction of Type I School Buses (92 Ill. Adm. Code 440)  
-First Notice Published: 30 Ill. Reg. 13336 – 8/11/06  
-Expiration of Second Notice: 11/29/06

**EMERGENCY RULEMAKINGS**

Central Management Services

44. Pay Plan (80 Ill. Adm. Code 310) (Emergency)  
-Notice Published: 30 Ill. Reg. 16626 – 10/20/06

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

Children and Family Services

45. Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 Ill. Adm. Code 309) (Emergency)  
-Notice Published: 30 Ill. Reg. 17123 – 10/27/06

Financial and Professional Regulation

46. Illinois Public Accounting Act (68 Ill. Adm. Code 1420) (Emergency)  
-Notice Published: 30 Ill. Reg. 16435 – 10/13/06

**PEREMPTORY RULEMAKINGS**

Agriculture

47. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125) (Peremptory)  
-Notice Published: 30 Ill. Reg. 16081 – 10/6/06

Central Management Services

48. Pay Plan (80 Ill. Adm. Code 310) (Peremptory)  
-Notice Published: 30 Ill. Reg. 16439 – 10/13/06

Human Services

49. Food Stamps (89 Ill. Adm. Code 121) (Peremptory)  
-Notice Published: 30 Ill. Reg. 16470 – 10/13/06

**EXEMPT RULEMAKING**

Pollution Control Board

50. Primary Drinking Water Standards (35 Ill. Adm. Code 611)  
-Proposed Date: 8/4/06  
-Adopted Date: 10/27/06

**AGENCY RESPONSES**

Agriculture

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOVEMBER AGENDA

51. Livestock Auction Markets (8 Ill. Adm. Code 40; 30 Ill. Reg. 713)
52. Diseased Animals (8 Ill. Adm. Code 85; 30 Ill. Reg. 737)
- Elevator Safety Review Board
53. Illinois Elevator Safety Rules (41 Ill. Adm. Code 1000; 30 Ill. Reg. 13186)
- Professional Regulation
54. Consumer Installment Loan Act (38 Ill. Adm. Code 110; 30 Ill. Reg. 2449)
- State Universities Civil Service System
55. State Universities Civil Service System (80 Ill. Adm. Code 250; 30 Ill. Reg. 108)
- Public Health
56. Stem Cell Grants



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 24, 2006 through October 30, 2006 and have been scheduled for review by the Committee at its November 14, 2006 meeting in Springfield or its December 12, 2006 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/7/06	<u>Secretary of State</u> , Illinois Safety Responsibility Law (92 Ill. Adm. Code 1070)	4/28/06 30 Ill. Reg. 7855	11/14/06
12/7/06	<u>Drycleaner Environmental Response Trust Fund Council</u> , Public Information (2 Ill. Adm. Code 3100)	9/8/06 30 Ill. Reg. 14395	11/14/06
12/7/06	<u>Drycleaner Environmental Response Trust Fund Council</u> , General Program (35 Ill. Adm. Code 1500)	9/8/06 30 Ill. Reg. 14411	11/14/06
12/7/06	<u>Department of Central Management Services</u> , Administration of Funds Created by the Wireless Emergency Telephone Safety Act (Repealer) (83 Ill. Adm. Code 1000)	3/24/06 30 Ill. Reg. 5470	11/14/06
12/7/06	<u>Debt Collection Board</u> , State Agency Accounts Receivable (74 Ill. Adm. Code 910)	5/12/06 30 Ill. Reg. 8730	11/14/06
12/8/06	<u>Department of Children and Family Services</u> , Indian Child Welfare Services (Repealer) (89 Ill. Adm. Code 307)	5/19/06 30 Ill. Reg. 9239	11/14/06
12/8/06	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	7/7/06 30 Ill. Reg.	11/14/06

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

		11514	
12/8/06	<u>Department of Healthcare and Family Services,</u> Practice in Administrative Hearings (89 Ill. Adm. Code 104)	8/25/06 30 Ill. Reg. 13981	11/14/06
12/8/06	<u>Department of Healthcare and Family Services,</u> Medical Payment (89 Ill. Adm. Code 140)	8/25/06 30 Ill. Reg. 14007	11/14/06
12/13/06	<u>Department of Financial and Professional</u> <u>Regulation-Division of Professional Regulation,</u> Illinois Professional Land Surveyor Act of 1989 (68 Ill. Adm. Code 1270)	6/16/06 30 Ill. Reg. 10557	12/12/06

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2006 THIRD QUARTER INCOME TAX SUNSHINE INDEX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Third Quarter of 2006. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Apportionment – Sales Factor	Partnerships
Bingo, Pull Tabs and Charitable Games	Public Law 86-272
Composite Return	Returns
Credits – Foreign Tax	Subtractions – Other Rulings
Exempt Organizations – Investment Partnerships	

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50 cents per page for each page over one.

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2006 THIRD QUARTER INCOME TAX SUNSHINE INDEX

Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at [www.tax.illinois.gov](http://www.tax.illinois.gov).

The indexes of Income Tax letter rulings for 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004 and 2005 are available for \$3.00. A cumulative Income Tax Sunshine Index of 1981 through 1989 letter rulings may be purchased for \$4.00.

3. Name and address of person to contact concerning this information:

Linda Settle  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson Street  
Springfield, Illinois 62794  
Telephone: (217) 782-7055

## APPORTIONMENT – SALES FACTOR

IT 06-0018-GIL      07/06/2006      Activities performed by third parties are not income producing activities of the taxpayer for sales factor purposes.

## BINGO, PULL TABS AND CHARITABLE GAMES

IT 06-0025-GIL      09/07/2006      Casino Night described in the ruling is not a charitable game.

## COMPOSITE RETURN

IT 06-0021-GIL      07/25/2006      Nonresident individual is granted permission to claim on his individual return a credit for tax paid on his behalf on a composite return.

## CREDITS – FOREIGN TAX

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2006 THIRD QUARTER INCOME TAX SUNSHINE INDEX

IT 06-0020-GIL 07/19/2006 Illinois allows a credit for taxes paid by a resident to other states on income taxed by Illinois, including (beginning in 2006) wages paid in this State.

## EXEMPT ORGANIZATIONS – INVESTMENT PARTNERSHIPS

IT 06-0026-GIL 09/11/2006 Investments in real estate are not qualifying investments for purposes of determining whether a partnership is an investment partnership.

IT 06-0028-GIL 09/12/2006 The special statutory provisions for investment partnerships were not in effect for 2003.

## PARTNERSHIPS

IT 06-0022-GIL 07/31/2006 Special allocation rules for income received from an investment partnership do not apply to tax years ending prior to July 30, 2004.

IT 06-0023-GIL 07/31/2006 Special allocation rules for income received from an investment partnership do not apply to tax years ending prior to July 30, 2004.

## PUBLIC LAW 86-272/NEXUS

IT 06-0027-GIL 09/11/2006 Nexus determinations generally cannot be made in the ruling process.

## RETURNS

IT 06-0019-GIL 07/10/2006 Material ordered by IRS to turn over some investor information and to retain remainder pending IRS request need not turn over retained information to the Department until requested by the IRS or

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2006 THIRD QUARTER INCOME TAX SUNSHINE INDEX

the Department.

SUBTRACTIONS – OTHER RULINGS

IT 06-0024-GIL      08/14/2006      Illinois allows subtractions for interest earned on Home Ownership Made Easy accounts and for education loan repayments of certain primary care physicians. Response to State of Wisconsin questionnaire on basic principles of Illinois income taxation in IT 06-0014 GIL corrected.

2006-12

**EXECUTIVE ORDER REQUIRING PROPER END-OF-LIFE MANAGEMENT OF COMPUTERS AND OTHER ELECTRONIC EQUIPMENT**

WHEREAS, the use of computers and other electronic equipment by the State of Illinois is necessary and pervasive; and

WHEREAS, some high-tech equipment contains toxic chemicals such as brominated flame retardants in plastics and circuit boards, beryllium alloys in connectors, lead-tin based solders, lead- and barium-laden cathode ray tubes, and mercury lamps; and

WHEREAS, the State of Illinois is entrusted by the citizens of the State to be a responsible environmental steward; and

WHEREAS, the improper recycling and or disposal of electronic equipment has the potential to inflict serious health and environmental damage; and

WHEREAS, the lack of federal environmental regulations to govern the sale, transfer and export of scrap electronics, cannibalized parts and obsolete computers, printers and other electronic equipment continues to result in disposal practices harmful to the environment, including populations of third-world countries; and

WHEREAS, it is incumbent upon the State to ensure that procedures exist within Illinois Government to protect and secure confidential and other sensitive data and keep pace with these technological advances; and

WHEREAS, it is prudent to require that all computer and electronic equipment that leave the control of the State of Illinois be reutilized and redistributed to maximize taxpayer financed assets, or disposed of by means of transfer, donation, sale or recycling;

THEREFORE, I Rod R. Blagojevich, Governor of the State of Illinois, hereby order the following:

- I. All state agencies, boards, and commissions shall immediately review all procedures to ensure that they are in compliance with P.A. 93-0306, Data Security on State Computers Act (20 ILCS 450/1 et. seq.), that I signed into law on July 23, 2003.
- II. The Illinois Department of Central Management Services (CMS) shall develop and implement procedures and programs to ensure that any and all operable and inoperable information technology and electronic equipment, including but not limited to, desktops, laptops, servers, internal/external storage drives, portable drives, printers, copiers, fax machines, and other electronic components (E-Scrap), that are deemed excess or surplus to the State's needs shall be removed from state service,

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**2006-12****EXECUTIVE ORDER REQUIRING PROPER END-OF-LIFE MANAGEMENT OF COMPUTERS AND OTHER ELECTRONIC EQUIPMENT**

- and properly redistributed, reutilized, recycled or disposed of in an environmentally responsible manner consistent with the Illinois Finance Act, Illinois Property Control Act and all applicable state and federal environmental laws.
- III. CMS shall also update, create, establish and implement specific policies, procedures, rules, and programs to ensure that all hard drives, external storage drives, servers, etc., of state-owned electronic data processing and information technology equipment be cleared of all data,-software, and operating systems prior to transfer, donation or sale.
- IV. Savings Clause: Nothing in this Executive Order shall be construed to contravene any applicable state or federal law.
- V. Severability. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application.
- VI. Effective Date: This Executive Order becomes effective upon filing with the Secretary of State.

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Rod R. Blagojevich, Governor

Issued by Governor: October 30, 2006

Filed with Secretary of State: October 30, 2006



## PROCLAMATIONS

**2006-373****ADOPTION AWARENESS MONTH**

WHEREAS, adoption is a rewarding and enriching experience for individuals and couples who want to provide children with a stable, loving family environment; and

WHEREAS, Illinois is recognized as a national leader in finding permanent homes for waiting children, placing more than 47,000 foster children into adoptive and subsidized guardianship homes since 1997; and

WHEREAS, largely because of its success in adoption recruitment, Illinois has become the first state in the nation to support more children in permanent adoption guardianship placements than in substitute care; and

WHEREAS, the Illinois Department of Children and Family Services, the Child Care Association of Illinois, the Adoption Information Center of Illinois, the Illinois Adoption Advisory Council, the Illinois Foster and Adoptive Parent Association, the Chicago Bar Association, and the many Illinois child welfare agencies and adoptive parent groups all encourage families to consider adopting a child in need of a home; and

WHEREAS, hundreds of children in Illinois are still awaiting adoption:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2006 as **ADOPTION AWARENESS MONTH** in Illinois, and encourage all families to consider adopting a child into their family.

Issued by the Governor on October 23, 2006.

Filed by the Secretary of State October 25, 2006.

**2006-374****ASSISTIVE TECHNOLOGY AWARENESS MONTH**

WHEREAS, Illinoisans with disabilities of all ages often need assistive technology devices and services to live independently and productively, as well as to participate fully in the affairs of their communities; and

WHEREAS, assistive technology devices and services allow people to work, attend school, participate in leisure and recreational activities, and live in the community of their choice; and

## PROCLAMATIONS

WHEREAS, an assistive technology device is any item, piece of equipment or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of individuals with disabilities or older adults; and

WHEREAS, assistive technology services are defined as any service that directly assists an individual in the selection, acquisition, or use of an assistive technology device; and

WHEREAS, assistive technology devices and services are not luxury items, but necessities for people with disabilities and older adults; these tools empower people to control their lives and their futures; and

WHEREAS, Illinois is a leader in the development and implementation of assistive technology programs for its citizens with disabilities and older adults:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2006 as **ASSISTIVE TECHNOLOGY AWARENESS MONTH** in Illinois, and encourage all residents of Illinois to recognize the importance of assistive technology and to become aware of the many ways in which assistive technology contributes to the health, happiness, and independence of our family, friends, and neighbors.

Issued by the Governor on October 23, 2006.

Filed by the Secretary of State October 25, 2006.

**2006-375****MAKE A DIFFERENCE DAY**

WHEREAS, we have the power to save lives and considerably improve the quality of life of others, and there are many ways we can make a difference; and

WHEREAS, just by donating pop tops and recycling, we help amputees get economical and affordable artificial limbs, and reduce environmental waste so that our children have a safer and healthier habitat to play and grow in; and

WHEREAS, there are also many wonderful activities and events committed and dedicated to helping others, including Make A Difference Day. Last year on that day, more than 3 million Americans gave their time and support for thousands of projects in hundreds of towns throughout the country; and

## PROCLAMATIONS

WHEREAS, in Illinois alone, thousands of citizens, civic organizations, companies, religious groups, and schools contributed to projects such as the collection and delivery of supplies to needy students and food and clothing drives for homeless shelters; and

WHEREAS, created by USA WEEKEND Magazine, Make A Difference Day has grown into a substantial vehicle for volunteerism and community service. This year, the 16<sup>th</sup> Annual Make A Difference Day will be held on October 28:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 28, 2006 as **MAKE A DIFFERENCE DAY** in Illinois in support of this marvelous day for helping others, and to encourage citizens of our state to make a difference.

Issued by the Governor on October 23, 2006.

Filed by the Secretary of State October 25, 2006.

**2006-376****LUNG CANCER AWARENESS MONTH**

WHEREAS, lung cancer is the leading cause of cancer death in the United States. This year alone, lung cancer will claim the lives of more than 163,000 Americans, including 6,790 from the State of Illinois; and

WHEREAS, lung cancer takes the lives of more Americans than breast, prostate, colon, liver, and kidney cancers combined. Clearly, lung cancer is a serious health issue; and

WHEREAS, despite that, there is currently no standard screening for lung cancer; and

WHEREAS, sadly, 70 percent of lung cancer patients are diagnosed in a late stage with only a 15 percent five-year survival rate. However, with early and regular checkups and exams, lung cancer can be diagnosed in an early stage when the chance of survival is as high as 85 percent; and

WHEREAS, this year, the Lung Cancer Alliance, a national patient advocacy group for lung cancer, and other organizations throughout the country will raise awareness about the disease this November:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2006 as **LUNG CANCER AWARENESS MONTH** in Illinois to call attention to the devastating problem of lung cancer, and in support of efforts by organizations such as the Lung Cancer Alliance to combat this terrible disease that affects so many families in our state.

## PROCLAMATIONS

Issued by the Governor on October 24, 2006.  
Filed by the Secretary of State October 25, 2006.

**2006-377**

**UNITED HELLENIC AMERICAN CONGRESS DAY**

WHEREAS, founded in 1975, the United Hellenic American Congress serves as the umbrella and unifying organization for Hellenic Americans; organizing functions on local, regional and national levels to promote Hellenic heritage and culture; safeguarding the human and religious rights of Hellenes in the Diaspora; enhancing relations between the United States, Greece and Cyprus; and improving communications and unity between Greek-Americans and their fellow Americans; and

WHEREAS, originally formed in response to the invasion of Cyprus, the United Hellenic American Congress was organized to fight for the rule of law, justice and equality to protect Hellenic ideals and culture. Since that time, they have grown and evolved into a full service civic, educational and cultural organization dedicated to championing Hellenic-American causes; and

WHEREAS, this year, the United Hellenic American Congress is celebrating its 31<sup>st</sup> Anniversary, and will commemorate this milestone as part of its Annual Banquet, being held on Saturday, November 11, at the Ritz Carlton Hotel in Chicago; and

WHEREAS, during this celebration, the United Hellenic American Congress will honor Greek-American bankers, who have: contributed significantly to both national and international banking communities; represented the financial industry with honor and integrity; and encompassed all of the positive traits of Hellenism and American virtue; and

WHEREAS, the State of Illinois is proud to join the United Hellenic American Congress in commemorating their 31 year commitment to the Hellenic American communities, and in honoring the accomplishments of the leading Greek-American bankers in the Chicago metropolitan community for their dedication to their Hellenic heritage, and for upholding both Hellenic and American principals:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 11, 2006 as **UNITED HELLENIC AMERICAN CONGRESS DAY** in Illinois, and congratulate and commend this organization on the occasion of their 31<sup>st</sup> Anniversary.

## PROCLAMATIONS

Issued by the Governor on October 25, 2006.  
Filed by the Secretary of State October 25, 2006.

**2006-378****INTERNATIONAL EDUCATION WEEK**

- WHEREAS, international education is critical for our future welfare. By studying, learning, and exchanging experiences, we develop a greater appreciation and respect for other people and their cultures, and breakdown barriers to understanding and cooperation, which are vital to peace and prosperity; and
- WHEREAS, foreign student exchange programs are just one wonderful opportunity to learn about other people and cultures. Approximately 600,000 international students study in the United States every year; and
- WHEREAS, International Education Week is from November 13-17, and the United States Departments of State and Education are teaming up to promote similar efforts during that week that enrich our comprehension of international education; and
- WHEREAS, international education and exchange include thousands of programs, public, and private, campus-based and national, that promote the sharing of ideas and experiences across borders. These include study abroad programs, citizen and scholarly exchanges, foreign students on U.S. Campuses, area and foreign language studies, and global approaches to U.S. education; and
- WHEREAS, we live in an increasingly interconnected world and improving global literacy among our citizens contributes significantly to our nation's foreign policy, economic competitiveness, and national security; and
- WHEREAS, this year's theme, "International Education: Engaging in Global Partnerships and Opportunities," presents a golden opportunity to focus on what it takes to create new partnerships and seize new opportunities in the 21<sup>st</sup> century:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 13-17, 2006 as **INTERNATIONAL EDUCATION WEEK** in Illinois, and join the campaign by the United States Departments of State and Education to encourage international education.

Issued by the Governor on October 27, 2006.  
Filed by the Secretary of State October 30, 2006.

**2006-379**

## PROCLAMATIONS

**ART EXPLORING INDIVIDUALS LIVING WITH MENTAL ILLNESS MONTHS**

WHEREAS, the Neumann Association is hosting an art exhibit on mental illness, "Abstract Mind Mural: Art Exploring Individuals Living with Mental Illness" at the Chicago O'Hare International Airport from October to December, 2006; and

WHEREAS, the Neumann Association is a Chicago-based not-for-profit organization that serves people with mental illness and developmental disabilities, and created the mural in collaboration with the Aldo Castillo Arts Foundation, which provides art education and programming by highlighting diverse cultures and international artists; and

WHEREAS, according to the National Institute of Mental health, nearly 58 million adults in the U.S. – more than one in four – suffer from a diagnosable mental disorder in a given year. This includes such conditions as depression, anxiety, bipolar disorder, and schizophrenia. Mental disorders are the leading cause of disability in the U.S. for people aged 15-44; and

WHEREAS, professional artists from more than 20 countries collaborated with amateur artists from Chicago living with a mental illness in order to capture the tremendous impact that these disorders can have on these individuals, demonstrating that art is a powerful healing tool; and

WHEREAS, the Mural includes 60 pieces by professional artists, as well as art by clients of the Neumann Association who are living with chronic and severe mental illness. The professional art is displayed alongside that of the people living with mental illness to signify the importance of keeping people with mental illness connected with the rest of society:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October through December, 2006 as **ART EXPLORING INDIVIDUALS LIVING WITH MENTAL ILLNESS MONTHS** in Illinois.

Issued by the Governor on October 27, 2006.

Filed by the Secretary of State October 30, 2006.

**2006-380****SCHOOL PSYCHOLOGY AWARENESS WEEK**

WHEREAS, throughout the country, school psychologists work diligently in our schools and school district offices to improve learning and behavior strategies among students, and to enhance classroom management and parenting skills; and

## PROCLAMATIONS

WHEREAS, sound psychological principles are integral to instruction and learning, social and emotional development, prevention and early intervention, and supporting culturally diverse student populations; and

WHEREAS, school psychologists demonstrate their ability to meet the varying needs of students through a wide-range of approaches such as consultation, assessment, intervention, prevention, and education; and

WHEREAS, children's mental health is directly linked to their learning and development; and

WHEREAS, meeting children's mental health needs is a wise investment because prevention/earlier intervention are more cost effective than remediation, incarceration, or lost productivity; and

WHEREAS, school psychologists are specially trained to deliver a continuum of mental health services and academic supports within the school setting; and

WHEREAS, school psychologists facilitate collaboration and help parents and educators identify and reduce risk factors, create effective and caring schools, access needed community resources, and implement research-driven prevention and intervention strategies; and

WHEREAS, the Illinois School Psychologists Association, an affiliate of the National Association of School Psychologists, is a not-for-profit professional association representing school psychologists in the State of Illinois. This year, they will recognize school psychologists in our state for their valuable service during the second week in November:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 6-10, 2006 as **SCHOOL PSYCHOLOGY AWARENESS WEEK** in Illinois, and commend school psychologists for their outstanding dedication to furthering the education and emotional well-being of our children.

Issued by the Governor on October 27, 2006.

Filed by the Secretary of State October 30, 2006.

**2006-381**

**REVEREND DR. JOHNNIE COLEMON DAY**

WHEREAS, in 1956, Reverend Dr. Johnnie Colemon founded Christ Universal Temple, where she still serves as minister today; and

## PROCLAMATIONS

WHEREAS, Christ Universal Temple is a teaching ministry geared toward helping change man's thoughts about God. Christ Universal Temple teaches the fatherhood of God and the brotherhood of man, and recognizes that all people are children of God and all humanity is one family; and

WHEREAS, today, Christ Universal Temple serves more than 20,000 members, with about 4,000 gathering every Sunday and throughout the week; and

WHEREAS, Reverend Colemon's other organizations include the Universal Foundation for Better Living, the Johnnie Colemon Institute, and the Johnnie Colemon Academy; and

WHEREAS, this year, Christ Universal Temple celebrates 50 years of nondenominational teaching, and on this amazing milestone occasion, congregants, friends, and family will gather to honor Reverend Colemon for her hard work, wonderful accomplishments, and strong commitment to serving the Christ Universal Temple community:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 29, 2006 as **REVEREND DR. JOHNNIE COLEMON DAY** in Illinois.

Issued by the Governor on October 27, 2006.

Filed by the Secretary of State October 30, 2006.

**2006-382****NATIONAL FAMILY WEEK**

WHEREAS, families are important for our health and well-being. They bring us joy and pleasure in moments of triumph, as well as comfort and solace during times of tragedy; and

WHEREAS, families are also the base and foundation of every community. Consequently, the success of our communities depends upon the strength of families; and

WHEREAS, for that reason, it is in the interest of everyone to promote and support families. By doing so, we can improve the communities we all live and work in; and

WHEREAS, Thanksgiving is a special time of year we spend with our families. Since 1968, that week has been commemorated as National Family Week; and



## PROCLAMATIONS

WHEREAS, with the assistance and resources of organizations such as the Alliance for Children and Families and its local member agency, the Child Care Association of Illinois, as well as the 32<sup>nd</sup> Degree Scottish Rite Masons, we can help families of all shapes and sizes create a better future for all of Illinois; and

WHEREAS, this year, Thanksgiving falls on November 23, and National Family Week is from November 19-25:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 19-25, 2006 as **NATIONAL FAMILY WEEK** in Illinois to recognize the importance of families, and in support of efforts by organizations such as the Child Care Association of Illinois and the 32<sup>nd</sup> Degree Scottish Rite Masons to promote family unity.

Issued by the Governor on October 30, 2006.

Filed by the Secretary of State October 30, 2006.

**2006-383****AMERICAN ASSOCIATION OF UNIVERSITY WOMEN DAY**

WHEREAS, the future of our nation's productivity and competitiveness in the global workplace depends on the success of boys and girls – our future men and women; and

WHEREAS, throughout history, women have been discriminated against in education, the workplace, and society as a whole; and

WHEREAS, the American Association of University Women opens doors for women and girls and influences public debate on critical social issues such as education, civil rights, and workplace equity; and

WHEREAS, the American Association of University Women promotes excellence in academia for women through the improvement of schools, communities, and fields of work for the benefit of all; and

WHEREAS, the American Association of University Women is one of the oldest existing organizations dedicated to promoting education and equity for women and girls; and

WHEREAS, the American Association of University Women celebrates its 125<sup>th</sup> anniversary this year from its inception on November 28, 1881; and

PROCLAMATIONS

WHEREAS, AAUW Illinois, Inc. advances the American Association of University Women's 125-year legacy of leadership on behalf of women and girls in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 28, 2006 as **AMERICAN ASSOCIATION OF UNIVERSITY WOMEN DAY** in Illinois, and encourage all citizens to recognize the value of education and equitable society, and the laudable work of the American Association of University Women to that end.

Issued by the Governor on October 30, 2006.

Filed by the Secretary of State October 30, 2006.

# ILLINOIS ADMINISTRATIVE CODE

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