

# 2009

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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## INTRODUCTION

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

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

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

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

### ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<b><u>Issue #</u></b>	<b><u>Rules Due Date</u></b>	<b><u>Date of Issue</u></b>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
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19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
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49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

## ATTORNEY GENERAL

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Married Families Domestic Violence Grants
- 2) Code Citation: 89 Ill. Adm. Code 1110
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1110.10	New Section
1110.20	New Section
1110.30	New Section
1110.40	New Section
1110.45	New Section
1110.50	New Section
1110.60	New Section
1110.100	New Section
1110.110	New Section
1110.120	New Section
1110.130	New Section
1110.140	New Section
1110.150	New Section
1110.160	New Section
1110.170	New Section
1110.180	New Section
1110.190	New Section
- 4) Statutory Authority: Section 6z-69 of the State Finance Act [30 ILCS 105/6z-69]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes procedures for the distribution of competitive grants paid from the Married Families Domestic Violence Fund. Grants will be awarded to public or private nonprofit agencies solely for the purposes of facilitating or providing free domestic violence legal advocacy, assistance, or services to married or formerly married victims of domestic violence relating to specific civil legal proceedings.

Public Act 95-711 created the Married Families Domestic Violence Fund and authorized a \$5 increase of all marriage license fees. Each county clerk shall remit \$5 from all marriage license fees to the State Treasurer for deposit into the Fund. An annual growth of \$350,000 - \$400,000 is expected for the Fund.

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The proposed rules set forth the eligible applicants, proposal procedures and content, the criteria for review and approval of the proposals, and the fiscal and monitoring requirements for the awarded grants.

The Illinois Attorney General's Office will distribute the grants on an annual basis starting with FY 2010. Rather than award small amounts to numerous eligible applicants, the Office plans to make a limited number of awards of larger size so that the funding will make a substantial impact in the areas to be served.

- 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? Yes
- 9) Does this rulemaking contain incorporations by reference?
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: Neither creates nor enlarges a State mandate within the meaning of 30 ILCS 805/3b of the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: During the first notice period by writing:

Jennifer A. Welch, Policy Director  
Illinois Attorney General Lisa Madigan  
100 West Randolph, 11th Floor  
Chicago, IL 60601

312/814-5846
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Municipal agencies and not for profit agencies who provide the targeted legal services may apply for grants awarded from the Married Families Domestic Violence Fund.

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- B) Reporting, bookkeeping or other procedures required for compliance: Grantees shall submit financial and activity reports every three months to the Administrator detailing costs and expenditures, fiscal summary, names of funded staff persons, requested revisions, reallocations and adjustments, clients served, services provided, and revisions, if any, of time-tables and activities to reflect the current program status and future activity. Grantees must also submit the resume of any funded staff person no later than October 15 of the funded year.

All accounting entries of a grantee must be supported by appropriate source documents, recorded in books of original entry, and posted to a general ledger on a monthly basis.

- C) Types of professional skills necessary for compliance: Grant funded staff persons must be attorneys licensed to practice law in Illinois or supervised by an attorney licensed to practice law in Illinois.

- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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



ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

TITLE 89: SOCIAL SERVICES  
CHAPTER IX: ATTORNEY GENERAL

PART 1110  
MARRIED FAMILIES DOMESTIC VIOLENCE GRANTS

SUBPART A: GENERAL ADMINISTRATIVE PROVISIONS

Section

- 1110.10 Administration of the Married Families Domestic Violence Fund
- 1110.20 Eligible Agencies
- 1110.30 Conflict of Interest
- 1110.40 Grant Application Requirements
- 1110.45 First Year Application Deadline
- 1110.50 Funding Priorities
- 1110.60 General Programming and Staffing Requirements

SUBPART B: FISCAL AND MONITORING REQUIREMENTS

Section

- 1110.100 Accounting Requirements
- 1110.110 Allowable and Non-allowable Expenses
- 1110.120 Interest
- 1110.130 Audits
- 1110.140 Grant Agreement
- 1110.150 Payment
- 1110.160 Termination of Grant Agreement
- 1110.170 Lapsed Funds
- 1110.180 Quarterly and Staff Reporting
- 1110.190 On-site Visits and Inspection of Records

AUTHORITY: Authorized by and implementing Section 6z-69 of the State Finance Act [30 ILCS 105/6z-69].

SOURCE: Adopted at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL ADMINISTRATIVE PROVISIONS

**Section 1110.10 Administration of the Married Families Domestic Violence Fund**

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## NOTICE OF PROPOSED RULES

The Illinois Attorney General (the "Administrator") is charged with administering the disbursement of monies from the Married Families Domestic Violence Fund, including the selection of qualified applicants to receive funding to provide free domestic violence legal advocacy, legal assistance, or legal services to married or formerly married victims of domestic violence.

**Section 1110.20 Eligible Agencies**

The following types of agencies may apply for funding from the Married Families Domestic Violence Fund:

- a) An agency of the United States, the State of Illinois, or a unit of local government that provides legal advocacy, legal assistance, or legal services to victims of domestic violence by or under the supervision of an attorney licensed to practice law in the State of Illinois.
- b) A private, nonprofit entity that provides legal advocacy, legal assistance, or legal services to victims of domestic violence by or under the supervision of an attorney licensed to practice law in the State of Illinois, if it:
  - 1) has a tax exempt ruling from the Internal Revenue Service under section 501(c)(3) of the Internal Revenue Code (26 USC 501(c)(3)) and
  - 2) is compliant with the Charitable Trust Act [760 ILCS 55] and the Solicitations for Charity Act [225 ILCS 460] or is exempt from these Acts.

**Section 1110.30 Conflict of Interest**

- a) Applicants for grants under this Part shall have rules to govern themselves when conflict of interest situations arise and shall incorporate those rules into their constitution or bylaws, or publish the rules as agency policy.
- b) Rules governing conflict of interest shall prohibit staff members of the Administrator's Crime Victim Service Division and management of the Administrator above the Division Chief level from serving on boards of agencies that apply for or receive funding.

**Section 1110.40 Grant Application Requirements**

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In order to be considered for an award of grant funds under this Part, applicants must, on or before the first Friday of March preceding the fiscal year for which funding is required, submit the following information on, or, where indicated, attached to, a properly completed grant application form provided by the Administrator:

- a) Identification of the applicant, including:
  - 1) Organization name and type, Federal Employer Identification Number, complete address, telephone number, and e-mail address;
  - 2) The agency's Illinois Charitable Trust registration number or a statement that the agency is exempt;
  - 3) The name and telephone number of the agency's chief executive officer or executive director;
  - 4) The name, telephone number and e-mail address of the agency's contact person for purposes of the grant.
- b) A description of the applicant and the services it provides, including:
  - 1) A summary of the history and purpose of the applicant and the specific program for which funding is sought;
  - 2) A detailed description of the services program for which funding is sought;
  - 3) The number of clients served by applicant in the previous year;
  - 4) Applicant's past experience in providing legal advocacy, legal assistance, or legal services to victims of domestic violence;
  - 5) Applicant's current capacity to serve married or formerly married victims of domestic violence.
- c) A description of existing needs of the community to be served in relation to legal advocacy, legal assistance, or legal services for married or formerly married victims of domestic violence, including descriptions of:

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- 1) Community support for and involvement with the applicant;
  - 2) Memberships in multidisciplinary organizations or coalitions;
  - 3) Agencies with which applicant has networking agreements.
- d) A proposal describing the legal advocacy, legal assistance, and legal services to be provided with grant funding. The proposal must include:
- 1) Identification of the types of civil proceedings for which services will be provided;
  - 2) A description of direct services to be provided and of any programmatic service limitations or restrictions;
  - 2) A description of the client population to be served;
  - 3) A description of the geographic area to be served, including counties and legislative districts;
  - 4) A statement of goals, objectives, and activities of the program for which funding is sought;
  - 5) A description of any memoranda of intent in place for proposed networks of working relationships, including target dates for implementation.
- e) A request for a specific dollar amount, along with a detailed budget showing income and expenses, on the forms prescribed by the Administrator, which will include the following elements:
- 1) A budget summary detailing expenses for personnel, operations (contractual services, supplies, printing, other), travel, trainings attended, trainings hosted, and any other expenses for which funding has been provided or is sought in the current fiscal year and the fiscal year for which funding is requested;

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- 2) Itemized budgets for personnel, operations, and travel and training expenses to be funded by the grant, with a narrative description of each budget item requested;
- 3) A statement of income for the program to be funded by the grant that includes income received in the applicant's current fiscal year and anticipated to be received in the fiscal year for which funding is requested, in the following categories:
  - i) State or federal government;
  - ii) Township or county government;
  - iii) Administrator;
  - iv) Private foundations and corporate contributions;
  - v) Local support;
  - vi) Other contributions;
  - vii) Fundraisers;
  - viii) United Way;
  - ix) Revenue sharing.
- f) A signed certification that, with respect to each of the following items, the applicant has either put in place and is implementing written policies or that the requirement does not apply:
  - 1) A reasonable accommodation policy for persons with disabilities;
  - 2) Drug free workplace policies as required by law;
  - 3) Non-discrimination;
  - 4) Client intake;

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- 5) Client rights;
  - 6) Volunteer training;
  - 7) Personnel policies and procedures;
  - 8) Conflict of interest rules;
  - 9) Fee schedule with details of charges for specific services (copy to be attached to the application).
- g) A description of staffing, including the total number of applicant staff members, the numbers of full- and part-time employees, the number of program staff and:
- 1) Identification of all full- or part-time compensated program staff by name and title, designating those for whom funding is requested;
  - 2) A copy of the current job description for the positions listed;
  - 3) A description of the training provided to staff for whom funding is requested;
  - 4) A listing of at least one goal for each funded staff person for the next year.
- h) A description of the applicant's use of volunteers, including the numbers of full- and part-time volunteers, the job functions they perform in the operation of the program for which funding is sought, and the training provided to those who work directly with clients.
- i) A copy of the most recent fiscal audit required by Section 1110.130.
- j) At least one letter of support from a local domestic violence services agency dated no more than six months before the date of the application.
- k) A list of the members of the applicant's governing board.
- l) A certification that applicant will keep proper, complete, and accurate accounting records of all grant funds, as required by Section 11 of the Grant Funds Recovery Act [30 ILCS 705/11].

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- m) A certification, signed by the authorized official of the agency, that the statements in the application are true and correct and submitted in proper format.

**Section 1110.45 First Year Application Deadline**

For grants awarded for Fiscal Year 2010, grant applications will be due no later than June 12, 2009. This Section is automatically repealed on December 31, 2009.

**Section 1110.50 Funding Priorities**

- a) The Administrator shall consider the following factors in determining whether and how much to fund a given applicant:
- 1) The stated goals of the applicant, as contained in the grant application;
  - 2) The applicant's commitment and ability to provide the services sought to be funded. Evidence of commitment and ability includes: legal expertise (i.e., experience of agency staff in providing legal services relating to domestic violence), level of resources available to the agency, and past services provided;
  - 3) The number of married or formerly married domestic violence victims served;
  - 4) The extent to which the grant would expand the provision of services described in Section 1110.60;
  - 5) The extent to which the grant would serve the needs of the community by bringing services to un- or under-served areas or populations;
  - 6) Evidence of support by local domestic violence services agencies;
  - 7) The extent to which different areas of the State are served; and
  - 8) Applicant's history of compliance with reporting, accounting and other requirements pertaining to grants awarded under this Part or under any other government program.

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- b) Grants will be made for a term of one year corresponding to the State's fiscal year. The number of applicants selected for funding will depend upon the amount of appropriated funds available in the Married Families Domestic Violence Fund for that year. Rather than award small amounts to all eligible applicants, the Administrator shall make a limited number awards of sufficient size that the funding will make a substantial impact in the areas to be served.

**Section 1110.60 General Programming and Staffing Requirements**

- a) Requirements for provision of services by Grantees.
- 1) The services provided by virtue of a grant awarded under this Part shall be provided to married or formerly married victims of domestic violence without charge.
  - 2) The services provided shall be legal advocacy, legal assistance, or legal services relating to one or more of the following proceedings:
    - A) Order of protection proceedings;
    - B) Dissolution of marriage proceedings;
    - C) Declaration of invalidity of marriage proceedings;
    - D) Legal separation proceedings;
    - E) Child custody proceedings;
    - F) Visitation proceedings; and
    - G) Proceedings for civil remedies for domestic violence, including, but not limited to:
      - i) Remedies under the Safe Homes Act [765 ILCS 750];
      - ii) Remedies under the Gender Violence Act [740 ILCS 82];
      - iii) Child support enforcement remedies;



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- iv) Remedies under any federal law for violence against women; and
  - v) Remedies under the Victims of Trafficking and Violence Protection Act of 2000 (22 USC 7101).
- 3) Grant recipients must have in place written policies and procedures pertaining to client rights, including the release of information about a client. For purposes of this subsection (a)(3), the term "client rights" shall in all cases include, but not be limited to, the right to confidentiality and the right of personal privacy.
  - 4) Grant recipients shall not deny services to clients on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, citizenship status, age, marital status, unfavorable military discharge, military status, or physical, mental, or perceived handicap.
  - 5) Client intake policies and procedures shall be set forth in writing and be available for review by the Administrator to verify that the agency's services are being provided to the population described in the grant application.
  - 6) Grant recipients shall comply with the mandatory reporting requirements of the Abused and Neglected Child Reporting Act [325 ILCS 5].
- b) Personnel Requirements
    - 1) Grant recipients shall not discriminate in the hiring or promotion of staff based on race, color, religion, sex, sexual orientation, national origin, ancestry, citizenship status, age, marital status, unfavorable military discharge, military status, or physical, mental, or perceived handicap.
    - 2) Personnel policies shall be set forth in writing and be available for review by the Administrator upon request. Those policies shall demonstrate compliance with equal employment opportunity and drug free workplace requirements.

## SUBPART B: FISCAL AND MONITORING REQUIREMENTS

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**Section 1110.100 Accounting Requirements**

- a) All accounting entries of a Grantee must be supported by appropriate source documents, recorded in books of original entry, and posted to a general ledger on a monthly basis.
- b) Expenses paid with grant funds are to be identified to specific services funded by the grant. All other expenses not funded by the Administrator may be booked in total.
- c) Each Grantee shall maintain all fiscal records for five years after the end of each budget period. In instances involving unresolved issues arising from an audit, pending litigation or unresolved tax issues, records related to the unresolved issues must be retained at least until the issues are resolved.

**Section 1110.110 Allowable and Non-allowable Expenses**

The Administrator provides funds for services offered by public and non-profit agencies as specified in this Section, but will not be the sole funding source for any Grantee. The Administrator will only provide funds to programs for the purpose of funding certain items of expense as set forth in this Section.

- a) The following expenditures are the only allowable expenses for which grant funds may be used:
  - 1) Salaries and fringe benefits for Grantee employees who are attorneys licensed to practice law in Illinois, as well as for the advocates and paralegals they supervise;
  - 2) Contractual services from attorneys licensed to practice law in Illinois and advocates and paralegals supervised by an attorney licensed to practice law in Illinois;
  - 3) Equipment that is rented or leased for program use;
  - 4) General office expenses;
  - 5) Travel expenses and transportation costs for staff and clients;

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- 6) Court fees, evidence-related costs, and research and documentation costs;
  - 7) Printed or promotional materials used for informational purposes or to publicize the program. All printed materials paid for, in whole or part, with funds provided pursuant to the Grant Agreement shall include a statement that they were printed with support from the Illinois Attorney General's Office and that the views and statements expressed in those materials do not necessarily reflect the views and opinions of the Attorney General of the State of Illinois.
- b) In particular, the following expenditures are among those for which grant funds may not be used, notwithstanding the potential applicability of subsection (a):
- 1) The expense of researching issues and programs and collecting statistics;
  - 2) Compensation to an agency board member other than payment of fair value for services rendered to the agency in a capacity other than board member;
  - 3) Individual or agency association dues or costs of attending professional meetings;
  - 4) The use, or reimbursement for use, of agency- or privately-owned automotive equipment by staff for personal business or non-work-related transportation;
  - 5) The expense of fund-raising activities;
  - 6) Donations of cash or in-kind services to charities, other organizations and individuals;
  - 7) The repayment of any of the principal amount of, and the payment of interest on, any loan;
  - 8) Lease-purchase agreements for items of equipment;
  - 9) The cost of office space or other buildings;
  - 10) The cost of developing supply inventories;

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- 11) Any expense incurred by a Grantee for the sale of goods or services;
- 12) Reimbursement of expenses that have been funded by a grant from another funding source;
- 13) Contributions to a contingency reserve or any similar provision for unforeseen events.

**Section 1110.120 Interest**

- a) Interest income earned from award funds shall be used for expenses that further the provision of direct services to clients, consistent with the provision of service stated in the Grant Agreement. These expenses shall not exceed \$500 in any fiscal year. Interest income earned in excess of \$500 shall be returned to the Administrator with the next quarterly report.
- b) Interest income earned from award funds and expenses paid from that interest income shall be reported on quarterly reports as separate items from other expenses against the grant award.
- c) In addition to the allowable expenses listed in Section 1110.110(a), interest income may be used to pay interest expenses on borrowed funds used to purchase land, buildings, and/or equipment that are required to provide direct services to clients, or are related to client services. The items purchased must actually be in use.

**Section 1110.130 Audits**

- a) Each Grantee agency shall have an annual audit of its financial statements performed at the close of its fiscal year by an independent certified public accountant licensed or registered by the State of Illinois. The report shall contain the basic financial statements presenting the financial position of the agency, the results of its operations, and changes in fund balances. The report shall also contain the auditor's opinion regarding the financial statements taken as a whole, or an assertion to the effect that an opinion cannot be expressed. If the auditor expresses a qualified opinion, a disclaimer of opinion, or an adverse opinion, the reason must be stated.

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- b) Audit Report
  - 1) Private not-for-profit agencies must submit a copy of their most recently completed audit with the grant application.
  - 2) Governmental entities must have on site a copy of their most recently completed audit for review by the Administrator during site visits.

**Section 1110.140 Grant Agreement**

- a) The Grant Agreement serves as the formal statement of mutual expectations between the Administrator and the Grantee. The Grant Agreement is a combination service plan and budget. It identifies what services will be provided or procured, to what target population, and within what geographical area.
- b) The term of the agreement shall be July 1 to June 30 unless a different term is specified in the Grant Agreement, unless sooner terminated as provided in Section 1110.160. Payments under the Grant Agreement will be made quarterly. Grant Agreements and payments are subject to the continued availability of appropriated funds.
- c) Those sections of the Grantee's proposal the Administrator has accepted shall be incorporated into the Grant Agreement.
- d) Modification of Program
  - The Grantee shall not change, modify, revise, alter, amend, or delete any part of the services it has agreed to provide in the Grant Agreement without first obtaining the written consent of the Administrator in the form of a Supplemental Agreement.
  - 1) When the Grantee has in good faith attempted to comply with the service provisions of the Grant Agreement, but for unforeseen circumstances was not able to comply with the Grant Agreement, the Administrator will consider a Supplemental Agreement.
  - 2) Procedures for a Supplemental Agreement
    - A) The Grantee shall submit to the Administrator the following:

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- i) A written explanation of the circumstances, detailing the good faith attempts to comply with the service provisions of the Grant Agreement;
    - ii) A proposed solution; and
    - iii) A request for a Supplemental Agreement.
  - B) The Administrator will grant the request if the request is consistent with the original intent of the agency's application and services to victims and witnesses and the expense is allowable under Section 1110.110(a).
  - C) The Administrator will prepare a Supplemental Agreement to be signed by both parties if:
    - i) The Administrator approves the Grantee's request and proposed solution;
    - ii) The Administrator proposes its own solution that is acceptable to the Grantee; or
    - iii) The parties agree on a solution.
  - D) The Administrator will notify the Grantee in writing of the denial of a request for modification of the program.
- e) Modification of Budget
- 1) The Grantee has the responsibility to identify instances when funds cannot be expended in accordance with the Grant Agreement Project Budget and to seek reallocation of those funds prior to the expiration of the Grant Agreement.
  - 2) The Grantee must utilize one of the following options in order to reallocate funds.
    - A) The Grantee may reallocate amounts less than \$1,000 of the grant funds to existing line items in the approved budget in the Grant

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Agreement. The Grantee must note the reallocation in the reporting forms.

- B) If the Grantee wishes to reallocate amounts less than \$1,000 of the grant funds to an expense that creates a new line item in the approved budget, the Grantee must submit to the Administrator a written request and explanation for reallocation.
- C) If the Grantee wishes to reallocate amounts of \$1,000 or more of grant funds, the Grantee must submit to the Administrator a written request and explanation for the reallocation.
- D) The Administrator shall grant a reallocation of funds when it determines that funds will be used for allowable expenses consistent with the funded services.
- E) The Administrator shall inform the Grantee within 30 days after receipt of a request, if the request is not approved.

**Section 1110.150 Payment**

- a) The Administrator shall complete the processing for payment of 25 percent of the grant award within 45 days after the beginning of the grant term or the execution of the agreement, whichever is later. The remaining balance of the award shall be processed in three equal installments within 30 days after the end of each of the first three quarters.
- b) A payment may be delayed if:
  - 1) The Grantee has not complied with reporting requirements;
  - 2) The Administrator is investigating possible misstatements in the Grantee's reports or application; or
  - 3) The Grantee has failed to obtain approval for modification of services.

**Section 1110.160 Termination of Grant Agreement**

- a) The Administrator may terminate the Grant Agreement for the following reasons:

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- 1) Failure to timely submit reports to the Administrator, as required by Section 1110.170;
  - 2) Failure to provide the services specified in the Grant Agreement;
  - 3) Material misrepresentations or misstatements in a grant application or required reports;
  - 4) Failure to comply with accounting requirements; and
  - 5) Misappropriation of grant funds.
- b) The Administrator will send written notification of the cancellation of a Grant Agreement to the Grantee 30 days prior to the cancellation date. The notice shall detail the reasons for termination and the procedure for the repayment of unexpended funds or monies due the Administrator.
- c) Failure to comply with the procedures prescribed for repayment of funds due to cancellation of the Grant Agreement will result in invocation of the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705].

**Section 1110.170 Lapsed Funds**

- a) Grant funds not expended or legally obligated by the end of the Grant Agreement are considered lapsed.
- b) The Grantee shall identify the amount of lapsed funds in the final report submitted to the Administrator.
- c) The Administrator shall verify the amount of the lapsed funds and notify the Grantee in writing of the amount of lapsed funds and the date by which the lapsed funds must be returned, which shall be within 45 days following the end of the Grant Agreement, as required by the Grant Funds Recovery Act [30 ILCS 705].
- d) If the Grantee fails to timely return the lapsed funds, the Administrator shall institute proceedings to recover the funds in accordance with the Grant Funds Recovery Act.



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**Section 1110.180 Quarterly and Staff Reporting**

- a) A Grantee shall submit to the Administrator financial and activity reports every three months, for the previous three-month period, on forms provided by the Administrator.
  - 1) The financial report form shall provide a detailed statement of costs and expenditures, fiscal summary, names of funded staff persons, and requested revisions, reallocations and adjustments.
  - 2) The activity report form shall detail clients served, services provided, and revisions, if any, of time-tables and activities to reflect the current program status and future activity.
  - 3) All reporting forms must be received by the Administrator no later than 15 days following the end of the reporting period.
  - 4) The Administrator may grant extensions of up to 2 weeks for good cause (e.g., inability to complete report due to unavailability of responsible staff as a result of illness or personal or business emergency or due to calamity, natural disaster or weather event). The Administrator will provide written confirmation of any extension. The written confirmation shall be attached to the reporting forms when submitted.
- b) Funded Staff Reporting
  - 1) A Grantee shall submit to the Administrator the resume of any funded staff no later than October 15 of the funded year.
  - 2) If, for any reason, a Grantee finds it necessary or desirable to substitute, add, or subtract personnel to perform its services under the Grant Agreement, the Grantee shall submit a written notice to Administrator within 10 days after the change in personnel. The notice must include the name of any substituted or additional personnel, together with the person's resume and the reason for the change. Any substitutions or additional personnel must meet the qualifications of the written job description on file with the current application.

**Section 1110.190 On-site Visits and Inspection of Records**

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- a) The Administrator may conduct random or for-cause on-site visits of a Grantee's program.
- b) The Grantee shall make available, and the Administrator may inspect, all financial records, audits, client contact records, and case records in connection with funded programs.
- c) The Grantee shall make available, and the Administrator may inspect, policies and procedures specified in 89 Ill. Adm. Code 1110.40.
- d) In making case records available, the Grantee shall insure the confidentiality of each client pursuant to the Grantee's confidentiality standards.

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- 1) Heading of the Part: Electric Interconnection of Large Distributed Generation Facilities
- 2) Code Citation: 83 Ill. Adm. Code 467
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
467.10	New Section
467.20	New Section
467.30	New Section
467.40	New Section
467.50	New Section
467.60	New Section
467.70	New Section
467.80	New Section
476.90	New Section
467.APPENDIX A	New Section
467.APPENDIX B	New Section
467.APPENDIX C	New Section
467.APPENDIX D	New Section
467.APPENDIX E	New Section
467,APPENDIX F	New Section
- 4) Statutory Authority: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101]
- 5) A Complete Description of the Subjects and Issues Involved: The Illinois Commerce Commission has previously adopted 83 Ill. Adm. Code 466, "Electric Interconnection of Distributed Generation Facilities" to implement Section 16-107.5 of the Public Utilities Act. Persons utilizing net metering under Section 16-107.5 of the Act and 83 Ill. Adm. Code 465 must interconnect with the electric utility's distribution system. Part 466 sets out the standards for the majority of interconnections that are likely to occur, but does not provide standards for interconnecting generation with capacity greater than 10 MVA. The proposed rules for Part 467 will provide standards for any interconnection that is not subject to Part 466, but is also not subject to the rules promulgated by the Federal Energy Regulatory Commission or subject to the rules of any Regional Transmission Organization that operates in Illinois.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed rules neither create nor expand 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: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 08-481, with:

Elizabeth Rolando  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: Reporting requirements
- C) Types of professional skills necessary for compliance: Managerial and engineering skills

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- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for these rules at that time.

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

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TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: ELECTRIC UTILITIESPART 467  
ELECTRIC INTERCONNECTION OF LARGE  
DISTRIBUTED GENERATION FACILITIES

## Section

467.10	Scope
467.20	Definitions and Incorporations by Reference
467.30	Waiver
467.40	Technical Standards
467.50	Interconnection Request Review
467.60	General Requirements
467.70	Interconnection Review Procedures
467.80	Disputes
467.90	Records
467.APPENDIX A	Certificate of Completion
467.APPENDIX B	Application
467.APPENDIX C	Contract
467.APPENDIX D	Interconnection Feasibility Study Agreement
467.APPENDIX E	Interconnection System Impact Study Agreement
467.APPENDIX F	Interconnection Facilities Study Agreement

AUTHORITY: Implementing Section 16-107.5 of the Public Utilities Act [220 ILCS 5/16-107.5] and authorized by Sections 16-107.5 and 10-101 of the Public Utilities Act [220 ILCS 5/16-107.5 and 10-101].

SOURCE: Adopted at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 467.10 Scope**

The Illinois Large Distributed Generation Interconnection Standard applies to any generation facility operated in parallel with an electric public utility distribution company in Illinois and whose nameplate capacity is greater than 10 MVA (large distributed generation facility), provided that the distributed generation facility is not subject to the interconnection requirements of either the Federal Energy Regulatory Commission (FERC) or the applicable Regional

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Transmission Organization (RTO) (either Midwest Independent Transmission System Operator, Inc. (MISO) or PJM Interconnection, LLC (PJM)).

**Section 467.20 Definitions and Incorporations by Reference**

Terms defined in Section 16-102 of the Public Utilities Act [220 ILCS 5/16-102] shall have the same meaning for purposes of this Part as they have under Section 5/16-102 of the Act, unless further defined in this Part. The following words and terms, when used in this Part, have the following meanings unless the context indicates otherwise:

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

"Adverse system impact" means a negative effect that compromises the safety or reliability of the electric distribution or transmission systems or materially affects the quality of electric service provided by the electric distribution company (EDC) to other customers.

"Affected system" means an electric system not owned or operated by the EDC reviewing the interconnection request that could suffer an adverse system impact from the proposed interconnection.

"Applicant" means a person (or entity) who has submitted an interconnection request to interconnect a distributed generation facility to an EDC's electric distribution system.

"Business day" means Monday through Friday, excluding State and federal holidays.

"Calendar day" means any day, including Saturdays, Sundays and State and federal holidays.

"Certificate of completion" means a certificate, in a form approved by the Commission, that contains information about the interconnection equipment to be used, its installation and local inspections (see Appendix A).

"Commissioning test" means tests applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts and performs to the submitted specifications.

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"Distributed generation facility" means the equipment used by an interconnection customer to generate or store electricity that operates in parallel with the electric distribution system. A distributed generation facility typically includes an electric generator, a prime mover, and the interconnection equipment required to safely interconnect with the electric distribution system or local electric power system.

"Distribution upgrade" means a required addition or modification to the electric distribution system to accommodate the interconnection of the distributed generation facility. Distribution upgrades do not include interconnection facilities.

"Electric distribution company" or "EDC" means any electric utility subject to the jurisdiction of the Commission.

"Electric distribution system" means the facilities and equipment owned and operated by the EDC and used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas, but generally operate at less than 100 kilovolts of electricity. "Electric distribution system" has the same meaning as the term "Area EPS", as defined in Section 3.1.6.1 of IEEE Standard 1547.

"IEEE Standard 1547" is the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York NY 10016-5997, Standard 1547 (2003) "Standard for Interconnecting Distributed Resources with Electric Power Systems". This incorporation does not include any later amendments or editions.

"IEEE Standard 1547.1" is the IEEE Standard 1547.1 (2005) "Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems". This incorporation does not include any later amendments or editions.

"Interconnection customer" means a person or entity that has a distributed generation facility interconnected to an electric distribution system.

"Interconnection equipment" means a group of components or an integrated system owned and operated by the interconnection customer that connects an electric generator with a local electric power system, as that term is defined in Section 3.1.6.2 of IEEE Standard 1547, or with the electric distribution system.



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Interconnection equipment is all interface equipment, including switchgear, protective devices, inverters or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

"Interconnection facilities" means facilities and equipment required by the EDC to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities and equipment between the distributed generation facility's interconnection equipment and the point of interconnection, including any modifications or additions necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole use facilities and do not include distribution upgrades.

"Interconnection request" means an applicant's request, in a form approved by the Commission, for interconnection of a new distributed generation facility or to change the capacity or other operating characteristics of an existing distributed generation facility already interconnected with the electric distribution system.

"Interconnection study" is any study described in Section 467.70.

"Local electric power system" means facilities that deliver electric power to a load that is contained entirely within a single premises or group of premises. Local electric power system has the same meaning as in Section 3.1.6.2 of IEEE Standard 1547.

"Nameplate capacity" is the maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer and usually indicated on a nameplate physically attached to the power production equipment.

"Parallel operation" or "parallel" means a distributed generation facility that is connected electrically to the electric distribution system for longer than 100 milliseconds.

"Point of interconnection" means the point where the distributed generation facility is electrically connected to the electric distribution system. Point of interconnection has the same meaning as the term "point of common coupling" defined in Section 3.1.13 of IEEE Standard 1547.

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"Queue position" means the order an EDC receives a completed interconnection request relative to that specific EDC's other interconnection requests. It is established by the date that the EDC receives the completed interconnection request.

"Scoping meeting" means a meeting between representatives of the applicant and EDC conducted for the purpose of discussing interconnection issues and exchanging relevant information.

"Standard agreement for interconnection of distributed generation facilities with a capacity more than 10 MVA" means a standard interconnection agreement applicable to interconnection requests for large distributed generation facilities (see Appendix C).

"Witness test" means a verification by the EDC, either by on-site observation or review of documents, that the interconnection installation evaluation required by the applicable technical standards has been performed.

**Section 467.30 Waiver**

- a) The Commission, on application or petition of an EDC, distributed generation applicant or customer, or on its own motion, may grant a temporary or permanent waiver from this Part, or any Section or subsection of this Part, in individual cases in which the Commission finds that:
  - 1) the provision from which the waiver is granted is not statutorily mandated;
  - 2) no party will be injured by the granting of the waiver; and
  - 3) the rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome.
- b) The burden of proof in establishing a right to waiver shall be on the party seeking the waiver.

**Section 467.40 Technical Standards**

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The EDC shall use relevant technical interconnection standards published by the applicable regional transmission organization (RTO). If such standards do not exist, the parties shall negotiate adjustments or modifications to IEEE Standard 1547 that are necessary due to electric system conditions or constraints, or to unique generator characteristics.

**Section 467.50 Interconnection Request Review**

- a) Applicants seeking to interconnect a distributed generation facility, or to revise a distributed generation facility that has already been interconnected, shall submit an interconnection request to the EDC that owns the electric distribution system to which interconnection is sought. Applicants shall use interconnection request forms approved by the Commission. The EDC may require additional information from the Applicant if the EDC can demonstrate that the additional information is necessary in order for the EDC to conduct its review under this Part.
- b) The application fee is specified in the interconnection application form (see Appendix B).
- c) Interconnection requests may be submitted electronically, if agreed to by the parties.
- d) If the timelines provided in this Part cannot be met due to the unique characteristics of the proposed facility, parties shall negotiate timelines that differ from those established in this Part. Alternative timelines may be needed to account for project complexities, personnel requirements or other outside factors regarding a particular project. If a mutual agreement is not reached, parties may use the dispute resolution procedures provided for in Section 467.80. If events outside the control of the EDC prevent the EDC from meeting a mutually agreed upon deadline, it shall immediately notify the applicant in writing and provide an estimated time by which it will complete the applicable interconnection procedure.

**Section 467.60 General requirements**

- a) When an interconnection request for a distributed generation facility includes multiple energy production devices at a site for which the applicant seeks a single point of interconnection, the interconnection request shall be evaluated on the basis of the aggregate nameplate capacity of the multiple devices.

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- b) When an interconnection request is for an increase in capacity for an existing distributed generation facility, the interconnection request shall be evaluated on the basis of the new total nameplate capacity of the distributed generation facility.
- c) EDCs shall designate a point of contact and provide contact information on their websites. The point of contact shall be able to direct applicant questions concerning interconnection request submissions and the interconnection request process to knowledgeable individuals within the EDC.
- d) The information that the EDC makes available to potential applicants can include prior EDC studies to help applicants understand whether it is feasible to interconnect a distributed generation facility at a particular point on the EDC's electric distribution system. However, the EDC can refuse to provide the information to the extent that providing it violates security requirements or confidentiality agreements, or is contrary to State or federal regulations. In appropriate circumstances, the EDC may require a confidentiality agreement prior to release of this information.
- e) After an interconnection request is deemed complete by the EDC, any modification that is not agreed to by the EDC requires submission of a new interconnection request.
- f) When an applicant is not currently a customer of the EDC at the proposed site, the applicant shall provide, upon EDC request, proof of the applicant's legal right to control the site, evidenced by the applicant's name on a property tax bill, deed, lease agreement or other legally binding contract.
- g) The EDC or the applicant may propose a single point of interconnection for multiple distributed generation facilities located at an interconnection customer site that is on contiguous property. If the applicant rejects the EDC's proposal for a single point of interconnection, the applicant shall pay any additional cost to provide a separate point of interconnection for each distributed generation facility. If the EDC, without written technical explanation, rejects the customer's proposal for a single point of interconnection, the EDC shall pay any additional study cost to provide separate points of interconnection for each distributed generation facility.
- h) The interconnection customer shall allow the EDC to isolate the distributed generation facility. The interconnection customer shall permit the EDC to affix a

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placard in a location of its choosing that provides instructions to EDC operating personnel for accessing the isolation device. If the EDC needs to isolate the distributed generation facility, the EDC shall not be held liable for any damages resulting from the actions necessary to isolate the generation facility. Isolation device specifications shall be established through the study review procedures at Section 467.70.

- i) Any metering required for a distributed generation interconnection shall be installed, operated and maintained in accordance with applicable EDC tariffs and agreements. Metering requirements must be identified in the distributed generation interconnection agreement executed between the interconnection customer and the EDC.
- j) Monitoring and control requirements shall be consistent with the EDC's published requirements and shall be clearly identified in the interconnection agreement between the interconnection customer and the EDC. Transfer trip shall not be considered EDC monitoring and control when required and installed to protect the electric distribution system or an affected system against adverse system impacts.
- k) The EDC may require a witness test after the distributed generation facility is constructed or after the revisions are completed. The applicant shall provide the EDC with at least 15 business days notice of a planned commissioning test for the distributed generation facility. The applicant and EDC shall schedule the witness test at a mutually agreeable time. If the witness test results are not acceptable to the EDC, the applicant shall be granted 30 business days to address and resolve any deficiencies. The time period for addressing and resolving any deficiencies may be extended upon the mutual agreement of the EDC and the applicant prior to the end of the 30 business days. An initial request for extension shall not be denied by the EDC; subsequent requests may be denied. If the applicant fails to address and resolve the deficiencies to the EDC's satisfaction, the interconnection request shall be deemed withdrawn. Even if the EDC or an entity approved by the EDC does not witness a commissioning test, the applicant remains obligated to satisfy the EDC's interconnection test specifications and requirements.
- l) When an interconnection request is for modifications to an existing distributed generation facility, the EDC shall review the interconnection request to determine if any studies are necessary. If no studies are necessary, the EDC shall inform the applicant that the requested revisions are acceptable and can proceed without

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further analysis by the EDC. The provisions of this Part shall continue to apply to any revisions made to the existing distributed generation facility.

**Section 467.70 Interconnection Review Procedures**

- a) The applicant shall submit an interconnection request using the appropriate form, along with the application fee specified in Appendix B.
- b) Within 10 business days after receipt of an interconnection request, the EDC shall notify the applicant whether the request is complete. When the interconnection request is not complete, the EDC shall provide the applicant with a written list detailing the information required to complete the interconnection request. When additional information is required, the applicant and the EDC shall agree on a schedule to provide the required information or the interconnection request is considered withdrawn. The parties may agree to extend the time for receipt of the additional information. The interconnection request is deemed complete when the required information has been provided by the applicant, or the parties have agreed that the applicant may provide additional information at a later time.
- c) The queue position of an interconnection request is used to determine the cost responsibility for the interconnection facilities necessary to accommodate the interconnection. The EDC shall notify the applicant as to its queue position.
  - 1) If the applicant amends the interconnection request in a manner that requires the EDC re-study the feasibility or impact of the interconnection, then the interconnection request shall receive a new queue position based on the date that it was amended.
  - 2) If an EDC determines that other interconnection requests may affect the same facilities on the electric distribution system or on transmission networks as the distributed generation facility either proposed or being revised in an applicant's interconnection request, the EDC may study these requests together without regard to their queue position. If an EDC considers interconnection requests together because they both affect the same facilities on the electric distribution system or on transmission networks, the EDC shall notify the applicant of that fact at the time studies are initiated. If the EDC considers two or more interconnection requests together, estimated costs allocated to each applicant shall not exceed the

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estimated cost associated with the interconnection request had the EDC reviewed the interconnection requests in sequence.

- d) After the interconnection request has been assigned a queue position, the following procedures shall be followed to determine how a study review shall be conducted:
- 1) By mutual agreement of the parties, the scoping meeting, interconnection feasibility study, interconnection system impact study, or interconnection facilities study provided for in a study review and discussed in this Section may be waived or combined.
  - 2) If agreed to by the parties, a scoping meeting on a mutually agreed upon date and time shall be held after the EDC has notified the applicant that the interconnection request is deemed complete. The meeting's purpose is to review the interconnection request and existing studies relevant to the interconnection request.
  - 3) When the parties agree that an interconnection feasibility study shall be performed, the EDC shall provide to the applicant, no later than 10 business days after the parties' agreement or, if held, the scoping meeting, an interconnection feasibility study agreement (see Appendix D). The interconnection feasibility study agreement shall include an outline for the scope of the study and the study's estimated cost. If the applicant does not sign and return the study agreement within 25 business days, the application shall be deemed withdrawn and the queue position shall be forfeited.
  - 4) When the parties agree that an interconnection system impact study shall be performed, the EDC shall provide to the applicant, no later than 10 business days after the parties' agreement, an interconnection system impact study agreement (see Appendix E). The interconnection system impact study agreement shall include an outline for the study's scope and the study's estimated cost. If the applicant does not sign and return the study agreement within 25 business days, the application shall be deemed withdrawn and the queue position shall be forfeited.
  - 5) When the parties agree that an interconnection facilities study shall be performed, the EDC shall provide to the applicant, no later than 10

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business days after parties' agreement, an interconnection facilities study agreement (see Appendix F). The interconnection facilities study agreement shall include an outline for the study's scope and the study's estimated cost. If the applicant does not sign and return the study agreement within 25 business days, the application shall be deemed withdrawn and the queue position shall be forfeited.

- 6) Interconnection studies that the EDC conducts shall consider all other distributed generation facilities that, on the date the interconnection study is commenced, are directly interconnected with the EDC's electric distribution system, have a higher queue position than the request being studied, or have a valid and active interconnection agreement.
  - 7) If the applicant signs and returns an interconnection study agreement, but subsequently notifies the EDC that it will not continue with its proposed large distributed generation facility project for any reason, the EDC need not complete the study or provide the applicant with study results.
- e) The following guidelines shall govern all required interconnection studies:
- 1) An interconnection feasibility study shall include analyses to identify potential adverse system impacts that would result from the proposed interconnection.
    - A) The interconnection feasibility study shall include pertinent elements from among the following:
      - i) Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;
      - ii) Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;
      - iii) Initial review of grounding requirements and system protection; and
      - iv) Description of and nonbinding estimated cost of facilities required to interconnect the distributed generation facility



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to the EDC's electric distribution system in a safe and reliable manner.

- B) If an applicant requests that the interconnection feasibility study evaluates multiple potential points of interconnection, additional evaluations may be required. Additional evaluations shall be paid for by the applicant.
  - C) An interconnection system impact study is not required when the interconnection feasibility study concludes that there is no adverse system impact, or when the study identifies an adverse system impact, but the EDC is able to identify a remedy without the need for an interconnection system impact study.
  - D) The parties shall use an interconnection feasibility study agreement as approved by the Commission unless both parties agree to use an alternative form.
- 2) An interconnection system impact study evaluates the impact of the proposed interconnection on both the safety and reliability of the EDC's electric distribution system. The study identifies and details the system impacts that interconnecting a new or revising an existing distributed generation facility to the distribution system would have on the electric distribution system if there are no distribution upgrades.
- A) A distribution interconnection system impact study shall be performed when a potential adverse system impact is identified in the interconnection feasibility study. The interconnection system impact study shall include pertinent elements from among the following:
    - i) A load flow study;
    - ii) Identification of affected systems;
    - iii) A short-circuit analysis;
    - iv) An analysis of equipment interrupting ratings;

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- v) A protection coordination study;
  - vi) Voltage drop and flicker studies;
  - vii) A stability analysis;
  - viii) Grounding reviews;
  - ix) Impact on system operation; and
  - x) Alternatives for mitigating adverse system impacts on affected systems.
- B) The final interconnection system impact study report shall provide the following:
- i) The underlying assumptions of the study;
  - ii) The results of the analyses;
  - iii) A list of any potential impediments to providing the requested interconnection service;
  - iv) Required distribution upgrades; and
  - v) A non-binding estimate of cost and time to construct any required distribution upgrades.
- C) The parties shall use an interconnection impact study agreement as approved by the Commission unless both parties agree to use an alternative form.
- 3) The interconnection facilities study shall be conducted as follows:
- A) The interconnection facilities study shall estimate the cost of the equipment, engineering, procurement and construction work, including overheads, needed to implement the conclusions of the interconnection feasibility study and the interconnection system impact study. The interconnection facilities study shall identify:

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- i) The electrical switching configuration of the equipment, including transformer, switchgear, meters and other station equipment;
  - ii) The nature and estimated cost of the EDC's interconnection facilities and distribution upgrades necessary to accomplish the interconnection; and
  - iii) An estimate for the time required to complete the construction and installation of the facilities.
- B) The EDC may agree to permit an applicant to arrange for a third party to design and construct the required interconnection facilities. In such a case, the EDC shall make all relevant information and required specifications available to the applicant to permit the applicant to obtain an independent design and cost estimate for the facilities, which shall be built in accordance with the EDC's specifications. The applicant shall ensure that any third party with whom it shares the EDC's relevant information and required specifications shall comply with applicable security and confidentiality requirements.
- C) Upon completion of the interconnection facilities study, and after the applicant agrees to pay for the interconnection facilities and distribution upgrades identified in the interconnection facilities study, the EDC shall provide to the applicant a standard distributed generation interconnection agreement (see Appendix C) for the applicant to sign. The applicant has 10 business days to sign the agreement or the application is deemed withdrawn.
- D) In the event that distribution upgrades are identified in the impact study that shall be added only in the event that higher-queued customers not yet interconnected eventually complete and interconnect their generation facilities, the applicant may elect to interconnect without paying for such upgrades at the time of the interconnection, provided that it agrees to pay for the upgrades at the time the higher-queued customer is ready to interconnect. If the applicant does not pay for the upgrades at that time, the EDC shall

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require the applicant to immediately disconnect its distribution generation facility to accommodate the higher-queued customer.

- E) The parties shall use an interconnection facilities study agreement as approved by the Commission unless both parties agree to use an alternative form.
- f) When an EDC determines that it is appropriate to interconnect the distributed generation facility, the EDC shall provide the applicant with a standard distributed generation interconnection agreement. If the interconnection request is denied, the EDC shall provide the applicant with a written explanation as to its reasons for denying interconnection. If the EDC's written explanation demonstrates that the interconnection request was denied for valid reasons, the interconnection request does not retain its queue position.
- g) Within 30 business days after receipt of the standard distributed generation interconnection agreement, the applicant shall provide all necessary information required of the applicant by the agreement. The EDC shall develop all other information required of the EDC by the agreement. After completing the Agreement, the applicant shall sign and return the agreement to the EDC. If the applicant does not sign and return the agreement within 30 business days after its completion, the interconnection request shall be deemed withdrawn, unless the applicant requests in writing to have the deadline extended by no more than 15 business days. The initial request for extension may not be denied by the EDC. If the applicant does not sign the agreement after the 15 business day extension, the interconnection request shall be deemed withdrawn unless a further extension is agreed to by the parties. If withdrawn, the interconnection request does not retain its queue position. When construction is required, the interconnection of the distributed generation facility shall proceed according to milestones agreed to by the parties in the distributed generation interconnection agreement.
- h) The distributed generation interconnection agreement is not final until:
  - 1) The requirements of the interconnection agreement are satisfied; and
  - 2) The distributed generation facility is approved by any electric code officials with jurisdiction over the interconnection; and

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- 3) The applicant provides a certificate of completion (see Appendix A) to the EDC. Completion of local inspections may be designated on inspection forms used by local inspecting authorities; and
- 4) The witness test is successfully completed if required by the EDC or if the witness test is waived according to Article 2.1.1 of Appendix C.

**Section 467.80 Disputes**

- a) A party shall attempt to resolve all disputes regarding interconnection in good faith. A party shall provide prompt written notice of the existence of the dispute, including sufficient detail to identify the scope of the dispute, to the other party in order to attempt to resolve the dispute.
- b) An informal meeting or conference call between the parties shall be held within 10 business days after receipt of the written notice. Persons with decision-making authority from each party shall attend the meeting. In the event the dispute involves technical issues, persons with sufficient technical expertise and familiarity with the issue in dispute from each party shall also attend the informal meeting. If parties agree, the meeting may be conducted by teleconference.
- c) Subsequent to the informal meeting referred to in subsection (b), a party may seek resolution of any disputes through the complaint or mediation procedures available at the Consumer Services Division (CSD) of the Commission. Dispute resolution at the Commission will be initially conducted in an informal, expeditious manner to reach resolution with minimal costs and delay. If no resolution is reached after informal discussions, either party may file a formal complaint with the Commission.
- d) Pursuit of dispute resolution shall not affect an interconnection applicant with regard to consideration of an interconnection request or an interconnection applicant's position in the EDC's interconnection queue.

**Section 467.90 Records**

- a) An EDC shall maintain the following records for a minimum of three years:
  - 1) The total number of and the nameplate capacity of the completed interconnection requests received, approved and denied; and

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- 2) The fuel type, total number and nameplate capacity of distributed generation facilities approved.
- b) An EDC shall provide a public report to the Commission containing the information required in subsection (a) within 90 calendar days after the close of each calendar year. An electronic version, in a legible 12 point font size in PDF (Adobe Acrobat Portable Document Format) shall be delivered to the Commission's offices on CDs (Compact Discs) or DVDs (Digital Video Discs and Digital Versatile Discs). If the computerized version cannot be directly converted from the word processing document, and must therefore be scanned from paper, it shall be saved in a PDF that includes both image and text to allow indexing.
  - c) Each EDC shall retain copies of studies it performs to determine the feasibility of, system impacts of, or facilities required by the interconnection of any distributed generation facility. The EDC shall provide the applicant copies of any studies performed in analyzing the applicant's interconnection request, upon applicant request. However, an EDC has no obligation to provide any future applicants any information regarding prior interconnection requests to the extent that the information would violate security requirements or confidentiality agreements, or is contrary to law or State or federal regulations.

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**Section 467.APPENDIX A Certificate of Completion**

**Certificate of Completion**

**(To be completed and returned to the EDC when installation is complete and final electric inspector approval has been obtained<sup>1</sup>)**

**Interconnection Customer Information**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Primary): \_\_\_\_\_ (Alternate): \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Installer**

Check if owner-installed

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Primary): \_\_\_\_\_ (Alternate): \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Final Electric Inspection and Interconnection Customer Signature**

The distributed generation facility is complete and has been approved by the local electric inspector having jurisdiction. A signed copy of the electric inspector's form indicating final approval is attached. The interconnection customer acknowledges that it shall not operate the

<sup>1</sup> Prior to interconnected operation, the interconnection customer is required to complete this form and return it to the EDC. Use contact information provided on the EDC's web page for generator interconnection to obtain mailing address/fax number/e-mail address.

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distributed generation facility until receipt of the final acceptance and approval by the EDC as provided below.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
*(Signature of interconnection customer)*

Printed Name: \_\_\_\_\_

Check if copy of signed electric inspection form is attached

Check if copy of as-built documents is attached

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**Acceptance and Final Approval for Interconnection (for EDC use only)**

The interconnection agreement is approved and the distributed generation facility is approved for interconnected operation upon the signing and return of this Certificate of Completion by EDC:

Electric Distribution Company waives Witness Test? (*Initial*) Yes  No

If not waived, date of successful Witness Test: \_\_\_\_\_ Passed: (*Initial*) \_\_\_\_\_

EDC Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

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**Section 467.APPENDIX B Application**

**Large Interconnection Request Application Form  
(Greater than 10 MVA)**

**Applicant Contact Information**

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Primary): \_\_\_\_\_ (Alternate): \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Alternative or Designated Representative Contact Information**

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Primary): \_\_\_\_\_ (Alternate): \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Distributed Generation Facility Information**

Project Name: \_\_\_\_\_

Facility Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Electric Distribution Company (EDC) serving Facility site: \_\_\_\_\_

Electric Supplier (if different from EDC): \_\_\_\_\_

Account Number of Facility site (existing EDC customers): \_\_\_\_\_

Inverter Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_

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**Equipment Contractor (if known):**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Primary): \_\_\_\_\_ (Evening): \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Electrical Contractor (if known):**

Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (Primary): \_\_\_\_\_ (Alternate): \_\_\_\_\_

Facsimile Number: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

License number: \_\_\_\_\_

**Existing Electric Service Information for Customer Facility Where Generator Will Be Interconnected**

Check here if there is no existing electric service at the site

Capacity: \_\_\_\_\_ (Amps) Voltage: \_\_\_\_\_ (Volts)

Type of Service:  Single Phase  Three Phase

If Three Phase Transformer, Indicate Type:

Primary Winding  Wye  Delta

Secondary Winding  Wye  Delta

Transformer Size: \_\_\_\_\_ Impedance: \_\_\_\_\_

Point of Interconnection – Brief Description and Address of the Distributed Generation

Location: \_\_\_\_\_

**Intent of Generation (check all that apply):**

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- Offset Load (Unit will operate in parallel, but will not export power to EDC)
- Back-up Generation (Units that temporarily operate in parallel with the electric distribution system for more than 100 milliseconds)
- Qualified Facility ("QF") under PURPA
- Other, please describe: \_\_\_\_\_

Note: Backup units that do not operate in parallel for more than 100 milliseconds do not need an interconnection agreement.

**Generator & Prime Mover Information**

ENERGY SOURCE (Hydro, Wind, Solar, Process Byproduct, Biomass, Oil, Natural Gas, Coal, etc.):		
ENERGY CONVERTER TYPE (Wind Turbine, Photovoltaic Cell, Fuel Cell, Steam Turbine, etc.):		
GENERATOR SIZE:  <input type="checkbox"/> kW or <input type="checkbox"/> kVA	NUMBER OF UNITS:	TOTAL CAPACITY:  <input type="checkbox"/> kW or <input type="checkbox"/> kVA
GENERATOR TYPE (Check one):  <input type="checkbox"/> Induction <input type="checkbox"/> Inverter <input type="checkbox"/> Synchronous <input type="checkbox"/> Other _____		



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Torque: \_\_\_\_\_ lb/ft Rated RPM: \_\_\_\_\_ Field Amperes: \_\_\_\_\_ at rated generator voltage and current and \_\_\_\_\_ % PF over-excited

Type of Exciter: \_\_\_\_\_

Output Power of Exciter: \_\_\_\_\_

Type of Voltage Regulator: \_\_\_\_\_ Locked Rotor

Current: \_\_\_\_\_ Amps Synchronous Speed: \_\_\_\_\_ RPM

Winding Connection: \_\_\_\_\_ Min. Operating Freq./Time: \_\_\_\_\_

Generator Connection:  Delta  Wye  Wye Grounded

Direct-axis Synchronous Reactance: (Xd) \_\_\_\_\_ ohms

Direct-axis Transient Reactance: (X'd) \_\_\_\_\_ ohms

Direct-axis Sub-transient Reactance: (X''d) \_\_\_\_\_ ohms

Negative Sequence Reactance: \_\_\_\_\_ ohms

Zero Sequence Reactance: \_\_\_\_\_ ohms

Neutral Impedance or Grounding Resister (if any): \_\_\_\_\_ ohms

**For Induction Machines:**

Manufacturer: \_\_\_\_\_

Model No.: \_\_\_\_\_ Version No.: \_\_\_\_\_

Locked Rotor Current: \_\_\_\_\_ Amps

Rotor Resistance (Rr): \_\_\_\_\_ ohms Exciting Current: \_\_\_\_\_ Amps

Rotor Reactance (Xr): \_\_\_\_\_ ohms Reactive Power Required: \_\_\_\_\_

Magnetizing Reactance (Xm): \_\_\_\_\_ ohms \_\_\_\_\_ VARs (No Load)

Stator Resistance (Rs): \_\_\_\_\_ ohms \_\_\_\_\_ VARs (Full Load)

Stator Reactance (Xs): \_\_\_\_\_ ohms

Short Circuit Reactance (X''d): \_\_\_\_\_ ohms

Phases:  Single  Three Phase

Frame Size: \_\_\_\_\_ Design Letter: \_\_\_\_\_ Temp. Rise: \_\_\_\_\_ °C.

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**Reverse Power Relay Information**

Manufacturer: \_\_\_\_\_

Relay Type: \_\_\_\_\_ Model Number: \_\_\_\_\_

Reverse Power Setting: \_\_\_\_\_

Reverse Power Time Delay (if any): \_\_\_\_\_

**Additional Information for Inverter-Based Facilities**

**Inverter Information:**

Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_

Type:  Forced Commutated  Line Commutated

Rated Output: \_\_\_\_\_ Watts \_\_\_\_\_ Volts

Efficiency: \_\_\_\_\_ % Power Factor: \_\_\_\_\_ %

Inverter UL 1741 Listed:  Yes  No

**DC Source / Prime Mover:**

Rating: \_\_\_\_\_ kW Rating: \_\_\_\_\_ kVA

Rated Voltage: \_\_\_\_\_ Volts

Open Circuit Voltage (if applicable): \_\_\_\_\_ Volts

Rated Current: \_\_\_\_\_ Amps

Short Circuit Current (if applicable): \_\_\_\_\_ Amps

**Dedicated Transformer (applicant owned):**

Rating: \_\_\_\_\_ MVA

Voltage Ratio: \_\_\_\_\_ / \_\_\_\_\_ kV

Fixed Tap Setting: \_\_\_\_\_

Winding connections: \_\_\_\_\_

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Impedance: \_\_\_\_\_ % based on transformer rating

**Capacitor Banks:**

Type: \_\_\_\_\_

Size: \_\_\_\_\_ MVAR

**Other Facility Information:**

One Line Diagram attached:  Yes

Plot Plan attached:  Yes

Comments or additional information: \_\_\_\_\_

**Customer Signature**

I hereby certify that all of the information provided in this Interconnection Request Application Form is true.

Applicant Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

An application fee must be submitted before the application can be processed. The application fee is \$25,000 for all Large (>10 MVA) Distributed Generation Facilities. Of the total application fee, \$5,000. is nonrefundable, while the EDC shall apply the remaining \$20,000 toward any subsequent studies related to this application.

**EDC Acknowledgement**

Receipt of the application and fee is acknowledged. This acknowledgement does not preclude the requirement to furnish additional information by the applicant if requested by the EDC when it is necessary for the EDC's review under these procedures. When this interconnection request is deemed complete by the EDC, the EDC shall notify the interconnection customer in writing.



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EDC Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

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**Section 467.APPENDIX C Contract****STANDARD AGREEMENT FOR INTERCONNECTION  
OF DISTRIBUTED GENERATION FACILITIES WITH A  
CAPACITY MORE THAN 10 MVA**

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_ and \_\_\_\_\_, ("Electric Distribution Company" (EDC)), a \_\_\_\_\_ existing under the laws of the State of Illinois. Interconnection customer and EDC each may be referred to as a "Party", or collectively as the "Parties".

**Recitals:**

**Whereas**, interconnection customer is proposing to install or direct the installation of a distributed generation facility, or is proposing a generating capacity addition to an existing distributed generation facility, consistent with the interconnection request application form completed by interconnection customer on \_\_\_\_\_ (Date) and included in this Agreement as Attachment 9; and

**Whereas**, the interconnection customer will operate and maintain, or cause the operation and maintenance of, the distributed generation facility; and

**Whereas**, interconnection customer desires to interconnect the distributed generation facility with EDC's electric distribution system.

**Now, therefore**, in consideration of the premises and mutual covenants set forth in this Agreement, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties covenant and agree as follows:

**Article 1.     **Scope and Limitations of Agreement****

- 1.1 This Agreement shall be used for all approved interconnection requests for distributed generation facilities that are greater than 10 MVA according to the procedures set forth in Part 467 of the Commission's rules (83 Ill. Adm. Code 467) (referred to as the Illinois Large Distributed Generation Interconnection Standard).

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- 1.2 This Agreement governs the terms and conditions under which the distributed generation facility will interconnect to, and operate in parallel with, the EDC's electric distribution system.
- 1.3 This Agreement does not constitute an agreement to purchase or deliver the interconnection customer's power.
- 1.4 Nothing in this Agreement is intended to affect any other agreement between the EDC and the interconnection customer.
- 1.5 Terms used in this Agreement are defined in Attachment 1 to this Agreement, unless otherwise noted.
- 1.6 Responsibilities of the Parties
  - 1.6.1 The Parties shall perform all obligations of this Agreement in accordance with all applicable laws and regulations.
  - 1.6.2 The EDC shall construct, own, operate, and maintain its interconnection facilities in accordance with this Agreement.
  - 1.6.3 The interconnection customer shall construct, own, operate, and maintain its distributed generation facility and interconnection facilities in accordance with this Agreement.
  - 1.6.4 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for, the facilities that it now or subsequently may own unless otherwise specified in the attachments to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of its respective lines and appurtenances on its respective sides of the point of interconnection.
  - 1.6.5 The interconnection customer agrees to design, install, maintain and operate its distributed generation facility so as to minimize the likelihood of causing an adverse system impact on the electric distribution system or any other electric system that is not owned or operated by the EDC.
- 1.7 Parallel Operation Obligations

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Once the distributed generation facility has been authorized to commence parallel operation, the interconnection customer shall abide by all operating procedures established by the applicable technical standards. The EDC shall use relevant technical standards published by the applicable regional transmission organization (RTO). If such standards do not exist, the parties shall negotiate adjustments or modifications to the IEEE 1547 technical standard necessary due to electric system conditions or constraints, or to unique generator characteristics. The EDC shall provide the interconnection customer with a written explanation for any departure from parallel operation obligations contained in the published technical standard.

1.8 Metering and Data Acquisition Equipment

The interconnection customer shall be responsible for the cost to purchase, install, operate, maintain, test, repair, and replace metering and data acquisition equipment specified in Attachments 6 and 7 of this Agreement.

1.9 Reactive Power

1.9.1 The interconnection customers shall design their distributed generation facilities to maintain a power factor at the point of interconnection between .95 lagging and .95 leading at all times.

1.9.2 Any EDC requirements for meeting a specific voltage or specific reactive power schedule as a condition for interconnection shall be clearly specified in Attachment 4. Under no circumstance shall the EDC's additional requirements for voltage or reactive power schedules exceed the normal operating capabilities of the distributed generation facility.

1.9.3 If the interconnection customer does not operate the distributed generation facility within the power factor range specified in Attachment 4, or does not operate the distributed generation facility in accordance with a voltage or reactive power schedule specified in Attachment 4, the interconnection customer is in default, and the terms of Article 6.5 apply.

1.10 Standards of Operations

The interconnection customer shall obtain all certifications, permits, licenses and approvals necessary to construct, operate and maintain the facility and to perform its obligations under this Agreement. The interconnection customer is responsible for coordinating and synchronizing the distributed generation facility with the EDC's system. The interconnection customer is responsible for any damage that is caused by the

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interconnection customer's failure to coordinate or synchronize the distributed generation facility with the electric distribution system. The interconnection customer agrees to be primarily liable for any damages resulting from the continued operation of the distributed generation facility after the EDC ceases to energize the line section to which the distributed generation facility is connected. In Attachment 4, the EDC shall specify the shortest reclose time setting for its protection equipment that could affect the distributed generation facility. The EDC shall notify the interconnection customer at least 10 business days prior to adopting a faster reclose time on any automatic protective equipment such as a circuit breaker or line recloser, that might affect the distributed generation facility.

**Article 2.     **Inspection, Testing, Authorization, and Right of Access******2.1     Equipment Testing and Inspection**

The interconnection customer shall test and inspect its distributed generation facility including the interconnection equipment prior to interconnection in accordance with EDC requirements. The interconnection customer shall not operate its distributed generation facility in parallel with the EDC's electric distribution system without prior written authorization by the EDC as provided for in Articles 2.1.1-2.1.3.

2.1.1     The EDC shall perform a witness test after construction of the distributed generation facility is completed, but before parallel operation, unless the EDC specifically waives the witness test. The interconnection customer shall provide the EDC at least 15 business days notice of the planned commissioning test for the distributed generation facility. If the EDC performs a witness test at a time that is not concurrent with the commissioning test, it shall contact the interconnection customer to schedule the witness test at a mutually agreeable time. If the EDC does not perform the witness test within 10 business days after the commissioning test, the witness test is deemed waived unless the Parties mutually agree to extend the date for scheduling the witness test, or unless the EDC cannot do so for good cause, in which case, the Parties shall agree to another date for scheduling the test. If the witness test is not acceptable to the EDC, the interconnection customer has 30 business days to address and resolve any deficiencies. This time period may be extended upon agreement between the EDC and the interconnection customer. If the interconnection customer fails to address and resolve the deficiencies to the satisfaction of the EDC, the applicable cure provisions of Article 6.5 shall apply. The interconnection customer shall, if requested by the EDC, provide a copy of documentation in its possession regarding testing.

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- 2.1.2 If the interconnection customer conducts interim testing of the distributed generation facility prior to the witness test, the interconnection customer shall obtain permission from the EDC before each occurrence of operating the distributed generation facility in parallel with the electric distribution system. The EDC may, at its own expense, send qualified personnel to the distributed generation facility to observe such interim testing, but it cannot mandate that these tests be considered in the final witness test. The EDC is not required to observe the interim testing or precluded from requiring the tests be repeated at the final witness test.
- 2.1.3 After the distributed generation facility passes the witness test, the EDC shall affix an authorized signature to the certificate of completion and return it to the interconnection customer approving the interconnection and authorizing parallel operation. The authorization shall not be conditioned or delayed.
- 2.2 Commercial Operation  
The interconnection customer shall not operate the distributed generation facility, except for interim testing as provided in Article 2.1, until such time as the certificate of completion is signed by all Parties.
- 2.3 Right of Access  
The EDC shall have access to the disconnect switch and metering equipment of the distributed generation facility at all times. When practical, the EDC shall provide notice to the interconnection customer prior to using its right of access.

**Article 3. Effective Date, Term, Termination, and Disconnection**

- 3.1 Effective Date  
This Agreement shall become effective upon execution by all Parties and the effective date shall be the date noted in the first paragraph of this Agreement.
- 3.2 Term of Agreement  
This Agreement shall remain in effect unless terminated in accordance with Article 3.3 of this Agreement.
- 3.3 Termination

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- 3.3.1 The interconnection customer may terminate this Agreement at any time by giving the EDC 30 calendar days prior written notice.
- 3.3.2 Either Party may terminate this Agreement after default pursuant to Article 6.5.
- 3.3.3 The EDC may terminate upon 60 calendar days prior written notice for failure of the interconnection customer to complete construction of the distributed generation facility within 12 months after the in-service date as specified by the Parties in Attachment 2, which may be extended by agreement between the Parties.
- 3.3.4 The EDC may terminate this Agreement, upon 60 calendar days' prior written notice, if the interconnection customer has abandoned, cancelled, permanently disconnected or stopped development, construction, or operation of the distributed generation facility for a period of 60 calendar days or longer or if the interconnection customer fails to operate the distributed generation facility in parallel with the EDC's electric system for three consecutive years.
- 3.3.5 Upon termination of this Agreement, the distributed generation facility will be disconnected from the EDC's electric distribution system. Terminating this Agreement does not relieve either Party of its liabilities and obligations that are owed or continuing when the Agreement is terminated.
- 3.3.6 If the Agreement is terminated, the interconnection customer loses its queue position.
- 3.4 Temporary Disconnection  
A Party may temporarily disconnect the distributed generation facility from the electric distribution system in the event one or more of the following conditions or events occurs:
- 3.4.1 Emergency conditions – shall mean any condition or situation: (1) that in the judgment of the Party making the claim is likely to endanger life or property; or (2) that the EDC determines is likely to cause an adverse system impact, or is likely to have a material adverse effect on the EDC's electric distribution system, interconnection facilities or other facilities, or it is likely to interrupt or materially interfere with the provision of electric utility service to other customers; or (3) that is likely to cause a material adverse effect on the distributed generation facility or the interconnection equipment. Under emergency conditions, the EDC or the interconnection customer may suspend interconnection service and

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temporarily disconnect the distributed generation facility from the electric distribution system. The EDC must notify the interconnection customer when it becomes aware of any conditions that might affect the interconnection customer's operation of the distributed generation facility. The interconnection customer shall notify the EDC when it becomes aware of any condition that might affect the EDC's electric distribution system. To the extent information is known, the notification shall describe the condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

- 3.4.2 Scheduled maintenance, construction, or repair – the EDC may interrupt interconnection service or curtail the output of the distributed generation facility and temporarily disconnect the distributed generation facility from the EDC's electric distribution system when necessary for scheduled maintenance, construction, or repairs on EDC's electric distribution system. To the extent possible, the EDC shall provide the interconnection customer with notice five business days before an interruption. The EDC shall coordinate the reduction or temporary disconnection with the interconnection customer; however, the interconnection customer is responsible for out-of-pocket costs incurred by the EDC for deferring or rescheduling maintenance, construction or repair at the interconnection customer's request.
- 3.4.3 Forced outages – The EDC may suspend interconnection service to repair the EDC's electric distribution system. The EDC shall provide the interconnection customer with prior notice, if possible. If prior notice is not possible, the EDC shall, upon written request, provide the interconnection customer with written documentation, after the fact, explaining the circumstances of the disconnection.
- 3.4.4 Adverse system impact – the EDC must provide the interconnection customer with written notice of its intention to disconnect the distributed generation facility, if the EDC determines that operation of the distributed generation facility creates an adverse system impact. The documentation that supports the EDC's decision to disconnect must be provided to the interconnection customer. The EDC may disconnect the distributed generation facility if, after receipt of the notice, the interconnection customer fails to remedy the adverse system impact, unless emergency conditions exist, in which case, the provisions of Article 3.4.1 apply. The EDC may continue to leave the generating facility disconnected until the adverse system impact is corrected.



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- 3.4.5 Modification of the distributed generation facility – The interconnection customer must receive written authorization from the EDC prior to making any change to the distributed generation facility, other than a minor equipment modification. If the interconnection customer modifies its facility without the EDC's prior written authorization, the EDC has the right to disconnect the distributed generation facility until such time as the EDC concludes, at the interconnection customer's cost, the modification poses no threat to the safety or reliability of its electric distribution system.
- 3.4.6 The EDC is not responsible for any lost opportunity or other costs incurred by the interconnection customer as a result of an interruption of service under Article 3.

**Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades**

## 4.1 Interconnection Facilities

- 4.1.1 The interconnection customer shall pay for, and/or reimburse the EDC, as applicable, for, the cost of the interconnection facilities itemized in Attachment 3. The EDC shall identify the interconnection facilities necessary to interconnect the distributed generation facility with the EDC's electric distribution system, the estimated cost of those facilities, and the estimated time required to build and install those facilities, as well as an estimated date of completion of the building or installation of these facilities.
- 4.1.2 The interconnection customer is responsible for its expenses, including overheads, associated with owning, operating, maintaining, repairing, and replacing its interconnection equipment.

## 4.2 Distribution Upgrades

The EDC shall design, procure, construct, install, and own any distribution upgrades. The actual cost of the distribution upgrades, including overheads, shall be directly assigned to, and shall be paid by, and/or reimbursed by, the interconnection customer whose distributed generation facility caused the need for the distribution upgrades.

**Article 5. Billing, Payment, Milestones, and Financial Security**

## 5.1 Billing and Payment Procedures and Final Accounting

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- 5.1.1 The EDC shall bill the interconnection customer for the design, engineering, construction, and procurement costs of EDC-provided interconnection facilities and distribution upgrades contemplated by this Agreement as set forth in Attachment 3. The billing shall occur on a monthly basis, or as otherwise agreed to between the Parties. The interconnection customer shall pay each bill within 30 calendar days after receipt, or as otherwise agreed to between the Parties.
- 5.1.2 Within 90 calendar days after completing the construction and installation of the EDC's interconnection facilities and distribution upgrades described in Attachments 2 and 3 to this Agreement, the EDC shall provide the interconnection customer with a final accounting report of any difference between (1) the actual cost incurred to complete the construction and installation of the EDC's interconnection facilities and distribution upgrades; and (2) the interconnection customer's previous deposit and aggregate payments to the EDC for the interconnection facilities and distribution upgrades. If the interconnection customer's cost responsibility exceeds its previous deposit and aggregate payments, the EDC shall invoice the interconnection customer for the amount due and the interconnection customer shall make payment to the EDC within 30 calendar days. If the interconnection customer's previous deposit and aggregate payments exceed its cost responsibility under this Agreement, the EDC shall refund to the interconnection customer an amount equal to the difference within 30 calendar days after the final accounting report. If the difference between the budget estimate and the actual cost exceeds 20%, the EDC will provide a written explanation for the difference.
- 5.1.3 If a Party disputes any portion of its payment obligation pursuant to this Article 5, the Party shall pay in a timely manner all non-disputed portions of its invoice, and the disputed amount shall be resolved pursuant to the dispute resolution provisions contained in Article 8. A Party disputing a portion of an Article 5 payment shall not be considered to be in default of its obligations under this Article.
- 5.2 **Interconnection Customer Deposit**  
At least 20 business days prior to the commencement of the design, engineering, procurement, installation, or construction of a discrete portion of the EDC's interconnection facilities and distribution upgrades, the interconnection customer shall provide the EDC with a deposit equal to 100% of the estimated, non-binding cost that exceeds the unused application fee amount to design, engineer, procure, install, or construct that particular portion of any such interconnection facilities and/or distribution

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upgrades. However, when the estimated date of completion of the interconnection facilities or distribution upgrades exceeds three months from the date of notification under Article 4.1.1 of this Agreement, this deposit may be held in escrow by a mutually agreed-upon third-party, with any interest to inure to the benefit of the interconnection customer. The parties may mutually agree to waive or modify the customer deposit requirement if alternative financial security arrangements are made under Article 5.4 of this Agreement.

### 5.3 Milestones

The Parties shall agree on milestones for which each Party is responsible and list them in Attachment 5 of this Agreement. A milestone for any Party established under this provision may be extended by mutual agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a force majeure event, it shall immediately notify the other Party of the reasons for not meeting the milestone and propose the earliest reasonable alternate date by which it can attain this and future milestones. The appropriate amendments shall be made to Attachment 5. The Party affected by the failure to meet a milestone shall not unreasonably withhold agreement to an amendment.

### 5.4 Alternative Financial Security Arrangements

By mutual agreement of the Parties, as an alternative to the customer deposit requirement in Article 5.2, the parties may agree to provide the EDC with a guarantee, surety bond, letter of credit or other form of security that is reasonably acceptable to the EDC and is consistent with the Uniform Commercial Code of the jurisdiction where the point of interconnection is located. The security for payment shall be in an amount sufficient to cover the costs for constructing, designing, engineering, procuring and installing the applicable portion of the interconnection facilities and distribution upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the EDC under this Agreement. In addition:

5.4.1 The guarantee must be made by an entity that meets the creditworthiness requirements of the EDC, and contain terms and conditions that guarantee payment of any amount that may be due from the interconnection customer, up to an agreed-to maximum amount.

5.4.2 The letter of credit or surety bond must be issued by a financial institution or insurer reasonably acceptable to the EDC and must specify a reasonable expiration date.

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**Article 6. Assignment, Limitation on Damages, Indemnity, Force Majeure, and Default****6.1 Assignment**

This Agreement may be assigned by either Party. If the interconnection customer attempts to assign this Agreement, the assignee must agree to the terms of this Agreement in writing and such writing must be provided to the EDC. Any attempted assignment that violates this Article is void and ineffective. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason of the assignment. An assignee is responsible for meeting the same obligations as the assignor.

6.1.1 Either Party may assign this Agreement without the consent of the other Party to any affiliate (including mergers, consolidations, or transfers, or a sale of a substantial portion of the Party's assets, between the Party and another entity), of the assigning Party that has an equal or greater credit rating and the legal authority and operational ability to satisfy the obligations of the assigning Party under this Agreement.

6.1.2 The interconnection customer can assign this Agreement, without the consent of the EDC, for collateral security purposes to aid in providing financing for the distributed generation facility.

**6.2 Limitation on Damages**

Except for cases of gross negligence or willful misconduct, the liability of any Party to this Agreement shall be limited to direct actual damages and reasonable attorney's fees, and all other damages at law are waived. Under no circumstances, except for cases of gross negligence or willful misconduct, shall any Party or its directors, officers, employees and agents, or any of them, be liable to another Party, whether in tort, contract or other basis in law or equity for any special, indirect, punitive, exemplary or consequential damages, including lost profits, lost revenues, replacement power, cost of capital or replacement equipment. This limitation on damages shall not affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement. The provisions of this Article 6.2 shall survive the termination or expiration of the Agreement.

**6.3 Indemnity**

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- 6.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 6.2.
- 6.3.2 The interconnection customer shall indemnify and defend the EDC and the EDC's directors, officers, employees, and agents, from all damages and expenses resulting from a third party claim arising out of or based upon the interconnection customer's (a) negligence or willful misconduct or (b) breach of, or performance under, this Agreement.
- 6.3.3 The EDC shall indemnify and defend the interconnection customer and the interconnection customer's directors, officers, employees, and agents from all damages and expenses resulting from a third party claim arising out of or based upon the EDC's (a) negligence or willful misconduct or (b) breach of performance under this Agreement.
- 6.3.4 Within 5 business days after receipt by an indemnified Party of any claim or notice that an action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply has commenced, the indemnified Party shall notify the indemnifying Party of such fact. The failure to notify, or a delay in notification, shall not affect a Party's indemnification obligation unless that failure or delay is materially prejudicial to the indemnifying Party.
- 6.3.5 If an indemnified Party is entitled to indemnification under this Article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, that indemnified Party may, at the expense of the indemnifying Party, contest, settle or consent to the entry of any judgment with respect to, or pay in full, the claim.
- 6.3.6 If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified person shall be the amount of the indemnified Party's actual loss, net of any insurance or other recovery.
- 6.4 Force Majeure

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- 6.4.1 As used in this Article, a force majeure event shall mean any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing by the Party claiming force majeure.
- 6.4.2 If a force majeure event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the force majeure event ("Affected Party") shall notify the other Party of the existence of the force majeure event within one business day or as soon as possible. The notification must specify the circumstances of the force majeure event, its expected duration, and the steps that the Affected Party is taking and will take to mitigate the effects of the event on its performance. If the initial notification is verbal, it must be followed up with a written notification within one business day or as soon as reasonably possible. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the force majeure event until the event ends. The Affected Party may suspend or modify its obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the force majeure event cannot be otherwise mitigated.
- 6.5 Default
- 6.5.1 No default shall exist when the failure to discharge an obligation (other than the payment of money) results from a force majeure event as defined in this Agreement, or the result of an act or omission of the other Party.
- 6.5.2 A Party shall be in default ("Default") of this Agreement if it fails in any material respect to comply with, observe or perform, or defaults in the performance of, any covenant or obligation under this Agreement and fails to cure the failure within 60 calendar days after receiving written notice from the other Party. Upon a default of this Agreement, the non-defaulting Party shall give written notice of the default to the defaulting Party. Except as provided in Article 6.5.3, the defaulting Party has 60 calendar days after receipt of the default notice to cure the default; provided, however, if the default cannot be cured within 60 calendar days, the defaulting Party shall commence the cure within 20 calendar days after original notice and complete the cure within six months from receipt of the default notice;

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and, if cured within that time, the default specified in the notice shall cease to exist.

- 6.5.3 If a Party has assigned this Agreement in a manner that is not specifically authorized by Article 6.1, fails to provide reasonable access pursuant to Article 2.3, and is in default of its obligations pursuant to Article 7, or if a Party is in default of its payment obligations pursuant to Article 5 of this Agreement, the defaulting Party has 30 days from receipt of the default notice to cure the default. In the case of default, the EDC shall continue to have the right of access to the customer's disconnect switch and metering equipment, as provided in Article 2.3.
- 6.5.4 If a default is not cured as provided for in this Article, or if a default is not capable of being cured within the period provided for in this Article, the non-defaulting Party shall have the right to terminate this Agreement by written notice, and be relieved of any further obligation under this Agreement and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due under this Agreement, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article shall survive termination of this Agreement.

**Article 7. Insurance**

The EDC and the interconnection customer shall negotiate the amounts of the comprehensive/general liability insurance coverage that shall be continuously maintained by the interconnection customer during the term of this agreement. The interconnection customer agrees to provide the EDC with at least 30 calendar days advance written notice of cancellation, reduction in limits, or non-renewal of any insurance policy required by this Article.

**Article 8. Dispute Resolution**

- 8.1 Parties shall attempt to resolve all disputes regarding interconnection as provided in this Article in a good faith manner.
- 8.2 If there is a dispute between the Parties about an interpretation of the Agreement, the aggrieved Party shall issue a written notice to the other Party to the agreement that specifies the dispute and the Agreement articles that are disputed.
- 8.3 A meeting between the Parties shall be held within ten calendar days after receipt of the written notice. Persons with decision-making authority from each Party shall attend the

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meeting. If the dispute involves technical issues, persons with sufficient technical expertise and familiarity with the issue in dispute from each Party shall also attend the meeting. The meeting may be conducted by teleconference.

- 8.4 After the first meeting, each Party may seek resolution through complaint or mediation procedures available at the Commission. The Commission may designate an engineer from the Commission's Energy Division to assist in resolving the dispute. Dispute resolution shall be conducted in a manner designed to minimize costs and delay. Dispute resolution may be conducted by phone.
- 8.5 Pursuit of dispute resolution may not affect an interconnection request or an interconnection applicant's queue position.
- 8.6 If the Parties fail to resolve their dispute under the dispute resolution provisions of this Article, nothing in this Article shall affect any Party's rights to obtain equitable relief, including specific performance, as otherwise provided in this Agreement.

**Article 9. Miscellaneous**

- 9.1 **Governing Law, Regulatory Authority, and Rules**  
The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Illinois, without regard to its conflicts of law principles. This Agreement is subject to all applicable laws and regulations. Each Party expressly reserves the right to seek change in, appeal, or otherwise contest any laws, orders or regulations of a governmental authority. The language in all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against the EDC or interconnection customer, regardless of the involvement of either Party in drafting this Agreement.
- 9.2 **Amendment**  
Modification of this Agreement shall be only by a written instrument duly executed by both Parties.
- 9.3 **No Third-Party Beneficiaries**  
This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations in this Agreement assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.



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## 9.4 Waiver

9.4.1 Except as otherwise provided in this Agreement, a Party's compliance with any obligation, covenant, agreement, or condition in this Agreement may be waived by the Party entitled to the benefits thereof only by a written instrument signed by the Party granting the waiver, but the waiver or failure to insist upon strict compliance with the obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

9.4.2. Failure of any Party to enforce or insist upon compliance with any of the terms or conditions of this Agreement, or to give notice or declare this Agreement or the rights under this Agreement terminated, shall not constitute a waiver or relinquishment of any rights set out in this Agreement, but the same shall be and remain at all times in full force and effect, unless and only to the extent expressly set forth in a written document signed by that Party granting the waiver or relinquishing any such rights. Any waiver granted, or relinquishment of any right, by a Party shall not operate as a relinquishment of any other rights or a waiver of any other failure of the Party granted the waiver to comply with any obligation, covenant, agreement, or condition of this Agreement.

## 9.5 Entire Agreement

Except as provided in Article 9.1, this Agreement, including all attachments, constitutes the entire Agreement between the Parties with reference to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants that constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

## 9.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original, but all constitute one and the same instrument.

## 9.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on

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behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

9.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) that portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by the ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

9.9 Environmental Releases

Each Party shall notify the other Party of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the distributed generation facility or the interconnection facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided that Party makes a good faith effort to provide the notice no later than 24 hours after that Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any governmental authorities addressing such events.

9.10 Subcontractors

Nothing in this Agreement shall prevent a Party from using the services of any subcontractor it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing services and each Party shall remain primarily liable to the other Party for the performance of the subcontractor.

9.10.1 A subcontract relationship does not relieve any Party of any of its obligations under this Agreement. The hiring Party remains responsible to the other Party for the acts or omissions of its subcontractor. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of the Party.

9.10.2 The obligations under this Article cannot be limited in any way by any limitation of subcontractor's insurance.

**Article 10.** Notices

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10.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement ("Notice") shall be deemed properly given if delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

**If to Interconnection Customer:**

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**If to EDC:**

EDC: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**Alternative Forms of Notice**

Any notice or request required or permitted to be given by either Party to the other Party and not required by this Agreement to be in writing may be given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out above.

10.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

**If to Interconnection Customer:**

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_

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Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**If to EDC:**

EDC: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

10.3 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications that may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

**Interconnection Customer's Operating Representative:** \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**EDC's Operating Representative:** \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

10.4 Changes to the Notice Information

Either Party may change this notice information by giving five business days' written notice before the effective date of the change.

**Article 11. Signatures**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

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**For the Interconnection Customer:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**For EDC:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

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**Attachment 1****Definitions**

**Adverse system impact** – A negative effect that compromises the safety or reliability of the electric distribution or transmission systems or materially affects the quality of electric service provided by the electric distribution company (EDC) to other customers.

**Applicable laws and regulations** – All duly promulgated applicable federal, State and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, judicial or administrative orders, permits and other duly authorized actions of any governmental authority having jurisdiction over the Parties.

**Business day** – Monday through Friday, excluding State and federal holidays.

**Calendar day** – Any day, including Saturdays, Sundays and State and federal holidays.

**Certificate of completion** – A certificate, in a form approved by the Commission, that contains information about the interconnection equipment to be used, its installation and local inspections (see Appendix A).

**Commissioning test** – Tests applied to a distributed generation facility by the applicant after construction is completed to verify that the facility does not create adverse system impacts. At a minimum, the scope of the commissioning tests performed shall include the commissioning test specified IEEE Standard 1547 Section 5.4 "Commissioning tests".

**Distributed generation facility** – The equipment used by an interconnection customer to generate or store electricity that operates in parallel with the electric distribution system. A distributed generation facility typically includes an electric generator, prime mover, and the interconnection equipment required to safely interconnect with the electric distribution system or a local electric power system.

**Distribution upgrades** – A required addition or modification to the EDC's electric distribution system at or beyond the point of interconnection to accommodate the interconnection of a distributed generation facility. Distribution upgrades do not include interconnection facilities.

**Electric distribution company or EDC** – Any electric utility entity subject to the jurisdiction of the Illinois Commerce Commission.

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**Electric distribution system** – The facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from interchanges with higher voltage transmission networks that transport bulk power over longer distances. The voltage levels at which electric distribution systems operate differ among areas, but generally carry less than 100 kilovolts of electricity. Electric distribution system has the same meaning as the term Area EPS, as defined in Section 3.1.6.1 of IEEE Standard 1547.

**Force majeure event** – Any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A force majeure event does not include an act of gross negligence or intentional wrongdoing.

**Governmental authority** – Any federal, State, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that this term does not include the interconnection customer, EDC or any affiliate of either.

**IEEE Standard 1547** – The Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997, Standard 1547 (2003), "Standard for Interconnecting Distributed Resources with Electric Power Systems".

**IEEE Standard 1547.1** – The IEEE Standard 1547.1 (2005), "Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems".

**Interconnection agreement or Agreement** – The Agreement between the interconnection customer and the EDC governing the connection of the distributed generation facility to the EDC's electric distribution system and the ongoing operation of the distributed generation facility after it is connected to the EDC's electric distribution system.

**Interconnection customer** – The entity entering into this Agreement for the purpose of interconnecting a distributed generation facility to the EDC's electric distribution system.

**Interconnection equipment** – A group of components or an integrated system owned and operated by the interconnection customer that connects an electric generator with a local electric

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power system, as that term is defined in Section 3.1.6.2 of IEEE Standard 1547, or with the electric distribution system. Interconnection equipment is all interface equipment, including switchgear, protective devices, inverters or other interface devices. Interconnection equipment may be installed as part of an integrated equipment package that includes a generator or other electric source.

**Interconnection facilities** – Facilities and equipment required by the EDC to accommodate the interconnection of a distributed generation facility. Collectively, interconnection facilities include all facilities and equipment between the distributed generation facility's interconnection equipment and the point of interconnection, including any modifications or additions necessary to physically and electrically interconnect the distributed generation facility to the electric distribution system. Interconnection facilities are sole use facilities and do not include distribution upgrades.

**Interconnection request** – An interconnection customer's request, on the required form, for the interconnection of a new distributed generation facility, or to increase the capacity or change the operating characteristics of an existing distributed generation facility that is interconnected with the EDC's electric distribution system.

**Line section** – That portion of an electric distribution system connected to an interconnection customer's site, bounded by automatic sectionalizing devices and/or the end of the distribution line.

**Parallel operation or Parallel** – The state of operation that occurs when a distributed generation facility is connected electrically to the electric distribution system.

**Point of interconnection** – The point where the distributed generation facility is electrically connected to the electric distribution system. Point of interconnection has the same meaning as the term "point of common coupling", defined in Section 3.1.13 of IEEE Standard 1547.

**Queue position** – The order an EDC receives a completed interconnection request relative to that specific EDC's other interconnection requests. It is established by the date that the EDC receives the completed interconnection request.

**Witness test** – Verification by the EDC, either by on-site observation or review of documents, that the interconnection installation evaluation required by the applicable technical standards has been performed.



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**Attachment 2****Construction Schedule, Proposed Equipment & Settings**

This attachment is to be completed by the interconnection customer and shall include the following:

1. The proposed construction schedule for the distributed generation facility.
2. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, metering equipment, and distribution upgrades.
3. Component specifications for equipment identified in the one-line diagram.
4. Component settings.
5. Proposed sequence of operations.
6. A three-line diagram showing current potential circuits for protective relays.
7. Relay tripping and control schematic diagram.

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**Attachment 3****Description, Costs and Time Required to Build and Install the EDC's  
Interconnection Facilities and Distribution Upgrades**

This attachment is to be completed by the EDC and shall include the following:

1. Required interconnection facilities and distribution upgrades.
2. An estimate of itemized costs charged by the EDC for interconnection, including overheads, based on results from prior studies.
3. An estimate for the time required to build and install the EDC's interconnection facilities and distribution upgrades based on results from prior studies and an estimate of the date upon which the facilities will be completed

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**Attachment 4**

**Operating Requirements for Distributed Generation Facilities Operating in Parallel**

The EDC shall list specific operating practices pursuant to Articles 1.9 and 1.10 of this Agreement and the conditions under which each listed specific operating practice applies.

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**Attachment 5**

**Milestones**

This attachment shall list the milestones identified by mutual agreement of the parties pursuant to Article 5.3 of this Agreement.

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**Attachment 6****Monitoring and Control Requirements**

The EDC may request a variance to the EDC's published monitoring and control requirements if necessary due to electric system conditions, constraints or unique generator characteristics. A written explanation of any modifications shall be provided below.

This attachment is to be completed by the EDC and shall include the following:

1. The EDC's monitoring and control requirements, along with a reference to the EDC's written requirements documents from which these requirements are derived.
2. An internet link to the requirements documents.
3. An explanation of any modifications to the EDC's published monitoring and control requirements.

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**Attachment 7****Metering Requirements**

Any metering required for a distributed generation interconnection shall be installed, operated and maintained in accordance with applicable EDC tariffs and agreements.

This attachment is to be completed by the EDC and shall include the following:

1. The metering requirements for the distributed generation facility.
2. Identification of the appropriate tariffs that establish these requirements.
3. An internet link to these tariffs.

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**Attachment 8****As-Built Documents**

This attachment is to be completed by the interconnection customer and shall include the following:

When it returns the certificate of completion to the EDC, the interconnection customer shall provide the EDC with documents detailing the as-built status of the following:

1. A one-line diagram indicating the distributed generation facility, interconnection equipment, interconnection facilities, and metering equipment.
2. Component specifications for equipment identified in the one-line diagram.
3. Component settings.
4. Sequence of operations.
5. A three-line diagram showing current potential circuits for protective relays.
6. Relay tripping and control schematic diagram.

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**Attachment 9**

**Application and Supporting Documentation**

Attached to this Agreement are the interconnection customer's Interconnection Request Application Form and all other supporting documents used by the Parties to determine the requirements for connecting the distributed generation facility.



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**Section 467.APPENDIX D Interconnection Feasibility Study Agreement****Interconnection Feasibility Study Agreement**

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_ ("Electric Distribution Company" (EDC)), a \_\_\_\_\_ existing under the laws of the State of Illinois. Interconnection customer and EDC each may be referred to as a "Party", or collectively as the "Parties".

**Recitals:**

**Whereas**, interconnection customer is proposing to develop a distributed generation facility or modify an existing distributed generation facility consistent with the interconnection request application form submitted by interconnection customer on \_\_\_\_\_ (Date) ; and

**Whereas**, interconnection customer desires to interconnect the distributed generation facility with EDC's electric distribution system; and

**Whereas**, interconnection customer has requested EDC to perform an interconnection feasibility study to assess the feasibility of interconnecting the proposed distributed generation facility to EDC's electric distribution system;

**Now, therefore**, in consideration of and subject to the mutual covenants contained in this Agreement the Parties agree as follows:

1. All terms defined in Section 467.20 of the Illinois Large Distributed Generation Interconnection Standard shall have the meanings indicated in that Section when used in this Agreement.
2. The Interconnection customer elects and the EDC shall cause to be performed an interconnection feasibility study consistent with Section 467.70 of the Illinois Large Distributed Generation Interconnection Standard.
3. The scope of the interconnection feasibility study shall be based upon the information set forth in the interconnection request application form and Attachment A to this Agreement.

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4. The interconnection feasibility study shall be based on the technical information provided by interconnection customer in the interconnection request application form, as modified with the agreement of the Parties. The EDC has the right to request additional technical information from the interconnection customer during the course of the interconnection feasibility study. If the interconnection customer modifies its interconnection request, the time to complete the interconnection feasibility study may be extended by the EDC.
5. In performing the study, the EDC shall rely on existing studies of recent vintage to the extent practical. The interconnection customer will not be charged for existing studies; however, interconnection customer is responsible for the cost of applying any existing study to the interconnection customer specific requirements and for any new study that the EDC performs.
6. The interconnection feasibility study report must provide the following information:
  - 6.1 Identification of any equipment short circuit capability limits exceeded as a result of the interconnection;
  - 6.2 Identification of any thermal overload or voltage limit violations resulting from the interconnection; and
  - 6.3 A description and non-binding estimated cost of facilities required to interconnect the distributed generation facility to EDC's electric distribution system, as required under Section 467.70(e)(1) of the Illinois Large Distributed Generation Interconnection Standard.
7. The interconnection customer shall provide a study deposit equal to 100 percent of the estimated non-binding study costs if the initial application fee deposit has been depleted. If the initial application fee deposit has been depleted, the study will not commence until the study deposit has been received by the EDC.
8. The interconnection feasibility study shall be completed and the results shall be transmitted to the interconnection customer within 45 business days after this Agreement is signed by the Parties.
9. Study fees shall be based on actual costs and will be invoiced to, interconnection customer after the study is transmitted to the interconnection customer. The invoice must include an itemized listing of employee time and costs expended on the study.

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- 10. The interconnection customer shall pay any actual study costs that exceed the deposit, without interest, within 30 calendar days after receipt of the invoice. The EDC shall refund any excess deposit amount, without interest, within 30 calendar days after the invoice.

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: \_\_\_\_\_

Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

[Insert name of EDC]

Signed: \_\_\_\_\_

Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

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**Attachment A to Interconnection Feasibility Study Agreement  
Assumptions Used in Conducting the Interconnection Feasibility Study**

The interconnection feasibility study will be based upon the information in the interconnection request application form and agreed upon on \_\_\_\_\_ (Date) \_\_\_\_\_ :

Point of interconnection and configuration to be studied.

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Note: This Attachment is to be completed by mutual agreement of the parties. Any additional assumptions (explained below) may be provided by either the interconnection customer or the EDC.

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## ILLINOIS COMMERCE COMMISSION

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**Section 467.APPENDIX E Interconnection System Impact Study Agreement****Interconnection System Impact Study Agreement**

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_ ("Electric Distribution Company" (EDC)), a \_\_\_\_\_ existing under the laws of the State of Illinois. Interconnection customer and EDC each may be referred to as a "Party", or collectively as the "Parties".

**Recitals:**

**Whereas**, the interconnection customer is proposing to develop a distributed generation facility or modify an existing distributed generation facility consistent with the interconnection request application form completed by interconnection customer on \_\_\_\_\_ (Date) \_\_\_\_\_; and

**Whereas**, interconnection customer desires to interconnect the distributed generation facility to the EDC's electric distribution system; and

**Whereas**, the EDC has completed an interconnection feasibility study and provided the results of the study to the interconnection customer (this recital to be omitted if the Parties have agreed to forego the interconnection feasibility study); and

**Whereas**, the interconnection customer has requested the EDC to perform an interconnection system impact study to assess the impact of interconnecting the distributed generation facility to the EDC's electric distribution system;

**Now, therefore**, in consideration of and subject to the mutual covenants contained in this Agreement the Parties agree as follows:

1. All terms defined in Section 467.20 of the Illinois Large Distributed Generation Interconnection Standard shall have the meanings indicated in that Section when used in this Agreement.
2. The interconnection customer elects and the EDC shall cause to be performed an interconnection system impact study consistent with Section 467.70 of the Illinois Large Distributed Generation Interconnection Standard.

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3. The scope of the interconnection system impact study shall be based upon the information set forth in the interconnection request application form and in Attachment A to this Agreement.
4. The interconnection system impact study shall be based upon the interconnection feasibility study and the technical information provided by interconnection customer in the interconnection request application form. The EDC reserves the right to request additional technical information from interconnection customer. If the interconnection customer modifies its proposed point of interconnection or interconnection request, or the technical information provided in the request is modified, the time to complete the interconnection system impact study may be extended.
5. The interconnection system impact study report shall provide the following information:
  - 5.1 Identification of any equipment short circuit capability limits exceeded as a result of the interconnection;
  - 5.2 Identification of any thermal overload or voltage limit violations resulting from the interconnection;
  - 5.3 Identification of any instability or inadequately damped response to system disturbances resulting from the interconnection; and
  - 5.4 Description and non-binding estimated cost of facilities required to interconnect the distributed generation facility to EDC's electric distribution system and to address the identified short circuit, thermal overload, voltage and instability issues, as required under Section 467.70(e)(2) of the Illinois Large Distributed Generation Interconnection Standard.
6. The interconnection customer shall provide a study deposit equal to 100 percent of the estimated non-binding study costs if the initial application fee deposit has been depleted. If the initial application fee deposit has been depleted, the study will not commence until the study deposit has been received by the EDC.
7. The interconnection system impact study, if required, shall be completed and the results transmitted to the interconnection customer within 45 business days after this Agreement is signed by the Parties.

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- 8. Study fees shall be based on actual costs and shall be invoiced to the interconnection customer after the study is transmitted to the interconnection customer. The invoice shall include an itemized listing of employee time and costs expended on the study.
- 9. The interconnection customer shall pay any study costs that exceed the deposit within 30 calendar days after receipt of the invoice. EDC shall refund any excess deposit amount within 30 calendar days after the invoice.

In witness thereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: \_\_\_\_\_

Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

[Insert name of EDC]

Signed: \_\_\_\_\_

Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

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**Attachment A to Interconnection System Impact Study Agreement**

**Assumptions Used in Conducting the Interconnection System Impact Study**

The interconnection system impact study shall be based upon the results of the interconnection feasibility study, subject to any modifications in accordance with Section 467.70 of the Illinois Distributed Generation Interconnection Standard, and the following assumptions:

Point of interconnection and configuration to be studied.

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Note: This Attachment A is to be completed by mutual agreement of the Parties. Any additional assumptions (explained below) may be provided by either the interconnection customer or the EDC.

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**Section 467.APPENDIX F Interconnection Facilities Study Agreement****Interconnection Facilities Study Agreement**

This agreement ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between \_\_\_\_\_ ("interconnection customer"), as an individual person, or as a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, and \_\_\_\_\_ ("Electric Distribution Company" (EDC)), a \_\_\_\_\_ existing under the laws of the State of Illinois. Interconnection customer and EDC each may be referred to as a "Party", or collectively as the "Parties".

**Recitals:**

**Whereas**, the interconnection customer is proposing to develop a distributed generation facility or modify an existing distributed generation facility consistent with the interconnection request application form submitted by the interconnection customer on \_\_\_\_\_ (Date); and

**Whereas**, the interconnection customer desires to interconnect the distributed generation facility with the EDC's electric distribution system; and

**Whereas**, the EDC has completed an interconnection system impact study and provided the results of that study to interconnection customer; and

**Whereas**, the interconnection customer has requested the EDC to perform an interconnection facilities study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to interconnect the distributed generation facility;

**Now, therefore**, in consideration of and subject to the mutual covenants contained in this Agreement, the Parties agree as follows:

1. All terms defined in Section 467.20 of the Illinois Large Distributed Generation Interconnection Standard shall have the meanings indicated in that Section when used in this Agreement.
2. The interconnection customer elects and the EDC shall cause an interconnection facilities study consistent with Section 467.70 of the Illinois Large Distributed Generation Interconnection Standard.

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- 3. The scope of the interconnection facilities study shall be determined by the information provided in Attachment A to this Agreement.
- 4. An interconnection facilities study report (1) shall provide a description, estimated cost of distribution upgrades, and schedule for required facilities to interconnect the distributed generation facility to the EDC's electric distribution system; and (2) shall address all issues identified in the interconnection system impact study (or identified in this study if the system impact study is combined with this Agreement).
- 5. The interconnection customer shall provide a study deposit equal to 100 percent of the estimated non-binding study costs if the initial application fee deposit has been depleted.
- 6. In cases in which no distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to the interconnection customer within 15 business days after this Agreement is signed by the Parties. In cases in which distribution upgrades are required, the interconnection facilities study shall be completed and the results shall be transmitted to the interconnection customer within 35 business days after this Agreement is signed by the Parties. The study will not commence until the deposit has been received by the EDC.
- 7. Study fees shall be based on actual costs and will be invoiced to the interconnection customer after the study is transmitted to the interconnection customer. The invoice shall include an itemized listing of employee time and costs expended on the study.
- 8. The interconnection customer shall pay any actual study costs that exceed the deposit within 30 calendar days after receipt of the invoice. The EDC shall refund any excess deposit amount within 30 calendar days after the invoice.

In witness whereof, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

[Insert name of interconnection customer]

Signed: \_\_\_\_\_

Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

[Insert name of EDC]

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Signed: \_\_\_\_\_

Name (Printed): \_\_\_\_\_ Title: \_\_\_\_\_

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**Attachment A to Interconnection Facilities Study Agreement**

**Minimum Information that the Interconnection Customer Must Provide  
with the Interconnection Facilities Study Agreement**

Provide location plan and simplified one-line diagram of the distributed generation facilities.

For staged projects, please indicate size and location of planned additional future generation.

On the one-line diagram, indicate the generation capacity attached at each metering location.  
(Maximum load on CT/PT)

On the one-line diagram, indicate the location of auxiliary power. (Minimum load on CT/PT)  
Amps

One set of metering is required for each generation connection to the EDC's electric distribution system.

Number of generation connections: \_\_\_\_\_

Will an alternate source of auxiliary power be available during CT/PT maintenance?

Yes  No

Will a transfer bus on the generation side of the metering require that each meter set be designed for the total distributed generation capacity?

Yes  No  (Please indicate on the one-line diagram.)

What type of control system or PLC will be located at the distributed generation facility?

\_\_\_\_\_  
What protocol does the control system or PLC use? \_\_\_\_\_

Please provide a scale drawing of the site. Indicate the point of common coupling, distribution line, and property lines.

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Number of third party easements required for EDC's interconnection facilities: \_\_\_\_\_

**To be completed in coordination with EDC.**

Is the distributed generation facility located in EDC's service area?

Yes  No

If No, please provide name of local provider:

\_\_\_\_\_

Please provide the following proposed schedule dates:

Begin Construction Date: \_\_\_\_\_

Generator Step-up Transformers Receive Back Feed Power Date: \_\_\_\_\_

Generation Testing Date: \_\_\_\_\_

Commercial Operation Date: \_\_\_\_\_

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- 1) Heading of the Part: The Provision, Construction and Maintenance of Sanitation and Shelter Facilities for Rail Carrier Employees
- 2) Code Citation: 92 Ill. Adm. Code 1545
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1545.20	Amend
1545.30	Amend
1545.100	Amend
1545.110	Amend
1545.120	Amend
1545.130	Amend
1545.140	Amend
1545.150	Amend
1545.160	Amend
1545.170	Amend
1545.180	Amend
1545.190	Amend
1545.200	Amend
1545.210	Amend
1545.230	Amend
1545.301	New Section
- 4) Statutory Authority: Implementing Section 18c-7401 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7401 and 18c-1202]
- 5) A Complete Description of the Subjects and Issues Involved: These amendments revise the rules of the Illinois Commerce Commission relating to railroad employee workplace facilities. The rules establish sanitation and shelter facility standards that rail carriers operating in the State of Illinois must meet for employees such as providing drinking water, toilets, locker rooms and washing facilities.

The specific changes include requiring prior notification to the Commission anytime an employee workplace facility is constructed, eliminated or modified; clarification of the drinking water requirements; provision of certain toilet, washing, showering and lunchroom facilities; requiring employee facilities be kept in a clean and sanitary manner; modifying the rules pertaining to camp cars to ensure these facilities are maintained in a clean, sanitary and adequate manner; providing the ability for employees to request

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shelter at locations where work is regularly performed; revising several definitions contained in the rules; and including a provision that permits a rail carrier to request a waiver of the requirements of the Part.

Minor wording and grammatical changes are also being made.

- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand 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: Comments should be filed, within 45 days after the date of this issue of the Illinois Register with:  
  
Steve Matrisch  
Office of Transportation Counsel  
Transportation Division  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701  
  
217/782-6447  
smatrisc@icc.illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect small businesses that are currently

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operating as registered rail carriers in the State of Illinois and that are small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations.

- B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Commission did not anticipate the need at that time.

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



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TITLE 92: TRANSPORTATION  
CHAPTER III: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: RAIL CARRIERS

PART 1545  
THE PROVISION, CONSTRUCTION AND MAINTENANCE OF  
SANITATION AND SHELTER FACILITIES FOR  
RAIL CARRIER EMPLOYEES

SUBPART A: INTRODUCTORY MATERIAL

Section	
1545.10	Application
1545.20	Responsibility
1545.30	Definitions

SUBPART B: FACILITIES

Section	
1545.100	Drinking Water
1545.110	Toilets
1545.120	Washing Facilities
1545.130	Showers
1545.140	Locker Rooms
1545.150	Lockers
1545.160	Dressing Rooms
1545.170	Bunk Rooms, Camp Cars and Dormitories
1545.180	Bunk Rooms or Dormitories
1545.190	Camp Facilities
1545.200	Shelter
1545.210	Lunch Rooms
1545.220	Cabooses
1545.230	Cleanliness and Maintenance

SUBPART C: GENERAL RULES

Section	
1545.300	General Rules
<a href="#">1545.301</a>	<a href="#">Waiver</a>

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AUTHORITY: Implementing Section 18c-7401 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7401 and 18c-1202].

SOURCE: Effective October 1, 1967; codified at 8 Ill. Reg. 13678; Part recodified at 10 Ill. Reg. 5571; Part recodified at 10 Ill. Reg. 18005; amended at 11 Ill. Reg. 15053, effective October 1, 1987; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTORY MATERIAL

**Section 1545.20 Responsibility**

- a) Each rail carrier shall provide and maintain for its employees the sanitation and shelter specified and required by this Part.
- b) Notice of not less than 45 days shall be provided to the Commission of any intention to construct, modify or eliminate a sanitation or shelter facility. This shall include any intention to change the location, size or layout of a facility, or any intention to eliminate, remove or materially change any appurtenance such as lockers, showers, washing facilities, and toilets, but shall not include routine maintenance or the replacement of an appurtenance in kind. The notification shall include a statement of how the change will impact compliance with this Part and shall also include a copy of design drawings. Notice shall be in writing and may be provided by letter or electronic mail to the attention of the Rail Safety Program Administrator of the Illinois Commerce Commission's Transportation Bureau, Rail Safety Section. Compliance with the 45 day notice standards in this Part is hereby excused during periods of an emergency that makes the facility uninhabitable, if notice is provided as soon as practicable.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.30 Definitions**

"Bunk or Section House" means any building or portion thereof, excepting a family dwelling, in which persons employed by rail carriers are furnished sleeping and/or living accommodations. A room furnished for sleeping may be referred to as a bunk room or dormitory.

"Camp Car" means trailers and on-track vehicles, including outfit, camp, or bunk

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~~cars or modular homes mounted on flat cars, used to house or accommodate railroad employees. Wreck trains are not included. any sleeping, dining, kitchen, recreation car or cars or house trailer or camp trailers, on or off rail, furnished for the use of employees.~~

"CFR" means the Code of Federal Regulations.

"Commission" means the Illinois Commerce Commission.

"Company" means a rail carrier as defined in Section 18c-1104 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-1104]. ~~(Ill. Rev. Stat. 1985, ch. 95½, par. 18c-1104.)~~

"Dressing Room" means a room used by employees either as a dressing room or as a restroom, or for both purposes.

"Drinking Water" means potable water from a supply under the jurisdiction of a health authority or commercially available bottled drinking water. Potable water or commercially available bottled drinking water shall comply with U.S. Food and Drug Administration regulations contained in 21 CFR 165.110.

"Employee" means any person employed by a company to which this Part applies.

"Health Authority" means a public health authority having jurisdiction.

"Lavatory" means a basin or similar vessel used primarily for washing of the hands, arms, face and head.

"Leq (8)" means the equivalent steady sound level that in 8 hours would contain the acoustic energy as the time-varying sound level during the same time period.

"Lunch Room" means a sanitary location inside a building or structure where employees are permitted to eat.

"Nonwater Carriage Toilet Facility" means a toilet facility not connected to a sewer, including a toilet facility connected to self-contained sewage tanks.

"Number of Employees" means, unless otherwise specified, the average number of employees employed on any one shift.

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"Railroad" means the same as "company~~Company~~" as defined in this Section.

"Sanitary" means lacking any condition in which any significant amount of filth, trash or human waste is present in such a manner that a reasonable person would believe that the condition might constitute a health hazard; or of strong, persistent, chemical or human waste odors sufficient to deter use of the facility, or give rise to a reasonable concern with respect to exposure to hazardous fumes.

"Shelter" means a building or structure designed to protect employees from the environment.

"Signal Headquarters" means a place where signal employees are regularly required to be and remain on duty during their shift.

"Station" means a facility where freight and/or passenger traffic is ordinarily received and delivered and at which a station agent is regularly assigned for duty.

"Terminal" means a facility where engine and train crews in yard and train service and switchmen, switch tenders, maintenance of way employees, signal employees, and car clerks, are required to report for or be relieved from duty.

"Toilets" means fixtures such as flush, chemical or; dry hopper toilets, or privies.

"Toilet Facility" means a fixture maintained within a toilet room for the purpose of defecation or urination, or both.

"Toilet Room" means a room maintained within or on the premises containing toilet facilities for use by employees.

"Toxic Material" means a material in concentration or amount of such toxicity as to constitute a recognized hazard that is causing or is likely to cause death or serious physical harm.

"Urinal" means a toilet facility maintained within a toilet room for the sole purpose of urination.

"Usual place of employment" means the place where an employee works with a reasonable measure of continuity throughout the major part of his/her company

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service.

"Water Closet" means a toilet facility maintained within a toilet room for the purposes of both defecation and urination and that is flushed with water.

"Yards" means a group of tracks used for the making or breaking up of trains or classification of cars.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: FACILITIES

**Section 1545.100 Drinking Water**

## a) General Requirements:

- 1) Where water is supplied by the rail carrier for cooking, washing of foods, washing of cooking or eating utensils, washing of food preparation or processing premises, bathing, or drinking purposes, it shall, where available, be from a public supply under the jurisdiction of the Illinois Department of Public Health. Water from a private supply shall meet the standards of the Illinois Department of Public Health, 77 Ill. Adm. Code 900, as well as the U.S. Food and Drug Administration regulations contained in 21 CFR 165.110. The distribution lines shall be capable of supplying operating pressures to all water taps for normal simultaneous operation. Commercially available bottled drinking water may be used to satisfy this requirement.
- 2) An adequate supply of drinking water shall be made available to all employees. Commercially available bottled drinking water may be used to satisfy this requirement.
- 3) When necessary, suitable, sanitary drinking water containers shall be available, conveniently placed for the use of employees, but not in toilet rooms. Each container shall be equipped with a sanitary fountain, faucet or other dispenser. Open containers such as barrels, pails or tanks for drinking water from which the water must be dipped or poured, whether or not they are fitted with a cover, shall not be used. Drinking water dispensers shall be designed, constructed and serviced so that sanitary

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conditions are maintained, capable of being closed, and equipped with a tap.

- 4) All containers used to furnish drinking water shall be thoroughly cleansed as often as is necessary to assure a sanitary and palatable drinking water supply.
  - 5) The common drinking cup is prohibited. Either single service containers or drinking fountains with sanitary angle head shall be used.
- b) Required Locations:
- 1) Running Facilities: Drinking water containers shall be provided, and drinking water shall be available for use, on the following equipment when in use:
    - A) All locomotives.
    - B) Baggage and express cars (when employees are required to work en route), unless another facility is reasonably available (e.g., a passenger car in which water is available being attached to a baggage or express car).
    - C) Cabooses.
  - 2) Stationary Facilities: Drinking water shall be available to employees who are on duty regularly for periods of time long enough to make thesueh drinking water facility reasonably necessary, at the following locations:
    - A) All terminals.
    - B) All yard offices.
    - C) All stations where a public water supply is locally available (except where water is otherwise reasonably accessible).
    - D) All shops and engine houses.
    - E) All signal or section headquarters in terminals and all bunk or

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section houses.

- F) All lunch rooms operated by a railroad on railroad property.
- G) Camp cars.

- 3) Other Locations and Job Sites:  
Drinking water shall be made available to employees at other locations and job sites where employees are on duty with sufficient regularity for periods of time long enough to make drinking water reasonably necessary, when determined by the following procedures:
  - A) An employee requesting water to be provided at other locations and job sites shall contact his/her authorized immediate supervisor, and the parties shall make a reasonable good faith effort to resolve the matter.
  - B) If the matter is not resolved, the employee may contact his/her authorized employee representative and identify the specific location and reasons for the request.
  - C) If appropriate, the employee representative may initiate an Informal Complaint with the Commission staff under 83 Ill. Adm. Code 200.160. Commission staff shall conduct a joint informal investigation with parties to determine whether drinking water should be provided at the location.
  - D) If, following Commission staff's investigation, the matter remains unresolved, a Formal Complaint under 83 Ill. Adm. Code 200.170 may be initiated.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.110 Toilets**

- a) General Requirements:
  - 1) Where running water and sewer or septic tank connections are reasonably available, flush-type toilets and urinals shall be maintained as hereinafter

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set forth [in this Section](#).

- 2) Chemical toilets or privies ~~shall~~ may only be used when it is impractical to install inside toilet and urinal facilities.
- 3) All permanent privies shall be constructed and maintained so that there will be no cracks or open spaces in that portion of the superstructure between the seat and floor or between the floor and the pit, vault or space where the cans are kept. Every privy shall be provided with a door and ~~the such~~ door shall be self-closing. The lids over the seats shall be so constructed as to fall into closed position when the seat is not occupied. The pit, vault or space where the cans are kept shall be ventilated to the outside end by screens. Individual seats shall be provided in accordance with the ratio ~~hereinafter~~ set forth [in subsection \(c\)\(2\)](#).
- 4) Every flush toilet shall have a rim flush bowl or be so constructed as to prevent the accumulation of fecal matter on the bowl. The bowl shall be constructed of vitrified glazed earthenware, enameled metal or other smooth finished material impervious to moisture. No pan, plunger or washout water closets are permitted except that pan or double-pan types are permitted for running facilities. Every flush toilet shall have a separate hinged seat made of a material, other than metal, ~~that which~~ does not absorb moisture or ~~that is which shall be~~ finished with varnish or other substances resistant to moisture.
- 5) Every urinal shall be made of vitrified glazed earthenware, enameled metal or other smooth finished material impervious to moisture. Every urinal shall be flushed from a water supplied tank or through a flush valve. Water may be allowed to run continuously over trough urinals. Slab urinals are not permitted.
- 6) [Separate toilet facilities for employees of each gender housed in the camp car shall be provided in each sleeping car, in accordance with the table shown in subsection \(c\)\(2\). The number of facilities to be provided for each sex shall be based on the number of employees of that gender for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet or nonwater carriage toilet facility, separate toilet rooms for each gender need not be provided. Where the](#)



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single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of the table shown in subsection (c)(2).

- 7) The method of sewage disposal for toilet facilities in camp cars shall not endanger the health of the employees.
- 8) All toilet facilities shall be kept in a clean and sanitary condition. They shall be cleaned regularly.

## b) Specifications:

- 1) Separation: No toilet room shall have direct communication with any room in which meals are taken, unless separated from ~~that said~~ room by a self-closing door maintained in operating condition. Separate toilet facilities shall be provided for each ~~gendersex~~, whenever practicable, and each toilet room shall then be plainly marked ~~as such~~.
- 2) Compartments: Each water closet in toilet rooms containing more than one water closet, or water closets, together with the one or more urinals, shall be in an individual compartment with a door and walls or partition between fixtures sufficiently high to assure privacy.
- 3) Ventilation: Every toilet room shall be adequately ventilated.
- 4) Lighting: Each toilet facility shall be lighted naturally or artificially by a safe type of lighting available at all hours of the day and night. Where privies, chemical and dry hopper toilets, or nonwater carriage toilet facilities not connected to self-contained sewage tanks are provided, they shall be located and maintained with a safe type of lighting available at all hours of the day and night. During an emergency, temporary privies, chemical and dry hopper toilets, or nonwater carriage toilet facilities not connected to self-contained sewage tanks are excused from this provision when it is not practicable to provide lighting. All toilet facilities, except privies, chemical and dry hopper toilets, shall be provided with adequate lighting.
- 5) Heating: ~~Every~~Except privies, chemical and dry hopper toilets, every toilet room shall be kept adequately heated. During an emergency,

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temporary privies, chemical and dry hopper toilets, or nonwater carriage toilet facilities not connected to self-contained sewage tanks are excused from this provision when it is not practicable to provide heating.

- 6) Screens: All windows, ventilators and other openings shall be screened. Toilet rooms shall be kept free of insects and vermin insofar as possible.

- 7) During an emergency, temporary privies, chemical and dry hopper toilets, or nonwater carriage toilet facilities not connected to self-contained sewage tanks, shall be located within 50 feet of the camp cars and, as far as practicable, on the same side of the track on which the camp cars are sited.

c) Number Required:

- 1) Adequate toilet facilities, conveniently located, shall be provided for all employees and for each ~~gender~~ whenever practicable. ~~The~~ facilities shall be maintained in a usable and sanitary condition at all times.
- 2) The following table shall be used as a guide in determining the adequacy of toilet facilities:

<u>Number of Employees</u>	<u>Minimum Number of Facilities</u>
1 to 10 persons	1 toilet
11 to 25 persons	2 toilets
26 to 49 persons	3 toilets
50 to 100 persons	5 toilets
100 persons or over	1 toilet for each additional 25 persons

- 3) Whenever urinals are provided, one urinal may substitute for one toilet, provided the number of toilets shall not be reduced to less than  $\frac{2}{3}$  of the number shown in the foregoing table.
- 4) Supplies: An adequate supply of toilet paper with holder shall be supplied by the employer for each toilet.
- 5) Sanitary Napkins: In all toilet rooms used by women, the company shall

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permit the installation of dispensing machines for sanitary napkins.  
Covered receptacles shall be provided for the disposal of ~~such~~ napkins.

## d) Location of:

## 1) Running Facilities:

- A) All locomotives (except those used primarily in transfer, switching or yard service and those locomotives in service on October 1, 1967 (the effective date of this Part) on which no space is available).
- B) Baggage and express cars (when employees are required to work en route and no other facility is available).
- C) Caboose (except those used primarily in transfer, switching or yard service).
- D) Camp cars, ~~when no other toilet is available.~~ When toilet facilities are provided in separate cars, toilet rooms shall have a window space of not less than 6 square feet in area opening directly to the outside area or otherwise be satisfactorily ventilated. All outside openings shall be screened with material that is equivalent to or finer than 16-mesh. No fixture, water closet, nonwater carriage toilet facility or urinal shall be located in a compartment used for other than toilet purposes.

## 2) Stationary Facilities:

Toilets, according to the foregoing specifications, shall be available if employees are on duty regularly for periods of time long enough to make ~~thesuch~~ facility reasonably necessary at the following locations:

- A) All terminals.
- B) All yard offices.
- C) All stations (except where other facilities are otherwise reasonably accessible).

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- D) All engine houses and shops.
- E) All signal or section headquarters in terminals and all bunk or section houses.
- F) Camp cars, ~~when no other toilet is available.~~
- G) Crossing watchman locations, where practicable, and where ~~thosesueh~~ facilities are not otherwise readily and conveniently located.

3) Other Locations and Job Sites:  
Toilets shall be provided to employees at other locations and job sites where employees are on duty with sufficient regularity for periods of time long enough to make a toilet reasonably necessary, when determined by the following procedures:

- A) An employee requesting toilets to be provided at other locations and job sites shall contact his/her immediate supervisor, and the parties shall make a reasonably good faith effort to resolve the matter.
- B) If the matter is not resolved, the employee may contact his/her authorized employee representative and identify the specific location and reasons for the request.
- C) If appropriate, the employee representative may initiate an Informal Complaint with the Commission staff under 83 Ill. Adm. Code 200.160. Commission staff shall conduct a joint informal investigation with parties to determine whether drinking water should be provided at the location.
- D) If, following Commission staff's investigation, the matter remains unresolved, a Formal Complaint under 83 Ill. Adm. Code 200.170 may be initiated.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.120 Washing Facilities**

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## a) General Requirements:

- 1) Adequate facilities for maintaining personal cleanliness shall be provided for all employees ~~as hereinafter~~ specified in this Section. The ~~facilities same~~ shall be convenient for employees for whom they are provided and shall be maintained in a sanitary condition.
- 2) Two wash basins within each sleeping car shall be provided for employees housed in camp cars.

## b) Specifications:

- 1) Wash basins or lavatories shall be made of vitrified glazed earthenware, vitreous enameled metal or other smooth finished material, impervious to moisture.
- 2) Twenty-four inches of trough or circular wash basin shall be considered the equivalent of one wash basin. The trough or circular wash basin shall not be equipped with a plug or stopper.
- 3) Spring-closing hand-operated faucets are prohibited in trough basins or circular basins.

## c) Number Required:

- 1) The following table shall be used as a guide in determining the adequacy of washing facilities:

<u>Number of Employees</u>	<u>Minimum Number of Facilities</u>
1 to 10 persons	1 basins
11 to 25 persons	2 basins
26 to 49 persons	3 basins
50 to 100 persons	5 basins
100 persons or over	1 basin for each additional 25 employees

- 2) At least one wash basin shall be located convenient to each toilet room.

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- d) Location of:
- 1) Running Facilities:
    - A) Baggage and express cars (where employees are assigned for work en route) and no other facilities are available.
    - B) Cabooses (except cabooses used primarily in transfer, yard or switching service).
    - C) Camp cars, ~~when no other washing facility is available.~~
  - 2) Stationary Facilities:

~~The washing~~ Washing facilities ~~required by this Section, according to the foregoing specifications,~~ shall be available if employees are on duty regularly for periods of time long enough to make ~~thesuch~~ such facility reasonably necessary at the following locations:

    - A) All terminals.
    - B) All yard offices.
    - C) All engine houses and shops.
    - D) All signal or section headquarters in terminals and all bunk or section houses.
    - E) Places convenient to designated lunch rooms ~~designated as such.~~
    - F) Camp cars, ~~when no other washing facility is available.~~
    - G) One lavatory basin per 6 employees in a shared facility.
  - 3) Supplies:
    - A) Water shall be available and hot water shall be supplied at all terminals, yard offices, engine houses, ~~and~~ shops and camp cars. Hot and cold running water shall be available for all camp cars.

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- B) Mechanical drying facilities, including mechanical roller towels, or individual towels, either paper or cloth, shall be provided. (The use of common towels is prohibited.)
- C) Waste receptacles shall be provided for used paper towels.
- D) Soap or other suitable cleansing agent shall be supplied.
- E) All supplies shall be adequate to meet the needs for which they are intended, and shall be maintained by the employer.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.130 Showers**

## a) General Requirements:

- 1) Showers shall be required when ~~such facilities are~~ necessary at specified locations to protect employees whose work involves exposure to poisonous, infectious or irritating material or to excessive dirt, heat fumes or vapors or other materials or substances injurious to health.
- 2) ~~Shower~~~~Such shower~~ facilities shall be provided in conjunction with lockers or dressing room facilities, as required by this Part.
- 3) Whenever a shower is required under subsection (a)(1), where 6 or more women are employed at any one time, a separate shower room shall be provided for their use. Where at least one, but fewer than 6 women are employed and a separate shower room is not provided, accommodation must be made to ensure privacy, including a latch or lock on the door leading to the shower room.

## b) Specifications:

- 1) Showers shall be provided with a spray fixture connected to an ample supply and pressure of hot and cold water, preferably mixed by a mixing valve.
- 2) Each shower room or compartment shall be constructed of material

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impervious to moisture.

- 3) Each shower compartment shall be not less than 32 inches in width and 32 inches in depth.
- 4) Shower floors shall be constructed of non-slippery materials. Floor drains shall be provided in all shower baths and shower rooms to remove waste water and facilitate cleaning. All junctions of the curbing and the floor shall be sealed. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash.
- 5) An adequate supply of hot and cold running water shall be provided for showering purposes. Facilities for heating water shall be provided.

c) Camp Car Showering Facilities:

- 1) Camp cars used to house employees shall include 2 showers within each sleeping car.
- 2) Shower floors shall be constructed of non-slippery materials. Floor drains shall be provided in all shower baths and shower rooms to remove waste water and facilitate cleaning. All junctions of the curbing and the floor shall be sealed. The walls and partitions of shower rooms shall be smooth and impervious to the height of splash.
- 3) An adequate supply of hot and cold running water shall be provided for showering purposes. Facilities for heating water shall be provided.

d) Camp Car Showers:

- 1) Unless otherwise provided by agreement, body soap or other appropriate cleansing agent convenient to the showers shall be provided.
- 2) Showers shall be provided with hot and cold water feeding a common discharge line.
- 3) Unless otherwise provided by agreement, employees who use showers shall be provided with individual clean towels.



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(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.140 Locker Rooms**

- a) Locker rooms, except those in camp cars, shall have not less than ~~80~~eighty square feet of usable clear floor space for the first ~~10~~ten employees, or fraction thereof, and for each additional employee not less than ~~4~~four additional square feet shall be added ~~thereto~~. Employees, in this Section as used herein, refers to employees to whom lockers have been assigned.
- b) Necessary furniture, such as benches and tables, shall be provided.
- c) Locker~~Such locker~~ rooms shall be properly lighted, heated and ventilated at all times.
- d) Space shall be configured with lockers and furniture, such as benches and tables, to ensure it functions for its intended purpose as a locker room. This subsection may not be used to increase the floor space requirements of subsection (a).

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.150 Lockers**

- a) Individual lockers for employees shall be provided when requested by ~~such~~ employees and deemed necessary by the Commission.
- b) Lockers shall be metal, not less than ~~15~~fifteen inches wide, ~~18~~eighteen inches deep and ~~72~~seventy-two inches high, exclusive of legs or other base. The lockers shall be equipped with a shelf and with not less than one clothes hook for each side or equivalent hanger bar, ~~with and also~~ sufficient openings in the door for purposes of ventilation. Wooden, or other type lockers in use prior to October 1, 1967 (the effective date of this Part); shall be deemed adequate, but shall not be replaced in kind.
- c) Camp cars used for housing employees shall provide individual lockers within each car for each occupant of a camp car. Each locker within a camp car used for housing employees shall be of sufficient size to adequately afford storage of 5 working days worth of personal belongings and provisions.

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(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.160 Dressing Rooms**

- a) Where ~~six~~ or more women who are required to change clothing are employed at any one time, a dressing room shall be provided for their use.
- b) Where ~~at least more than~~ one but ~~fewer less~~ than ~~six~~ women who are required to change clothing are employed and a dressing room is not provided, room space shall be provided, properly screened for privacy and made suitable for the use of women employees in lieu of a dressing room.
- c) Dressing rooms shall be conveniently located for the workers for whose use they are intended.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.170 Bunk Rooms, Camp Cars and Dormitories**

- a) The walls, floor and ceilings of bunk rooms, camp cars and dormitories shall be so constructed as to provide protection from outside weather elements and to permit their being readily cleaned, and they shall be kept cleaned and in good repair. Wood floors shall be raised above the ground sufficiently to allow air space beneath them.
- b) Ventilation shall be provided by ~~windows~~~~window~~ opening directly to the outside air.
- c) During the period between May 1 and November 1, all outer doors and windows shall be equipped with screens.
- d) Adequate heating, ~~cooling and ventilation facilities and fuel~~ shall be provided ~~to maintain a temperature of at least 68°F and no greater than 78°F, or 20° below ambient, whichever is warmer, during normal hot weather. with which employees may maintain a comfortable temperature as weather conditions may require.~~
- e) Lighting by windows and/or acceptable artificial illumination shall be provided.

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- f) At least a 7-foot ceiling measured at the entrance to the camp car shall be provided.
- g) Each habitable room in a camp car shall be provided with adequate lighting.
- h) Every camp car shall be constructed in a manner that provides protection against the weather.
- i) All steps, entry ways, passageways and corridors providing normal entry to or between camp cars shall be constructed of durable weather resistant material and properly maintained. Any broken or unsafe fixtures or components in need of repairs shall be repaired or replaced promptly.
- j) Floors shall be of smooth and tight construction and shall be kept in good repair.
- k) All living quarters shall be provided with windows, the total of which shall not be less than 10 percent of the floor area. At least one-half of each window designed to be opened shall be so constructed that it can be opened for purposes of ventilation. Durable opaque window coverings shall be provided to reduce the entrance of light during sleeping hours.
- l) All exterior openings shall be effectively screened with 16-mesh material. All screen doors shall be equipped with self-closing devices.
- m) In a facility where workers cook, live and sleep, a minimum of 90 square feet per person shall be provided. Sanitary facilities shall be provided for storing and preparing food.
- n) In camp cars where meals are provided, adequate facilities to feed employees within a 60-minute period shall be provided.
- o) All heating, cooking, ventilation, air conditioning and water heating equipment shall be installed in accordance with applicable local regulations governing such installations.
- p) Every camp car shall be provided with equipment capable of maintaining a temperature of at least 68°F and no greater than 78°F, or 20° below ambient, whichever is warmer, during normal hot weather.

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(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.180 Bunk Rooms or Dormitories**

- a) Bunk rooms or dormitories shall be of such area to provide at least 50~~fifty~~ square feet of floor space for each occupant. At least a 7-foot ceiling shall be provided. Except person with a ceiling height of not less than seven feet, except where double bunks are used, at least 30~~thirty~~ square feet of floor space shall be provided for each person accommodated.
- b) Beds, cots or bunks and suitable storage facilities such as wall lockers or space for foot lockers for clothing and personal articles shall be provided in every room used for sleeping purposes. Except where partitions are provided, beds or similar facilities shall be spaced not closer than 36 inches laterally (except in modular units that cannot be spaced closer than 30 inches) and 30 inches end to end, and shall be elevated at least 12 inches from the floor. If double-deck bunks are used, they shall be spaced not less than 48 inches both laterally and end to end. The minimum clear space between the lower and upper bunk shall be not less than 27 inches. Triple-deck bunks shall not be used. Where beds, bunks or cots are provided, they shall be equipped with proper mattresses. ~~Such beds, bunks or cots shall be raised twelve inches above the floor and be located two feet or more from the side of any other bed, bunk or cot located in the same room and have at least twenty-seven inches of clear space above it.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.190 Camp Facilities**

- a) Where camp cars, house trailers, outfit or bunk cars, modular units mounted on flat cars, or Pullman and/or passenger cars are furnished for housing or sleeping purposes, a maximum of 4 occupants shall be designated for each car, the Commission may designate the number of men to be housed in each car. A minimum of 80 square feet per occupant shall be afforded in each car.
- b) Adequate first aid kits shall be provided and maintained for employees housed in camp cars for emergency treatment of injured persons. Each camp car shall contain a permanently wired smoke detector and carbon monoxide detector and a battery backup weather alert radio. Each camp car shall also include emergency

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evacuation instructions pertinent to the camp location, along with directions to the closet medical treatment facility.

- c) Camp cars occupied exclusively by individuals employed for the purpose of maintaining the right-of-way of a railroad shall be located as far as practical from where "switching or humping operations" of "placarded cars" occur, as described in 49 CFR 228.101(c)(3) and (c)(4), respectively. Every reasonable effort shall be made to locate these camp cars at least one-half mile (2,640 feet) from where the switching or humping occurs. In the event employees housed in camp cars located closer than one-half mile from where switching or humping of cars takes place are exposed to an unusual hazard at that location, the employees involved should be housed in other suitable accommodations. An unusual hazard means an unsafe condition created by an occurrence other than normal switching or humping.
- d) Sleeping quarters are not considered to be free of interruptions caused by noise under the control of the railroad if noise levels attributable to noise sources under the control of the railroad exceed an Leq (8) value of 55 dB(A), with windows closed and exclusive of cooling, heating and ventilating equipment.
- e) A railroad shall, within 48 hours after notice of noncompliance with these requirements, fix the deficient conditions. Where holidays or weekends intervene, the railroad shall fix the condition within 8 hours after the employees return to work. In the event the conditions affect the safety or health of the employees, such as problems with water, cooling, heating, washing, bathing, toilet or eating facilities, the railroad shall provide alternative arrangements for housing and eating until the noncompliant condition is fixed.
- f) A railroad shall, within 2 business days after establishing a labor camp in a community or county, notify the local health department with jurisdiction where the labor camp is located and request and permit a health inspection. Upon approval of the facilities, the inspecting health department shall issue a permit and collect a fee from the railroad that is sufficient to cover all costs associated with the inspection and processing of the permit.
- g) The employee representatives of each labor craft affected by the establishment of a railroad labor camp shall be notified by the railroad at the same time as the local health department. The employee representatives shall be permitted to take part

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in the health inspection and shall be provided with a copy of the inspection report prepared by the local health department.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.200 Shelter**

- a) When an employee works regularly at a location (other than a repair track) where shelter is not otherwise available, an employee requesting that shelter be provided shall contact his/her immediate supervisor, and the parties shall make a reasonably good faith effort to resolve the matter. it shall be provided if requested by such employee and if deemed necessary by the Commission.
- b) If the matter is not resolved, the employee may contact his/her authorized employee representative and identify the specific location and reasons for the request.
- c) If appropriate, the employee representative may initiate an Informal Complaint with the Commission staff under 83 Ill. Adm. Code 200.160. Commission staff shall conduct a joint informal investigation with parties to determine whether shelter should be provided at the location.
- d) If, following Commission staff's investigation, the matter remains unresolved, a Formal Complaint under 83 Ill. Adm. Code 200.170 may be initiated.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.210 Lunch Rooms**

- a) General Requirements:
  - 1) When a lunch room is provided by the company, it shall have adequate space and be adequately ventilated, reasonably heated, properly screened, provided with the necessary covered receptacles for the disposal of waste matter and be adequately furnished, provide a means to store and heat food in a sanitary manner, and shall be kept clean and in good care.
  - 2) When an employee seeks to have a lunch room provided at a stationary location or a stationary job site where one is otherwise not provided, and

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the employee is on duty with sufficient regularity for periods of time long enough to make a lunch room reasonably necessary, the employee shall contact his/her authorized employee representative and identify the specific location and reasons for the request. If appropriate, the employee representative shall contact the railroad's representative and, within 5 days, the employees' representative and the railroad's representative shall jointly inspect the location. After inspection, if the employee representative and the railroad representative do not agree on whether a lunch room should be provided, the employee representative may initiate an Informal Complaint with the Commission staff under 83 Ill. Adm. Code 200.160. Commission staff shall conduct a joint informal investigation with the parties to determine whether a lunch room should be provided at that location. If, following Commission staff's investigation, the matter remains unresolved a Formal Complaint under 83 Ill. Adm. Code 200.170 may be initiated.

- b) Camp Cars – Provision of Meals:
- 1) When kitchen cars or other camp facilities for heated meals are furnished by the company, they shall be provided with adequate equipment for cooking and refrigeration.
  - 2) In lunch rooms where food is served by the company for employees, the food, equipment and facilities shall be subject to the same inspection and regulation as is required in public eating places, generally consistent with the rules and regulations of the Illinois Department of Public Health pertaining to public food establishments.
  - 3) Employees and workers handling and serving food in the lunch rooms described in subsectionsubparagraph (b)(2) of this Section shall be subject generally to IDPHthose rules and regulations of the Illinois Department of Public Health which are necessary to the sanitary handling of food.
  - 4) Concessionaire facilities provided by the company in lieu of direct company operations shall comply with the regulations of this Part with respect to adequate space, adequate food handling facilities and cleanliness.
  - 5) In all camp cars, the food handling facilities shall be clean and sanitary.

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- 6) When separate kitchen and dining hall cars are provided, there shall be a closable door between the living or sleeping quarters into a kitchen or dining hall car.
- c) Camp Cars – Consumption of Food and Beverages on the Premises:
- 1) This Section shall apply only where employees are permitted to consume food or beverages.
- 2) No employee shall be allowed to consume food or beverages in a toilet room or in any area exposed to toxic material.
- 3) All sewer lines and floor drains from camp cars shall be connected to public sewers where available and practicable, unless the cars are equipped with holding tanks that are emptied in a sanitary manner.
- 4) An adequate number of receptacles constructed of smooth, corrosion resistant, easily cleanable or disposable materials shall be provided and used for the disposal of waste food. Receptacles shall be provided with a solid tight fitting cover unless sanitary conditions can be maintained without the use of a cover. The number, size and location of receptacles shall encourage their use and not result in overfilling. They shall be emptied regularly and maintained in a clean and sanitary condition.
- 5) No food or beverages shall be stored in toilet rooms or in an area exposed to a toxic material.
- 6) In all places of employment where all or part of the food service is provided, the food dispensed shall be free from spoilage and shall be processed, prepared, handled and stored in such a manner as to be protected against contamination.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1545.230 Cleanliness and Maintenance**

- a) Frequency of regular and thorough cleaning will be determined in each case by the amount of traffic; ~~and~~, in all instances, the frequency of cleaning shall be adequate.



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- b) Toilets, showers and washrooms shall not be used for storage. Fixtures are to be maintained in proper working order at all times.
- c) Floors shall be maintained in a clean and, so far as practicable, dry condition at all times. Where wet processes are used, drainage shall be maintained and false floors, platforms, mats or other dry standing places shall be provided whenever practicable.
- d) All camp cars shall be kept clean to the extent that the nature of the work allows.
- e) To facilitate cleaning, every floor, working place and passageway shall be kept free from protruding nails, splinters, loose boards, and unnecessary holes and openings.
- f) All sweepings, solid or liquid waste, refuse and garbage shall be removed in such a manner as to avoid creating a menace to health and as often as necessary to maintain a sanitary condition.
- g) Any exterior receptacle used for putrescible solid or liquid waste shall be constructed so as to not leak and shall be thoroughly cleaned and maintained in a sanitary condition. Any exterior receptacle used for putrescible solid or liquid waste shall be equipped with a tight fitting cover, unless it can be maintained in a sanitary condition without a cover.
- h) Camp cars shall be constructed, equipped and maintained as reasonably practicable to prevent the entrance or harborage of rodents, insects or other vermin. An extermination program shall be instituted, if rodents, insects or vermin are detected.
- i) Floors shall be of smooth and tight construction and shall be kept in good repair.
- j) Rail carriers and their employees share the obligation to keep the facilities clean and in good care. This shall be construed to mean that rail carriers are responsible for the regular and thorough cleaning of all employee facilities, while employees shall use good housekeeping practices.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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SUBPART C: GENERAL RULES

**Section 1545.301 Waiver**

A rail carrier may petition the Commission for a waiver of any Section of this Part pursuant to Section 18c-7403 of the Illinois Commercial Transportation Law by providing written notice stating the specific burdens of complying with a particular Section.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 1) Heading of the Part: Specialized Health Care Delivery Systems
- 2) Code Citation: 89 Ill. Adm. Code 146
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
146.205	Amendment
146.210	Amendment
146.215	Amendment
146.220	Amendment
146.225	Amendment
146.230	Amendment
146.235	Amendment
146.240	Amendment
146.245	Amendment
146.250	Amendment
146.255	Amendment
146.265	Amendment
146.270	Amendment
146.280	Amendment
146.295	Amendment
146.305	New Section
146.310	New Section
146.600	New Section
146.610	New Section
146.620	New Section
146.630	New Section
146.640	New Section
146.650	New Section
146.660	New Section
146.670	New Section
146.680	New Section
146.690	New Section
146.700	New Section
146.710	New Section
- 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 proposed amendments are necessary to further comply with quality improvement provisions under the CMS-

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approved waiver. The rulemaking also clarifies and provides further direction in the expectations of the Department for supportive living facilities (SLF) services.

- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, place, and manner in which interested persons may comment on this proposed rulemaking: 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 Staff  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue E., 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/557-7157

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

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in

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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: Supportive living facility providers
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this Rulemaking was Summarized: July 2008

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

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## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 146

## SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

## SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

## Section

146.100	General Description
146.105	Definitions
146.110	Participation Requirements
146.115	Records and Data Reporting Requirements
146.125	Covered Ambulatory Surgical Treatment Center Services
146.130	Reimbursement for Services

## SUBPART B: SUPPORTIVE LIVING FACILITIES

## Section

146.200	General Description
146.205	Definitions
146.210	Structural Requirements
146.215	SLF Participation Requirements
146.220	Resident Participation Requirements
146.225	Reimbursement for Medicaid Residents
146.230	Services
146.235	Staffing
146.240	Resident Contract
146.245	Assessment and Service Plan and Quarterly Evaluation
146.250	Resident Rights
146.255	Discharge
146.260	Grievance Procedure
146.265	Records and Reporting Requirements
146.270	Quality Assurance Plan
146.275	Monitoring
146.280	<a href="#">Non-Compliance Action</a> <del>Termination or Suspension of SLF Provider Agreement</del>
146.285	Voluntary Surrender of Certification
146.290	Geographic Groups

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146.295	Emergency Contingency Plan
146.300	Waivers
<a href="#">146.305</a>	<a href="#">Reporting of Suspected Abuse, Neglect and Financial Exploitation</a>
<a href="#">146.310</a>	<a href="#">Facility Management of Resident Funds</a>

## SUBPART C: STATE HEMOPHILIA PROGRAM

Section	
146.400	Definitions
146.410	Patient Eligibility
146.420	Hemophilia Treatment Centers
146.430	Comprehensive Care Evaluation
146.440	Home Transfusion Arrangements
146.450	Obligations of the Department

## SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

Section	
146.500	General Description
146.510	Definitions
146.520	Participation Requirements
146.530	Records and Data Reporting Requirements
146.540	Covered Children's Community-Based Health Care Center Services
146.550	Reimbursement for Services
146.560	Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
146.570	Prior and Post Approval of Services

[SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS](#)

<a href="#">Section</a>	
<a href="#">146.600</a>	<a href="#">General Description</a>
<a href="#">146.610</a>	<a href="#">Structural Requirements</a>
<a href="#">146.620</a>	<a href="#">Participation Requirements</a>
<a href="#">146.630</a>	<a href="#">Resident Participation Requirements</a>
<a href="#">146.640</a>	<a href="#">Services</a>
<a href="#">146.650</a>	<a href="#">Reimbursement for Medicaid Residents</a>
<a href="#">146.660</a>	<a href="#">Staffing</a>
<a href="#">146.670</a>	<a href="#">Assessment and Service Plan and Quarterly Evaluation</a>

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<a href="#">146.680</a>	<a href="#">Monitoring</a>
<a href="#">140.690</a>	<a href="#">Reporting Requirements</a>
<a href="#">146.700</a>	<a href="#">Resident Rights</a>
<a href="#">146.710</a>	<a href="#">Discharge</a>

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: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11681, effective August 1, 2007; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: SUPPORTIVE LIVING FACILITIES

**Section 146.205 Definitions**

For purposes of this Part, the following terms shall be defined as follows:

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish (42 CFR 488.301).



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"Activities of Daily Living" or "[ADL](#)" means eating, bathing, dressing, transferring, toileting, walking and grooming.

["Advance Directive" means a power of attorney that gives a designated individual decision-making powers upon a person's incompetence. The Department of Public Health is required to make available a Uniform Do Not Resuscitate Advance Directive that may be used in all settings, the Statutory Will Declaration form, the Illinois Statutory Short Form Power of Attorney for Health Care, the statutory Declaration of Mental Health Treatment Form, and the summary of advance directives law in Illinois \(Section 2310-600 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code of Illinois \[20 ILCS 2310-600\].](#)

"Bank Nursing Facility Beds" means a choice by SLF providers to participate by converting a distinct part of a nursing facility. Such facilities shall be allowed to retain the Certificate of Need for nursing beds that were converted.

"Complaint" means a phone call, letter or personal contact to the Department from a resident, family member, resident representative or any other interested person expressing a concern related to the health, safety or well-being of one or more SLF residents.

"Comprehensive Resident Assessment Instrument" or "RAI" means the Department designated resident assessment instrument designed for use in SLFs.

["Declaration of Mental Health Treatment" means a document that lets a person state he or she wants to receive electroconvulsive treatment \(ECT\) or psychotropic medicine when the person has a mental illness and is unable to make decisions for himself or herself. It also allows a person to say whether he or she wishes to be admitted to a mental health facility if unable to make that decision.](#)

"Department" means the Illinois Department of Healthcare and Family Services.

["Determination of Need" or "DON" means the tool used by the Department or the Department's authorized representative to determine functional needs of a resident or prospective resident of the SLF. A minimum score of 29 is required on the DON before payment may be authorized for the SLF resident.](#)

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"Developmental Disability" or "DD" means a disability that is attributable to a diagnosis of mental retardation or related condition such as cerebral palsy or epilepsy that results in impairment of general intellectual functioning or adaptive behavior. This condition is manifested before the age of 22 and is likely to continue indefinitely. It results in substantial functional limitations in three or more areas of major life activities, such as self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

"Direct Care Staff" means staff ~~that provides~~~~who provide~~ professional nursing services, assistance with activities of daily living or other personal needs or maintenance, or general supervision and oversight of the physical and mental well being of an individual.

"Distinct Part" means a separate building or an entire wing or other physically identifiable space of an existing nursing facility licensed under the Nursing Home Care Act or the Hospital Licensing Act that is operated as an SLF distinguishable from the rest of the facility. The distinct part of a nursing facility will not be subject to provisions of the Nursing Home Care Act. The distinct part of a hospital will be subject to provisions of the Hospital Licensing Act while complying with provisions of this Subpart B. Distinct part does not include the conversion of an entire nursing facility or hospital.

"Do Not Resuscitate" or "DNR" means a medical treatment order that says cardiopulmonary resuscitation (CPR) will not be attempted if a person's heart and/or breathing stops.

"Durable Power of Attorney" means power of attorney given to a person designated as another person's agent giving broad powers to make health care decisions, including power to require, consent to or withdraw any type of personal care or medical treatment for any physical or mental condition, and to admit or discharge a person from any hospital, home or other institution.

"Financial Exploitation" means the act of obtaining control over a resident or his or her property and/or resources through deception or intimidation to the disadvantage of the resident and/or the profit of another and/or the intent of depriving the resident of the use, benefit or possession of his or her property and/or resources.

"Follow-up Care" means the response to, and documentation of, the service plan

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that is discussed with, and agreed to by, the resident and/or the resident's guardian. It may include, but is not limited to, physician referrals, revision of the service plan to incorporate nursing services, health promotion counseling and teaching self care in meeting health needs.

"Freestanding Facility" means a separate building that is not part of an existing nursing facility or hospital. Freestanding facility includes new construction, an existing building or conversion of an entire nursing facility or hospital into an SLF.

"Immediate Jeopardy" means a situation in which a provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment or death to a resident (42 CFR 488.301).

"Instrumental Activities of Daily Living" or "IADL" means activities related to independent living and includes preparing meals, managing money, shopping for groceries or personal items, performing light or heavy housework, and using a telephone.

"Licensed Nurse" means a person whose services are paid for by an SLF and who is licensed as a registered nurse, registered professional nurse, practical nurse or licensed practical nurse under the Nurse Practice Nursing and Advanced Practice Nursing Act [225 ILCS 65].

"Living Will" means a document that tells a person's health care professional whether the person wants death-delaying procedures used if the person has a terminal condition, and the person is unable to state his or her wishes. A terminal condition means an incurable and irreversible condition such that death is imminent, and the application of any death delaying procedures serves only to prolong the dying process. A living will allows for the administration of medication, sustenance, or the performance of any medical procedure deemed necessary by the person's attending physician to provide the person with comfort care.

"Mandated Reporter" is anyone identified in the Elder Abuse and Neglect Act [320 ILCS 20] that shall report suspected abuse while engaged in carrying out professional duties. A mandated reporter includes, but is not limited to, a professional or professional's designee while engaged in social services and the care of an adult age 60 and over. It also includes, but is not limited to, any

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[occupation required to be licensed under the Dietetic and Nutrition Services Practice Act \[225 ILCS 30\], Nurse Practice Act, and Nursing Home Administrator Licensing and Disciplinary Act \[225 ILCS 70\], and field personnel of the Departments of Healthcare and Family Services, Public Health and Human Services and any county or municipal health department.](#)

"Medicaid" means the Department's Medical Assistance Program.

"Medicaid Resident" means a person with a disability (as determined by the Social Security Administration) age 22 years and over or a person who is age 65 years and over, who has been determined eligible for Medicaid payment for SLF services. Eligibility for a person residing in an SLF shall be determined in accordance with 89 Ill. Adm. Code 120.10 and 120.61 (excluding subsection (f) of Section 120.61). Provisions for property transfers as described at 89 Ill. Adm. Code 120.387 shall apply to a person residing in an SLF. Provisions for the prevention of spousal impoverishment as described at 89 Ill. Adm. Code 120.379 shall apply to a person residing in an SLF.

"Medical Assistance Program" means the program administered under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V] or successor programs and Title XIX of the Social Security Act (42 USC 1396) and related federal and State rules and regulations.

["Medication Error" includes, but is not limited to, incorrect dosage, medication given at incorrect time, wrong medication given, wrong route used or missed medication.](#)

["Mental Illness" or "MI" means a diagnosis of schizophrenia, delusional disorder, schizoaffective disorder, psychotic disorders not otherwise specified, bipolar disorder, and recurrent major depression resulting in substantial functional limitations.](#)

["Neglect" means a failure by the SLF to provide services, as outlined in this Part, a failure to notify the appropriate health care professional, a failure to modify a service plan, as appropriate, based on a change in the resident's condition, or a failure to terminate the residency of a resident whose needs can no longer be met by the SLF, causing an avoidable decline in function. Neglect may be either passive \(non-malicious\) or willful.](#)

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"Personal Allowance" means the \$90 minimum protected monthly amount [of a Medicaid-eligible resident's income](#) that is retained by Medicaid-eligible residents for their personal use.

["Progress Notes" means notes used to document the decline or improvement in a resident's status.](#)

"Rehabilitated Nursing Facility" means the conversion of a distinct part of an existing nursing facility into an SLF.

"Related Parties" means affiliates of an SLF; entities for which investments are accounted for by the equity method by the entire enterprise; trusts for the benefit of employees, such as pensions and profit-sharing trusts that are managed by or under the trusteeship of management; any general partner; management of the SLF; members of the immediate families of principal owners of the SLF or its management; and other parties with which the SLF may deal if one party controls or can significantly influence management or operating policies of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests. An entity or person shall be deemed by the Department to be a related party if it can significantly influence management or operating policies of the transacting parties or if it has an ownership interest in one of the transacting parties and can significantly influence the other to an extent that one or more of the transacting parties might be prevented from fully pursuing its own separate interests.

"Resident" means a person living in an SLF, including Medicaid residents as defined in this Section and individuals who are not eligible for Medicaid payment for SLF services.

["Resident Assessment Instrument" or "RAI" or "Comprehensive Resident Assessment Instrument" means the Department designated resident assessment instrument designed for use in SLFs.](#)

"Room and Board" means the housing, utilities and meals provided under the resident contract. Unless otherwise specified in the resident contract, room and board does not include phone or cable charges.

["Security Deposit" means a payment used to secure the payment of rent or compensation for damage to property for residential property containing 25 units](#)

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or more (see Security Deposit Interest Act [765 ILCS 715]). A security deposit may also include a pet deposit to secure payment for damage to the residential property. Damage to property shall not include normal wear and tear to an apartment or any other part of the SLF.

"Services" means the personal and health care related services provided by an SLF pursuant to Section 146.230.

"Service Plan" means the written plan of care on the Department designated form that is developed for each resident based upon the initial assessment, annual comprehensive resident assessment or quarterly evaluation.

"Significant Change" means that there has been a decline or improvement in a resident's status that will not normally resolve itself without intervention by staff or by implementing standard disease-related clinical interventions, and the decline or improvement impacts more than one area of the resident's health status and requires revision of the Service Plan.

"SLF" or "Supportive Living Facility" means a residential setting that meets the requirements of this Subpart B.

"SSI" means Supplemental Security Income under Title XVI of the Social Security Act.

"Subcontractor" means any person who assumes any duties and responsibilities from an SLF for the performance of SLF services pursuant to Section 146.230.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.210 Structural Requirements**

## a) Building Construction

- 1) An SLF's architectural plans shall conform to the current State building codes for the respective building type, local Fire and Life Safety Standards for health care occupancy or the 2000 National Fire Protection Association Life Safety Code (NFPA) 101, Chapter 32, Residential Board and Care Occupancies, National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269 (March 11, 2003, no later amendments or editions

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[included](#)) or local building codes if more stringent.

- 2) An SLF shall meet accessibility standards of the Americans ~~With~~[with](#) Disabilities Act of 1990 ([42 USC 12101 et seq.](#)). If the facility is subject to the requirements of the Illinois Accessibility Code (71 Ill. Adm. Code 400), it shall be deemed residential or multi-story housing for determining the requirements under that Code.
  - 3) An SLF shall not have any apartments below grade level.
  - 4) A freestanding facility consisting of two or more stories with 75 or fewer units shall have a minimum of one elevator available for resident use. A freestanding facility consisting of two or more stories with 76 or more units shall have a minimum of two elevators available for resident use.
- b) Heating and Air Conditioning
- 1) All residential apartments shall have individually controlled systems to maintain comfortable temperatures.
  - 2) Buildings shall provide a heating and air conditioning system in public areas to maintain comfortable temperatures.
- c) Illumination
- Illumination systems shall be installed and maintained to ensure sufficient lighting for general lighting, reading, night lighting for corridors, stairwells and emergency situations. There shall be adequate illumination for outdoor areas.
- d) Resident Apartments General Requirements – Freestanding Facility
- 1) Each single occupancy SLF apartment shall have no less than 300 square feet of living space, including closets and the bathroom.
  - 2) Each double occupancy SLF apartment shall have no less than 450 square feet of living space, including closets and the bathroom.
  - 3) Each apartment shall be equipped at a minimum with:
    - A) A door that locks from the inside;

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- B) A full bathroom as defined in this Section;
  - C) An emergency call system as provided in Section 146.230(m);
  - D) Heating and cooling controls;
  - E) Wiring for private telephone lines;
  - F) Access to cable television, satellite dish or master antenna that receives at least ten channels;
  - G) A sink, microwave oven or stove, and refrigerator with a separate freezer compartment; and
  - H) A separate bedroom for each unrelated occupant for SLFs approved for participation on or after October 18, 2004. [Unrelated occupants may share an apartment with a single bedroom if requested, and agreed upon by the occupants. An apartment shared by two occupants shall meet the minimum square footage required for double occupancy.](#)
- 4) An SLF shall have individual locked mailboxes located inside the building for each apartment.
- 5) Each freestanding SLF shall consist of one building housing at least ten but no more than 150 apartments.
- e) Resident Apartments General Requirements – Rehabilitated Nursing Facilities
- 1) Any nursing facility rehabilitating a portion of the facility to conform with SLF requirements shall convert a distinct part of existing facility space.
  - 2) Each single occupancy SLF apartment shall have no less than 160 square feet of living space, including closets and the bathroom.
  - 3) Each double occupancy SLF apartment shall have no less than 320 square feet of living space, including closets and the bathroom.



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- 4) Each apartment shall be equipped at a minimum with:
    - A) A door that locks from the inside;
    - B) A full bathroom as defined in this Section that may be between and shared by the adjoining apartment;
    - C) An emergency call system as provided in Section 146.230(m);
    - D) Heating and cooling controls;
    - E) Wiring for private telephone lines;
    - F) Access to cable television, satellite dish or master antenna that receives at least ten channels; and
    - G) A sink, microwave oven or stove, and refrigerator with a separate freezer compartment.
  - 5) An SLF shall have individual locked mailboxes located inside the building for each apartment.
  - 6) Each rehabilitated nursing facility shall consist of a distinct part of an existing facility housing at least ten apartments but no more than 150 apartments.
- f) Apartment Bathrooms
- 1) Each bathroom shall be equipped with:
    - A) A toilet with grab bars sufficient to meet the needs of the resident;
    - B) A sink;
    - C) A bathtub and/or shower stall with grab bars sufficient to meet the needs of the resident;
    - D) Hot and cold running water with faucets that meet all marking standards under residential building codes; and

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- E) An emergency call system pursuant to Section 146.230(m).
- 2) Each bathroom shall be a separate room and shall be designed to provide privacy.
- g) Closet Space
- 1) Each apartment shall have minimum closet space of 90 cubic feet, or minimum floor dimensions of no less than 72 inches wide and 24 inches deep for each resident of the apartment.
- 2) Each closet shall be equipped with a door.
- h) Doors
- 1) All doors in residential apartments, including entrance doors, shall be wheelchair accessible.
- 2) Entrance doors to apartments shall have locking devices that are accessible to the outside.
- 3) Entrance doors to residential apartments shall open onto a public corridor.
- 4) Entrance doors to each apartment shall be equipped with an "eye-view".
- 5) [All apartment bedrooms shall have doors.](#)
- i) Windows  
All apartment windows shall be of transparent glass (except bathrooms) and large enough to permit viewing to the outside of the building. Apartments shall have at least one window with a sill height that permits viewing from a seated position.
- j) Common Areas
- 1) An SLF shall have a minimum of two common areas that provide residents with space for socialization. The dining room may be used as one of the common areas.

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- 2) All common areas shall be accessible for wheelchair use and shall be designed and furnished to meet resident needs.
  - 3) Common areas shall be available for resident use at any time, provided such use does not disturb the health, safety, and well-being of other residents. Access to private or public outdoor recreation areas shall be available to all residents.
  - 4) No less than one common area shall have ice for resident use at no charge.
  - 5) The SLF ~~may~~ shall have ~~at least~~ one common bathing room. The common bathing room shall contain that contains a toilet with grab bars sufficient to meet the needs of the residents, bathtub and a roll-in shower that is wheelchair accessible to allow a five foot turning radius or utilize the American National Standards Institute T-shape or Y-shape, both of which have a non-skid surface, transfer seat and grab bars. Each bathing room shall have door locks to ensure privacy.
- k) Public Restrooms
- 1) There shall be at least one public restroom that is handicapped accessible.
  - 2) All public restrooms shall be clean.
  - 3) All public restrooms shall contain toilet tissue, waste receptacles and hand drying means that cannot be reused. Soap shall be provided in a manner that minimizes contamination.
- l) Public Telephone
- The SLF shall make available~~No less than one common area shall have~~ a handicapped accessible telephone that allows residents and others to conduct private conversations.
- m) Social and Recreational Areas
- 1) Handicapped accessible public areas shall be provided for residents' social and recreational use.
  - 2) Social and recreational areas in rehabilitated nursing facilities shall be

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separate from those of the nursing facility. Rehabilitated nursing facilities may use the SLF dining room as a social and recreational area.

- n) Kitchens
  - 1) SLF kitchens in rehabilitated nursing facilities may be shared with the nursing facility.
  - 2) Food shall be prepared on-site in a full service kitchen. The food shall be freshly prepared each day and served in a central dining area.
  - 3) In addition to requirements found in any local health or food preparation ordinances, the SLF shall have a kitchen that provides:
    - A) Storage for non-perishable foods and perishable foods;
    - B) Food preparation areas with cleanable surfaces;
    - C) Capacity for resident food distribution at the appropriate temperature;
    - D) Kitchenware washing space as necessary to meet food service needs;
    - E) Hand washing areas separate from food washing areas; and
    - F) An area to store and clean garbage cans and carts.
- o) Dining Areas
  - 1) The SLF shall have handicapped accessible dining space to accommodate residents.
  - 2) The dining area in rehabilitated nursing facilities shall be separate from the dining area of the nursing facility.
- p) Laundry Rooms
  - 1) Laundry rooms for residents' use:

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- A) In addition to laundry services provided under Section 146.230, at least one accessible washer and dryer shall be provided for resident use at no cost. The SLF shall be responsible for providing detergent and fabric softener at no cost to the residents.
  - B) There shall be a sink for hand washing in the laundry area.
  - C) Each laundry room shall contain an emergency call system as provided in Section 146.230(m).
- 2) Laundry rooms for SLFs:
- A) For laundry done on-site by SLF staff, the laundry equipment shall be located in a separate room from that of the laundry room used by the residents.
  - B) The SLF shall have space for laundry soiled with body secretions to be processed separately from other soiled linens and laundry.
  - C) There shall be two sinks, one for hand washing that is separate from a sink that is to be used for laundry rinsing in the laundry area.
- q) Housekeeping and Maintenance Areas  
There shall be at least one lockable janitor closet in the building. All janitor closets shall have a source of hot and cold running water. Rehabilitated nursing facilities may use the same janitor closet as the nursing facility.
- r) Smoking Areas  
The SLF shall be in compliance with the Smoke Free Illinois Act [410 ILCS 82]. If smoking is permitted, it shall be restricted to areas equipped with ventilation to maintain non-smoking areas smoke-free, or to indoor areas that are separate from other common areas. These areas shall be in compliance with the Illinois Clean Indoor Air Act [410 ILCS 80].
- s) Water Services
- 1) The building water supply shall be taken from a water system that is

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constructed, protected, operated and maintained in conformance with State and local regulations.

- 2) Water temperatures in the central kitchen and laundry used for sanitizing shall meet the standards of the local and State health departments.
  - 3) Hot and cold running water with adequate water pressure shall be maintained.
  - 4) Drinking water shall be accessible to residents at all times in no fewer than one common area and all residential apartments.
  - 5) The SLF shall maintain hot water temperatures between 95° and 120°F in resident rooms and any other areas of the SLF that are accessible to residents. The SLF shall maintain a log or checklist to show that water temperatures are being checked at least monthly. The SLF shall document steps taken to correct hot water temperatures found not to be within the required range. The log or checklist should include, but not be limited to, the following:
    - A) Areas of the SLF where water temperatures were checked. This shall include a random sample of resident rooms;
    - B) Date the checks were done; and
    - C) Temperature of the water in the areas of the SLF that were checked.
- t) Waste Removal
- 1) Liquid wastes shall be collected, stored, and disposed of in accordance with State building and health regulations. Those liquid wastes resulting from compacting shall be disposed of as sewage.
  - 2) Sewage disposal shall be operated in compliance with State and local building and health department regulations.
  - 3) Solid waste containers for use inside and outside shall be insect-proof, rodent-proof, fire-proof, non-absorbent and water-tight containers with

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tight fitting lids.

- 4) Indoor garbage containers shall be cleaned frequently enough to minimize the transmission of infection and attraction of insects and rodents.
- 5) Garbage from the public areas of the building shall be collected daily, and garbage from the residential apartments shall be collected as needed. All garbage shall be held in receptacles outside the building for removal on a regular schedule. Garbage and trash shall be disposed of in accordance with local ordinances.
- 6) The disposal of sharps shall be handled as follows:
  - A) SLF staff shall not dispose of sharps in wastebaskets found in resident rooms.
  - B) Sharps shall be disposed of in containers that are rigid and leak-resistant. These include proper red biohazard containers, plastic laundry detergent containers, and metal coffee cans. The SLF shall provide a container for residents that are independent with medications.
  - C) If using a container other than the proper red biohazard container, the container shall be capped and taped prior to it being thrown in a garbage receptacle outside the SLF.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.215 SLF Participation Requirements**

- a) Facilities or distinct parts of facilities that are certified as SLFs and are in good standing with provisions contained in this Subpart B are exempt from the provisions of the Nursing Home Care Act [210 ILCS 45], the Illinois Health Facilities Planning Act [20 ILCS 3960] and the Assisted Living and Shared Housing Act [210 ILCS 9]. Nursing facilities rehabilitating a portion of the facility to conform with this Subpart B shall be allowed to retain their Certificate of Need for the nursing facility beds that were converted until the conclusion of the project or until the facility wishes to withdraw from the project and convert the SLF beds back to NF beds.

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- b) An SLF does not include:
- 1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois;
  - 2) A "long term care facility" licensed by the Nursing Home Care Act or Hospital Licensing Act. However, a nursing facility licensed under the aforementioned Acts can convert a distinct part to an SLF;
  - 3) Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];
  - 4) Any "Community Living Facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];
  - 5) Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [405 ILCS 30];
  - 6) Any nursing home or sanitarium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed of any well recognized church or religious denomination;
  - 7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];
  - 8) Any "Supportive Residence" licensed under the Supportive Residences Licensing Act [210 ILCS 65];
  - 9) Any freestanding hospice facility [210 ILCS 60];
  - 10) Any "life care facility" as defined in the Life Care Facilities Act [210 ILCS 40]; or
  - 11) Any "assisted living and shared housing establishment" licensed under the Assisted Living and Shared Housing Act [210 ILCS 9].



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- c) In order to participate in the Supportive Living Program, an SLF must be certified by the Department. To become certified, an SLF shall:
- 1) Submit an application to proceed toward certification.
    - A) Except in the case of a rehabilitated nursing facility, the Department shall only accept applications for sites where all apartments are devoted to SLF residents.
    - B) The Department shall evaluate each application according to factors including, but not limited to, geographic distribution, waiver limits, market feasibility, the needs of the population being served, the compliance histories of other facilities owned or operated in the State of Illinois by the applicant or a related party, community support from local government, environmental issues, operational experience with assisted living and financial stability. Applications that are found to be incomplete or inaccurate shall be returned to the applicant for completion and/or correction and must be resubmitted before the Department will evaluate them. The Department shall notify the applicant in writing that the application has been approved.
    - C) Direct and indirect owners of five percent or more of the entity designated as the operator shall be disclosed to the Department.
    - D) A recognized environmental condition found as the result of a Phase 1 Environmental Site Assessment (ESA) report shall result in a Phase 2 ESA to determine if significant amounts and concentrations of contaminants exist on the property. If contamination is found in Phase 2, the Department, prior to certification, may request subsequent testing, feasibility studies, and/or remediation.
    - E) The Department may withdraw approval of any application if the SLF fails to become operational (i.e., ready to admit residents) within 24 months after the Department's approval of the application. Prior to the operational deadline, the applicant may make a written request, including documentation justifying the

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need for an extension, that the Department grant an extension to the operational deadline. A request for an extension shall not exceed 12 months from the original operational deadline. The Department may grant an extension to the operational deadline. The Department shall not grant more than one extension to an approved SLF applicant where construction has not begun.

F) A phase-in for opening may be approved upon the written request of the SLF. The request shall include the anticipated completion date of the phase-in, a plan to ensure the safety of residents during the phase-in, and the floors and areas of the SLF impacted by the phase-in. Additionally, the SLF shall assure that all services continue to be available during the phase-in. The Department shall approve no more than a single phase-in.

GD) At any time prior to or subsequent to certification, the applicant shall report to the Department in writing any change to the application, as soon as such change becomes known to the applicant. These changes are subject to Department approval.

- 2) Submit a certificate of compliance signed by an architect that certifies that the project complies with applicable codes and all structural requirements found in Section 146.210.
- 3) Submit for approval prior to use a model of every type of resident contract to be used by the SLF.
- 4) Submit for approval all policies that include, but are not limited to:
  - A) Waste removal plan pursuant to Section 146.210(t);
  - B) Participation criteria pursuant to Section 146.220;
  - C) Base rate services pursuant to Section 146.230;
  - D) Resident daily check plan pursuant to Section 146.230(n);
  - E) Employee hiring process pursuant to Section 146.235;

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- F) SLF manager experience pursuant to Section 146.235(b);
  - G) Staff training policy pursuant to Section 146.235(e);
  - H) Resident rights pursuant to Section 146.250;
  - D) Resident discharge policy pursuant to Section 146.255;
  - J) Grievance procedure pursuant to Section 146.260;
  - K) Quality assurance plan pursuant to Section 146.270;
  - L) Annual satisfaction survey policy pursuant to Section 146.270(a);
  - M) Emergency contingency plan pursuant to Section 146.295;
  - N) Prevention and reporting of abuse, neglect and financial exploitation policy pursuant to Section 146.305;
  - O) Staff and resident rules and responsibilities;
  - P) Infection control, including, but not limited to, hand-washing, proper handling and disposal of sharps, proper handling of linens soiled with body waste, and cleaning of floors that have been soiled;
  - Q) Water temperature plan pursuant to Section 146.210(s)(5); and
  - R) Tuberculosis plan in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696).
- 54) Pass an on-site review, conducted by the Department, ~~that~~which includes review of documentation that demonstrates physical plant, health and sanitation, and food preparation compliance with local and county ordinances and regulations; compliance with State building codes for the respective building type; and compliance with Section 146.210.;
- ~~A) Documentation that demonstrates physical plant, health and sanitation, and food preparation compliance with local and county~~

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~~ordinances and regulations; compliance with current Fire and Life Safety standards for health care occupancy or the 2000 National Fire Protection Association Life Safety Code (NFPA) 101, Chapter 32, Residential Board and Care Occupancies, National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02269 (March 11, 2003) (this incorporation by reference does not include any later amendments or editions); compliance with State building codes for the respective building type; and compliance with Section 146.210.~~

~~B) Grievance procedures.~~

~~C) Quality assurance policy and procedures established in accordance with Section 146.270.~~

~~D) Emergency Contingency Plan as defined in Section 146.295.~~

~~65)~~ Enroll to participate in the Medical Assistance Program in accordance with 89 Ill. Adm. Code 140.11 and execute a ~~Medicaid~~ provider agreement with the Department.

d) The SLF shall accept the SSI rate (less the personal allowance) for room and board for Medicaid residents. If the ~~SLF charges a private pay rate higher than the Medicaid rate~~~~private and Medicaid rates are different~~, the SLF shall reserve not less than 25 percent of its apartments for Medicaid-~~eligible~~ residents. Those facilities that set a commensurate rate for both private pay and Medicaid-~~eligible~~ residents are not required to reserve apartments for Medicaid-~~eligible~~ residents but must accept Medicaid-~~eligible~~ residents on a first come, first served basis.

e) SLF certification is not transferable or applicable to any location, provider, management agent or ownership other than that indicated on the ~~Medicaid~~ provider agreement.

1) An SLF shall notify the Department no fewer than 60 days prior to a change of ownership or management. ~~The new owner shall complete an application for the Department's approval prior to the effective date of the change of ownership~~~~Change of ownership means a change of five percent or more.~~

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- 2) Pursuant to 89 Ill. Adm. Code 140.11(f), an SLF whose investor ownership has changed by 50 percent or more shall be required to submit a new application for enrollment in the Medical Assistance Program.
- 3) Pursuant to 89 Ill. Adm. Code 140.12(k), a new owner assumes liability for repayment to the Department of any overpayment made to the SLF, regardless of whether the overpayment was incurred by a current or previous owner or operator.
- 42) The Department has the right to terminate the provider agreement with an SLF if a change of ownership involves a barred Medicaid provider.
- 53) The new owner shall comply with the applicable certification requirements found in subsection (c) of this Section.
- 64) The Department shall conduct an on-site certification review no later than at the date of the next annual certification review or within three months after the effective date of the change of ownership, whichever is earlier.
- 75) SLF certification shall be deemed to extend to a new owner until the Department separately certifies the SLF under the approved new owner.
- f) SLF applicants with an application approved by the Department to proceed toward certification shall not change ownership without the approval of the Department. The approved applicant shall notify the Department no fewer than 60 days prior to a change of ownership or management. Direct and indirect owners of five percent or more of the entity designated as the operator shall be disclosed to the Department. The new owner shall complete an application for the Department's approval prior to the effective date of the change of ownership.
- g) A request for a change in the number of apartments in an operational or approved SLF site shall be made with an application to the Department for approval. A change in the number of apartments includes both a decrease and increase. The Department shall conduct an on-site review prior to issuing a new certificate for the change in the number of apartments. In the case of an increase in apartments, residents shall not be admitted to the apartments until an on-site review is conducted and the Department issues a revised certificate.
- hf) The certificate issued by the Department shall include:

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- 1) Name and address of the SLF;
  - 2) Maximum number of residents to be served at any time; and
  - 3) Number of apartments certified in the SLF.
- ig)** Providers certified as an SLF shall not operate or maintain SLF housing and services in combination with a home health, home care, nursing home, hospital, residential care setting, congregate care setting or other type of residence or service agency unless those settings and services are licensed, maintained and operated as separate and distinct entities.
- jh)** At least annually, the Department shall conduct an on-site review to ensure that the SLF is in compliance with the requirements of certification, which includes review of:
- 1) Items listed in subsection (c)~~(5)~~(4) of this Section.
  - 2) Comprehensive Resident Assessments, service plans and the provision of services required under Section 146.230.
  - 3) Staff sufficient in number to meet the needs of residents. Staff shall demonstrate capacity, within their job responsibilities, to provide covered services and perform tasks.
  - 4) Compliance with resident contracts and the Department's provider agreement.
  - 5) Protection of individual resident rights and involvement in directing their own care.
  - 6) Resident satisfaction surveys as defined in Section 146.270.
- ki)** The SLF shall comply with all applicable enrollment and participation requirements set forth in Department rules, including, but not limited to, 89 Ill. Adm. Code 140.11 and 140.12.
- lj)** The SLF shall comply with the Americans ~~With~~with Disabilities Act of 1990.

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- [mk](#)) The SLF shall submit to the Department all marketing materials prior to their use. If the Department does not notify the SLF of approval or disapproval of submitted materials within 30 days after submission, the SLF may begin to use those materials. The Department reserves the right to disapprove any materials or require changes at any time, provided that any such changes are consistent with, or required by, applicable law.
- [nl](#)) The SLF shall ensure that limited English speaking residents have meaningful and equal access to benefits and services. Steps to ensure access may include, but are not limited to:
- 1) hiring bi-lingual staff;
  - 2) hiring staff interpreters;
  - 3) contracting for interpreter services;
  - 4) engaging community volunteers;
  - 5) contracting with a telephone interpreter service; and
  - 6) hiring staff proficient in American Sign Language.
- [om](#)) The SLF shall encourage families of residents with impairments that limit the resident's decision-making ability to arrange to have a responsible party or guardian represent the resident's interests. The SLF shall provide all residents with information about advance directives, including the Durable Power of Attorney for Health Care, Statement of Illinois Law on Advance Directives, Living Will, Declaration for Mental Health Treatment and Do Not Resuscitate [Advance Directive Order](#). The SLF shall maintain in a resident's file any of these documents authorized by the resident.
- [pn](#)) Upon admission of a resident whose name appears on the [United States Department of Justice Dru Sjodin National Offender Public Website](#), the Illinois State Police Sex Offender Registration website or the Illinois Department of Corrections registered sex offender database ~~pursuant to (see~~ [Section 146.220\(a\)\(4\)](#), the SLF shall:

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- 1) inform the Department and appropriate county and local law enforcement offices of the identity of the identified offenders being admitted to the SLF;
- 2) notify every SLF resident and resident's guardian or family in writing that such offenders are residents of the facility;
- 3) develop a service plan in accordance with Section 146.245; and
- 4) ensure that the SLF has qualified staff to meet the needs of the individual and required level of supervision at all times.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.220 Resident Participation Requirements**

- a) The SLF may admit or retain residents whose needs can be met through the services described in Section 146.230. ~~These persons would typically have a score between 29 and 47 on the Determination of Need (DON) and need assistance in one or more activities of daily living. These persons must meet the~~ The following criteria shall be met prior to admission to ~~thean~~ SLF:
  - 1) Be age 22 years or over with a disability (as determined by the Social Security Administration) or elderly (age 65 years or over); and
  - 2) Be screened by the Department or other State agency screening entity and found to be in need of nursing facility level of care and that SLF placement is appropriate to meet the needs of the individual. A new screen is not needed for a resident who is transferring between SLFs or comes from a nursing facility with no break in service. It is the admitting SLF's responsibility to ensure that a screening document is received from the transferring SLF or nursing facility. Private pay individuals may choose to be admitted into thean SLF when the screening assessment does not justify nursing facility level of care; and
  - 3) Be without a primary or secondary diagnosis of developmental disability or serious and persistent mental illness. (Developmental disability is defined as a disability thatwhich is attributable to mental retardation or a related condition.) The developmental disability or mental illness must be



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determined by a qualified Department of Human Services screening agent;  
and

- 4) Have name checked against the [United States Department of Justice Dru Sjodin National Offender Public Website at www.nsopr.gov](#), the Illinois Sex Offender Registration website at [www.isp.state.il.us](#) ~~and/or~~ the Illinois Department of Corrections registered sex offender database at [www.idoc.state.il.us](#). Refer to Section 146.215 for facility requirements if a person whose name appears on either registry is admitted to an SLF.
- b) Private pay residents seeking to convert to Medicaid while residing in an SLF shall be screened by the Department using the DON prior to the point of conversion and must be found to be in need of nursing facility level of care before Medicaid payment may be authorized.
- c) Each prospective resident shall have a tuberculin skin test in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696). ~~The test must be completed no more than 90 days prior to the date of admission to the SLF or the test must be commenced no more than seven days after admission to the SLF.~~
- d) A Medicaid resident of ~~the~~ SLF shall not participate in [any other federal Home and Community-Based Waiver Program, the Department on Aging's Community Care Program or the Department of Human Services' Home Services Program.](#)

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.225 Reimbursement for Medicaid Residents**

SLFs shall accept the reimbursement provided in this Section as payment in full for all services provided to Medicaid residents.

- a) The Department shall establish its portion of the reimbursement for Medicaid residents by calculating 60 percent of the weighted average (weighted by Medicaid patient days) nursing facility rates for the geographic grouping as defined in Section 146.290. Each SLF shall be paid 60 percent of the weighted average nursing facility geographic group rate, based upon the nursing facility geographic group in which it is located. [The add-on cost associated with payments for ventilator dependent nursing facility residents as defined in 89 Ill. Adm. Code 147.Table A, and Medicaid-eligible nursing facility residents residing](#)

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in Department of Public Health certified Alzheimer special care units pursuant to 77 Ill. Adm. Code 300.163 shall be excluded from the SLF methodology. The rates paid to SLFs shall be updated semi-annually on April 1 and on October 1 to assure that the rates coincide with 60 percent of weighted average nursing facility geographic group rates. Effective October 1, 2009~~October 1, 2002~~, SLF rates shall remain, at a minimum, at~~of~~ the rate in effect as of April 1, 2009~~September 30, 2002~~.

- b) The payment rate received by the SLF from the Department for services, with the exception of meals, provided in accordance with Section 146.230 shall constitute the full and complete charge for services rendered. Additional payment, other than patient credits authorized by the Department, may not be accepted. Meals are included in the room and board amount paid by the resident.
- c) Single Occupancy: Each Medicaid resident of an SLF shall be allotted a minimum of \$90 per month as a deduction from his or her income as a protected amount for personal use. The SLF may charge each Medicaid resident no more than the current SSI rate for a single individual less a minimum of \$90 for room and board charges. Any income remaining after deduction of the protected minimum of \$90 and room and board charges shall be applied first towards medical expenses not covered under the Department's Medical Assistance Program. Any income remaining after that shall be applied to the charges for SLF services paid by the Department.
- d) Double Occupancy: In the event a Medicaid eligible resident chooses to share an apartment, the Medicaid resident of an SLF shall be allotted a minimum of \$90 per month as a deduction from his or her income as a protected amount for personal use. The SLF may charge each Medicaid resident no more than the resident's share of the current SSI rate for a couple less a minimum of \$90 for room and board charges. The room and board rate for two Medicaid eligible individuals sharing an apartment cannot exceed the SSI rate for a married couple even if the two individuals sharing an apartment are unrelated. Any income of an individual remaining after deduction of the protected minimum of \$90 and room and board charges shall be applied first towards that individual's medical expenses not covered under the Department's Medical Assistance Program. Any income of an individual remaining after that shall be applied to that individual's charges for SLF services paid by the Department. If one, or both, of the individuals sharing an apartment is not Medicaid eligible, the SLF may negotiate its own rate with the non-Medicaid individual or individuals.

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- e) The room and board charge for Medicaid residents shall only be increased when the SSI amount is increased. Any room and board charge increase shall not exceed the amount of the SSI increase.
- f) Payment shall be made by the Department for up to 30 days per State fiscal year during a Medicaid resident's temporary absence from the SLF when the absence is due to situations such as hospitalizations or vacations. The resident shall continue to be responsible for room and board charges during any absence. Involuntary discharge criteria relating to temporary absence are found at Section 146.255(b) and (d)(7). Nursing facilities that have a distinct part certified as an SLF shall consider converted beds in the nursing facility's licensed capacity when calculating the 93 percent occupancy level for bed reserve payments pursuant to 89 Ill. Adm. Code 140.523.
  - 1) The day a resident is transferred to the hospital is the first day of the temporary absence.
  - 2) For all other temporary absences, except a long-term care admission, the day after resident leaves the SLF is the first day of the temporary absence.
  - 3) The day before resident returns to the SLF is the last day of the temporary absence.
  - 4) The Department does not pay for temporary absence due to admission to a long-term care facility. In this instance, an SLF shall discharge the resident from the Department's database. An SLF may choose to hold an apartment while a resident is in a long-term care facility.
  - 5) By agreement between the SLF and a resident, an SLF may continue to hold an apartment when a resident has exceeded the 30 days payable by the Department.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.230 Services**

- a) An SLF must combine housing, personal and health related services in response to the individual needs of residents who need help in activities of daily living.

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Supportive services shall be available 24 hours per day to meet scheduled and unscheduled needs in a way that promotes resident self-direction and participation in decisions that emphasize independence, individuality, privacy, dignity and autonomy in a residential setting.

## b) Nursing Services

- 1) The SLF shall ~~conduct~~provide for a comprehensive resident assessment and service plan for each SLF resident as required under Section 146.245.
- 2) When a resident is unable to administer his or her own medications, a licensed nurse shall administer the medications.
- 3) Nursing services shall include medication set-up (such as preparing weekly pill caddies with that week's medication) and follow-up care, and shall be conducted by a licensed nurse.
- 4) Other nursing services include episodic and intermittent health promotion or disease prevention counseling and teaching self-care in meeting routine and special health care needs that can be done by other staff under the supervision of a registered nurse.
- 5) All nursing services shall be provided in accordance with the Nursing Practice Act ~~Nursing and Advanced Practice Nursing Act~~ [225 ILCS 65].

## c) Personal Care

- 1) The SLF shall provide personal care services for residents, including but not limited to assistance with bathing, eating, dressing, personal hygiene, grooming, toileting, ambulation and transfer.
- 2) Personal care services shall be delivered by certified nursing assistants who meet the qualifications described in Section 146.235(f)(1).

d) Medication Administration, Oversight and Assistance in Self-Administration

- 1) The SLF shall provide the following:
  - A) Reminding the resident to take his or her medications;

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- B) Taking medication from where it is stored in the apartment and handing it to the resident when requested to do so by the resident;
  - C) Opening or uncapping medication containers for ~~physically impaired~~ physically impaired residents; and
  - D) Assisting ~~physically impaired~~ physically impaired residents in the removal of the medication from the container and assisting the resident in consuming or applying the medication when requested to do so by the resident (i.e., placing a dose in a container and placing the container to the mouth of the resident).
- 2) The services identified in subsection (d)(1)(D) shall only be delivered by a licensed nurse.
- 3) Medication administration shall be documented according to the needs of each resident. Documentation for medication administration shall include, but not be limited to, the following:
- A) Name of resident;
  - B) Name of medication, dosage, directions and route of administration;
  - C) Date and time medication is scheduled to be administered;
  - D) Date and time medication was administered; and
  - E) Signature or initials of employee administering the medication.
- 4) Medication oversight shall be documented according to the needs of each resident. Documentation for medication oversight shall include, but not be limited to, the following:
- A) Name of resident;
  - B) Name of medication, dosage, directions and route of administration;

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- C) Type of oversight needed; i.e., reminders, assisting with opening container, etc.;
- D) Date and time medication is scheduled to be taken;
- E) Documentation showing that resident has taken, or refused to take, the medication; and
- F) Signature or initials of employee providing oversight.

## e) Meals

- 1) The SLF shall provide three meals per day, or two meals per day (noon and evening meals) and a breakfast bar. The menu shall include food choices that allow a resident to choose foods that will meet the requirements of a therapeutic diet as ordered by a resident's physician. The ~~menudaily food allowance~~ for each resident shall meet the basic food pattern for a general diet for an adult following the recommendations of the Food and Nutrition Board, National ~~Academy of SciencesResearch Council~~.
- 2) The SLF shall make available beverages, including coffee, fruit juice and snack foods, at no cost to the residents.
- 3) The SLF shall offer the same menu options to all residents regardless of payment source ~~except for therapeutic diets ordered by a physician~~.
- 4) The SLF shall keep all menus served on file for not less than ~~sixfour~~ months.
- 5) The SLF shall maintain on the premises supplies of staple foods for a minimum of a one week period and of perishable foods for a minimum of a two day period. Supplies shall be appropriate to meet the requirements of the menu.
- 6) The SLF shall keep records of all food purchased on file for not less than ~~six~~18 months.

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- 7) The SLF shall store, prepare, distribute and serve food in a manner to protect against contaminants and spoilage and to insure the preparation and serving of food at safe and palatable temperatures.
  - 8) The SLF shall provide and maintain clean and sanitary central kitchen and dining areas. The SLF shall ensure a sanitary and adequate supply of eating and drinking utensils and pots and pans for preparing food in the central kitchen and dining areas.
  - 9) The SLF shall provide residents with written information about menu plans. Menu cycles shall not be repeated within a one week time frame. There shall be an established mechanism for residents to provide input into the selection and preparation of food [served](#).
  - 10) The SLF shall allow residents to obtain, prepare and store food in residential apartments if doing so does not represent a health or safety hazard to others.
  - 11) The SLF shall provide residents with meal service in their apartments as a time limited service during periods of documented illness.
- f) Laundry
- 1) If requested by a resident, the SLF shall provide laundry services [at least weekly](#) at no charge to the resident.
  - 2) The SLF shall provide for the appropriate handling, cleaning, and storage of routine personal laundry, laundry soiled with body secretions and all other laundry. This includes all detergent and fabric softeners required to perform normal routine laundry service at no cost to the resident.
  - 3) The SLF shall provide on-site laundry equipment for resident use in accordance with Section 146.210.
  - 4) Laundry service does not include dry cleaning services.
- g) Housekeeping
- 1) The SLF shall provide for general housekeeping services at least weekly

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(house cleaning, ~~laundry~~, bed making, changing of linens, dusting and vacuuming).

- 2) The SLF shall take into account individual habits and lifestyle preferences when providing all housekeeping services in residential apartments.
- 3) The SLF shall maintain all public areas in a clean and orderly condition.
- 4) The SLF shall maintain all common bathing rooms in a clean and orderly condition.

## h) Maintenance

- 1) The SLF shall maintain all residential apartments in good repair.
- 2) The SLF shall keep the building and grounds clean and free of hazards, with all systems maintained in good working order.

## i) Social and Recreational Programming

- 1) The SLF shall facilitate the involvement of individual and community volunteer activities with and for residents.
- 2) The SLF shall provide programs at least twice weekly, which include on-site programs as well as off-site trips, allowing for social and recreational programs for the residents. Transportation shall be provided or arranged at no cost to the resident by the SLF for scheduled activities off-site.
- 3) The SLF shall provide access to opportunities for scheduled and unscheduled individual and group socialization within the SLF and in the larger community.
- 4) The SLF shall make available to each resident information about community resources and make community integration part of the SLF's recreational, socialization and vocational activities.

## j) Ancillary Services

- 1) The SLF shall provide or arrange transportation at no cost to the residents



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for scheduled group shopping ~~and other community and social activities~~.  
Scheduled group shopping shall be made available to residents no less than once a week.

- 2) The SLF shall assist a resident in obtaining needed and preferred services offered outside the SLF at his or her request. Upon request by a resident, the SLF shall assist in making medical appointments and arranging for transportation to and from the source of medical treatment (payment for medical transportation shall be made in accordance with 89 Ill. Adm. Code 140.490 through 140.492).
  - 3) The SLF shall provide shopping assistance when a resident is temporarily unable to shop.
- k) 24 Hour Response/Security Staff
- 1) The SLF shall have response/security staff awake and available on the premises 24 hours a day to respond to scheduled or unpredictable needs and emergency calls from residents. Staff shall possess certification in emergency resuscitation. The SLF shall provide no fewer than one staff person for facilities with ~~one ten~~ to 75 residents, apartments, and a second staff person for facilities with 76 to 150 residents, and a third staff person for facilities with 151 or more residents, apartments. In determining the number of staff, the SLF shall consider the number of floors in the building, and the medical needs of the residents. At least one certified nursing assistant shall be on-site 24 hours a day to respond to resident needs.
  - 2) The SLF shall provide security 24 hours a day, including lockable entrances (accessibility controlled by SLF staff for security purposes during overnight hours) and on-site personnel. All residents shall have 24 hour access.
  - 3) Rehabilitated nursing facilities shall have separate staff on-site in the SLF.
- l) Health Promotion and Exercise Programming
- 1) The SLF shall offer and encourage the use of health promotion and exercise programs for its residents.

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- 2) The SLF shall develop programs to be held not less frequently than three times per week geared toward promoting better health and fitness of the residents. These programs are in addition to the social and recreational programming described in this Section.
- m) Emergency Call System
- 1) The SLF shall ensure that at least two electronic devices are available in each apartment to enable the resident to secure help in an emergency. At least one A device shall be located in each bathroom ~~and each bedroom~~. The requirement for additional devices shall be met with a device located in each bedroom or through a portable emergency home response system.
  - 2) The SLF shall have electronic devices available in each common area, each public restroom, each common bathing room and each resident laundry room to enable residents to secure help in an emergency.
  - 3) The emergency call system shall be capable of direct and immediate notification to staff or shall be manned by personnel 24 hours a day for transmission to available staff for assistance.
- n) Daily Check  
The SLF shall implement a system to check on the welfare of each resident daily.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.235 Staffing**

- a) The SLF shall have a manager or a qualified designee present at the SLF during normal business hours plus whenever necessary to ensure attention to the management and administration of the resident contracts. Staff shall have access to the manager or the manager's designee at all times. The manager shall designate a qualified individual capable of acting in an emergency during his or her absence from the SLF.
- b) The manager shall have at least five years experience in providing health care services to adults with disabilities or the elderly population either in an assisted living program, inpatient hospital, long term care setting, adult day care or in a

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Department approved health related field. The manager shall also have at least two years of management experience.

- c) The SLF shall have licensed and certified staff sufficient in number to meet the needs of the population being served.
- d) Licensed nurses or certified nursing assistants on duty at the SLF shall not be utilized in an adjoining or other part of the building not certified as the SLF. This includes, but is not limited to, a nursing facility, assisted living facility, and independent living facility. Nursing facility staff may be utilized in a rehabilitated nursing facility but may not be on duty in both the nursing facility and SLF at the same time.
- e) Staff Training. All staff training materials shall be available for review by the Department. If required by the Department, the SLF shall make changes in the training materials.
  - 1) The SLF shall provide staff and subcontractors who provide direct care with:
    - A) training that takes place no later than 30 days after beginning employment and semi-annual training in areas related to their employment;~~and~~
    - B) training that covers resident rights; infection control; crisis intervention; prevention and notification of abuse; ~~and~~ neglect and financial exploitation; behavioral; behavior intervention; tuberculosis identification, prevention, control and reporting; negotiated risk and encouraging independence (these subjects shall be trained as part of staff orientation and at least annually thereafter);~~and~~
    - C) documented training performed by qualified individuals in their area or areas of responsibility;~~and~~
    - D) training geared toward the manner in which services are to be performed;~~and~~

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- E) training that includes techniques for working with persons with disabilities and the elderly populations; and
  - F) in the case of an SLF serving persons with disabilities, disability specific sensitivity training conducted by an outside entity familiar with working with persons with disabilities. The training shall occur for all staff initially prior to certification, at staff orientation for new staff, and at least annually thereafter.
- 2) In the case of subcontractors, training by the SLF is not required if the SLF can document that similar training is being provided through the subcontractor's employer.
- f) The SLF shall employ certified nursing assistants ([CNAs](#)) as follows:
- 1) Qualifications:

Must be 18 years of age or older and have successfully completed no later than 120 days after employment a nursing assistant training course or a Department of Public Health approved equivalent training and competency evaluation.
  - 2) [Names of CNAs shall be checked against the Illinois Department of Public Health's Health Care Worker Registry prior to employment.](#)
  - 32) Job responsibilities shall include, but not be limited to:
    - A) Follow and help carry out a resident's written service plan;
    - B) Provide personal care services for residents, including but not limited to bathing, eating, dressing, personal hygiene, grooming, toileting, ambulation and assistance with transfer;
    - C) Observe the resident's functioning, maintain written records of the observations and report any changes to the licensed nurse; and
    - D) Attend initial training, in-service training sessions and staff conferences.

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- g) The SLF shall employ or contract with a dietitian. The dietitian shall comply with the following:
- 1) The dietitian shall be licensed under the Dietetic and Nutrition Services Practice Act [225 ILCS 30].
  - 2) Job responsibilities shall include, but not be limited to, consultation and training in all food service procedures such as menu planning and review, food preparation, food storage, food service, safety, sanitation and management of therapeutic diets.
  - 3) The dietitian shall come on-site at least twice per quarter for a period of not less than a cumulative total of eight hours.
- h) The SLF shall employ a minimum of one cook who shall have at least one year of experience in commercial food preparation.
- i) Twenty-four hour response staff shall be at least 18 years of age and possess at least a high school diploma or a GED. Response staff shall be certified in emergency resuscitation. The staff shall respond to scheduled or unpredictable needs and emergency calls from residents.
- j) Nurses on staff, or subcontracted, shall be licensed by the State of Illinois and shall be responsible for nursing services set forth in Section 146.230.
- k) The SLF shall designate a trained staff person to be responsible for planning and directing social and recreational activities. This person shall be at least 18 years of age and possess at least a high school diploma or a GED.
- l) The SLF shall ensure that all employees who have or may have contact with residents or have access to the living quarters or the financial, medical or personal records of residents undergo a criminal history background check that conforms to the Health Care Worker Background Check Act [225 ILCS 46]. No SLF shall knowingly hire, employ or retain any individual in a position, with duties involving contact with residents, access to resident living quarters or access to the financial, medical or personal records of residents, who has been convicted of committing or attempting to commit one or more of the offenses defined under the Health Care Worker Background Check Act unless that individual has obtained a waiver issued by the Department of Public Health. An SLF may

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conditionally employ an applicant for up to three months pending the results of the criminal history record check.

- m) Each employee and volunteer shall have a tuberculin skin test in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696). ~~The test must be completed no more than 90 days prior to the date of initial employment in the SLF or the test must be commenced no more than seven days after the date of initial employment in the SLF.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.240 Resident Contract**

- a) The SLF shall have a signed contract with each resident, which specifies the terms of his or her agreement.
- b) The resident contract shall include, but not be limited to, the following:
- 1) Information regarding SLF services the resident will receive that are covered under the Medical Assistance Program~~Medicaid~~;
  - 2) Arrangements for payment;
  - 3) A grievance procedure that meets the requirements of Section 146.260;
  - 4) The SLF's agreement to comply with applicable federal, State and local laws and regulations;
  - 5) The conditions under which the resident contract may be terminated by either party;
  - 6) Rules for conduct and behavior of the staff, management and the resident;  
~~and~~
  - 7) A list of the resident rights as stated in Section 146.250~~;~~
  - 8) The SLF's policy regarding temporary absences from the facility, including absences due to a resident's admission to a nursing facility;

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- 9) [The SLF's policy regarding food stamps being turned over by the resident to the SLF; and](#)
- 10) [The SLF's requirement, if any, for security deposits charged by the SLF. When applicable, the contract shall state that all deposits will be maintained in an interest-bearing account separate from the SLF's operating accounts or the funds of any person other than another resident. The SLF shall, within 30 days after the end of each 12 month rental period, pay the resident any interest, by cash or credit applied to rent due, except when the resident is in default under the terms of the lease. The SLF shall follow the provisions of the Security Deposit Return Act \[765 ILCS 710\] regarding the return of the security deposit when a resident vacates the premises.](#)
- c) The resident contract may include the agreement of the SLF to provide, for a fee, additional services such as barber or beauty services, sundries for personal consumption and other amenities.
- d) The resident contract shall be for a term not to exceed one year and may be renewable upon the agreement of both parties.
- e) The resident contract shall allow arrangements where two individuals wish to share an apartment even if one of the two individuals is not eligible for SLF services. The individuals may be related or unrelated. In the event of one resident's death or discharge, the resident contract shall include provisions that offer the remaining resident who is not receiving SLF services the option to be released from the contract immediately, if desired by the resident, or to remain in the SLF until the expiration of the resident contract as long as he or she remains in compliance with the terms of the resident contract.
- f) The SLF shall ensure that all SLF materials, including the resident contract, shall be in a language appropriate to the resident population as required in Section 146.215(m).

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.245 Assessment and Service Plan and Quarterly Evaluation**

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- a) Interview: The SLF shall conduct a standardized interview geared toward the resident's service needs at or before the time of occupancy.
- b) Initial Assessment: The SLF shall complete an initial assessment and service plan within 24 hours after admission that identifies needs and potential immediate problems. Each assessment shall be completed by, or co-signed by, a licensed practical nurse or a registered nurse.
- c) Comprehensive Resident Assessment: The SLF shall complete a Comprehensive Resident Assessment Instrument (RAI) within 14 days after admission, ~~and~~ annually and upon a significant change in the resident's mental or physical status hereafter. Each RAI shall be completed by, or co-signed by, a registered nurse.
- d) Service Plan: Within seven days after completion of the RAI, a written service plan shall be developed by, or co-signed by, a registered nurse, with input from the resident and his or her designated representative. This includes coordination and inclusion of services being delivered to a resident by an outside entity. The service plan shall include a description of expected outcomes, approaches, frequency and duration of services provided and whether the services will be provided by licensed or unlicensed staff. The service plan must be individualized to address the health and behavior needs of each resident. The service plan shall document any services recommended by the SLF that are refused by the resident. The service plan shall be reviewed and updated in conjunction with the quarterly evaluation or as dictated by changes in resident needs or preferences.
- e) Quarterly Evaluation: A quarterly evaluation of the health and behavior status of each resident using a Department designated form shall be completed by, or co-signed by, a registered nurse.
- f) Service Plan for Identified Sex Offenders: Within seven days after completion of the RAI, a written service plan shall be developed by, or co-signed by, a registered nurse that addresses the following:
  - 1) the amount of supervision required by the individual to ensure the safety of all residents, staff and visitors; and



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- 2) determination of approaches developed in the service plan are appropriate and effective in dealing with any behaviors specific to the identified offender.

g) [Progress Notes: Progress notes shall be completed at least monthly to document decline or improvement in resident status. A progress note does not have to be completed if there is no change in resident status. Any SLF staff may write progress notes.](#)

hg) The SLF manager or licensed nursing staff shall alert the resident, his or her physician and his or her designated representative when a change in a resident's mental or physical status is observed by staff. Except in life-threatening situations, such reporting shall be within 24 hours after the observation. Serious or life-threatening situations should be reported to the physician and the resident's designated representative immediately. The SLF staff shall be responsible for reporting only those changes that should be apparent to observers familiar with the conditions of older persons or persons with disabilities.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.250 Resident Rights**

- a) Residents shall be afforded all rights guaranteed under the Constitutions of the United States and the State of Illinois, federal, State and local statutes and the Department's administrative rules.
- b) Residents shall be informed of all rights in conjunction with any contracted housing and services.
- c) [Department posters with the phone number of the Department's Complaint Hotline shall be posted on each floor of the SLF in a location accessible to all residents. Department brochures providing resident rights and phone number to the Complaint Hotline shall be made available to all residents and their families or designated representatives.](#)
- d) [Long Term Care Ombudsman Program posters provided by the ombudsman shall be posted on each floor of the SLF in a location accessible to all residents.](#)
- ee) Each resident shall have the right to:

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- 1) Be free from mental, emotional, social, and physical abuse and neglect and exploitation;
- 2) All housing and services for which he or she has contracted and paid;
- 3) Have his or her records kept confidential and released only with his or her consent or in accordance with applicable law;
- 4) Have access to his or her records with 48 hours notice (excluding weekends and holidays);
- 5) Have his or her privacy respected;
- 6) Refuse to receive or participate in any service or activity once the potential consequences of ~~such~~ refusal have been explained to the resident and the resident's designated representative, if requested by the resident. Refusal shall be documented in the service plan and reviewed no less than quarterly~~a negotiated risk agreement has been reached between the resident, his or her designated representative, if requested by the resident and the service provider, so long as others are not harmed by the refusal. The resident may also request that others be present, such as the ombudsman, during the negotiated risk agreement discussion;~~
- 7) Arrange and receive non-Medicaid covered services not available from the contracted SLF service provider at the resident's expense so long as the resident does not violate conditions specified in the resident contract;
- 8) Remain in the SLF, forgoing recommended or needed services from the SLF or available from others. A resident electing to remain without recommended or needed services shall acknowledge that the decision was made against the advice of the SLF, family or health care professional and shall indemnify the SLF from any liability resulting from adverse outcomes specifically associated with the decision to forgo recommended service. The SLF shall retain the right to advise a resident that the right to remain in place is restricted, as explicitly stated in the resident contract. Such indemnity agreements shall be specific to the assumed risk negotiated and do not waive general obligations of providers;

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- 9) Be free of physical restraints ~~unless required during an emergency~~;
- 10) Control his or her time, space, and lifestyle to the extent the health, safety and well-being of others are not disturbed;
- 11) Consume alcohol and use tobacco in accordance with SLF policy specified in the resident contract and any applicable statutes;
- 12) Have visitors of his or her choice to the extent the health, safety and well-being of others are not disturbed and the provisions of the resident contracts are upheld;
- 13) Have roommates only by resident choice;
- 14) Be treated at all times with courtesy, respect and full recognition of personal dignity and individuality;
- 15) Make and act upon decisions (except those decisions delegated to a legal guardian) so long as the health, safety and well-being of others are not endangered by his or her actions;
- 16) Participate in the development, implementation and review of his or her service plans;
- 17) Maintain personal possessions to the extent they do not pose a danger to the health, safety and well-being of the resident and others;
- 18) Store and prepare food in his or her apartment to the extent the health, safety and well-being of the resident and others is not endangered and provisions of the resident contract are not violated;
- 19) Designate or accept a representative to act on his or her behalf;
- 20) Not be required to purchase additional services that are not part of the resident contract;
- 21) Not be charged for additional services unless prior written notice is given to the resident of the amount of the charge; and

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- 22) Be free to file grievances pursuant to Section 146.260 and be free from retaliation from the SLF.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.255 Discharge**

- a) If a resident does not meet the terms for occupancy as stated in the resident contract, the SLF shall not commence involuntary discharge until the SLF has discussed the reasons for involuntary discharge with the resident and his or her designated representative. Documentation of the discussion shall be placed in the resident's record.
- b) The SLF shall provide a resident with a 30-day written notice of proposed involuntary discharge unless such a delay might jeopardize the health, safety, and well-being of the resident or others. A copy of the notice required by this subsection (b) shall be placed in the resident's record and a copy shall be transmitted to the resident and the resident's designated representative. The notice shall be on a form prescribed by the Department and shall contain all of the following:
- 1) The stated reason for the proposed discharge;
  - 2) The effective date of the proposed discharge;
  - 3) A statement in not less than 14-point type that reads: "You have a right to appeal the SLF's decision to discharge you. You may file a request for a hearing with the Department within ten days after receiving this notice. If you request a hearing, you will not be discharged during that time unless you are unsafe to yourself or others and the SLF has given you a notice for an emergency discharge. If the SLF has not given you a notice for an emergency discharge, and if—If the decision following the hearing is not in your favor, you will not be discharged prior to the tenth day after receipt of the Department's hearing decision unless you are unsafe to yourself or others. If the SLF provided you with a notice of emergency discharge, and the decision following the hearing is in your favor, you will be entitled to readmission to the SLF upon the first available apartment. A form to appeal the SLF's decision and to request a hearing is attached. If you have any questions, call the Department at the telephone number

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listed below.";

- 4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and
  - 5) The name, address, and telephone number of the person charged with the responsibility of supervising the discharge.
- c) The SLF shall prepare plans to ensure safe and orderly involuntary discharge and protect resident health, safety, welfare and rights.
- d) A resident may be involuntarily discharged only if one or more of the following occurs:
- 1) He or she poses an immediate threat to self or others.
  - 2) He or she needs mental health services to prevent harm to self or others.
  - 3) He or she has breached the conditions of the resident contract.
  - 4) The SLF has had its certification terminated, suspended, not renewed, or has voluntarily surrendered its certification.
  - 5) The SLF cannot meet the resident's needs with available support services.
  - 6) The resident has received proper notice of failure to pay from the SLF. The resident shall have the right to make full payment up to the date that the discharge is to be made and then shall have the right to remain in the SLF. This subsection (d)(6) does not apply to Medicaid-eligible residents when the failure to pay relates to the Medicaid payment.
  - 7) The resident exceeds the SLF's policy for what constitutes a temporary absence from the SLF. A temporary absence shall not be considered a basis for an involuntary discharge of a Medicaid-eligible resident until the Department has stopped payment pursuant to Section 146.225(f).
- e) The 30-day notice required under subsection (b) of this Section shall not apply in either any of the following instances; however, a notice and right to appeal information must still be provided when an immediate discharge is required:

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- 1) When an emergency discharge is mandated by the resident's health care or mental health needs as documented in the resident record and is in accord with the written orders and medical justification of the attending physician. The SLF may consult with the attending physician for additional support on the emergency discharge.
- 2) When the discharge is mandated to ensure the physical safety of the resident and other residents as documented in the resident record.
- f) If the resident submits a request for hearing under subsection (b) of this Section, the involuntary discharge shall be stayed pending a hearing or appeal of the decision, unless the discharge is a result of a condition allowing a which would have allowed discharge in less than 30 days as described under subsections (e)(1) and (2) of this Section develops in the interim.
- g) In determining whether an involuntary discharge is justified, the burden of proof in the hearing rests with the entity requesting the discharge.
- h) If the Department determines that an involuntary discharge is justified under subsection (d) of this Section, the resident shall not be required to leave the SLF before the tenth day after receipt of the Department's hearing decision unless a condition which would have allowed discharge as described under subsections (e)(1) and (2) of this Section develops in the interim.
- i) The SLF shall offer relocation assistance to residents involuntarily discharged under this Section, including information on available alternative placements. A resident or his or her designated representative shall be involved in planning the discharge and shall choose among the available alternative placements. Where an emergency makes prior resident involvement impossible, the SLF may arrange for a temporary placement until a final placement can be arranged. The SLF may offer assistance in relocating from a temporary to a final placement.
- j) When a resident discharges on a voluntary basis, he or she shall provide the SLF with 30 days written notice of intent to discharge, except where a delay would jeopardize the health, safety, and well-being of the resident or others.
- k) The Department may discharge any resident from an SLF when any of the following conditions exist:

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- 1) The Department has terminated or suspended the SLF certification.
  - 2) The SLF is closing or surrendering its certification and arrangement for relocation of the resident has not been made at least 30 days prior to closure or surrender.
  - 3) The Department determines that an emergency exists which requires immediate discharge of the resident.
- l) In cases of discharge under subsection (d) or (k) of this Section, the resident is no longer bound by the resident contract.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.265 Records and Reporting Requirements**

- a) An SLF shall develop and maintain confidential written records regarding each resident, which shall include, but are not limited to:
- 1) The Comprehensive Resident Assessment;
  - 2) The resident contract;
  - 3) The service plan;
  - 4) The quarterly evaluation;
  - 5) Progress notes that shall be used to document decline or improvement in resident status~~any significant involvement with the resident and results of and changes in the service plan;~~
  - 6) The resident satisfaction survey;~~and~~
  - 7) Written documentation of the inquiry to the sex offender databases, including the result of the inquiry;~~and~~
  - 8) Documentation of a tuberculosis test administered in accordance with Section 146.220(c).

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- b) An SLF shall develop and maintain confidential written personnel records that shall include, but are not limited to:
- 1) Job description;
  - 2) Educational preparation and work experience;
  - 3) Current licensure or certification, if applicable;
  - 4) ~~Documentation of annual performance evaluation;~~
  - 45) Documentation that employee has received personnel policies and procedures;
  - 56) Documentation of on-going staff training;
  - 67) Documentation of a tuberculosis test administered in accordance with Section 146.235(m); and
  - 78) Results from the health care worker background check conducted in accordance with Section 146.235(l).
- c) Medication Error Report: The SLF shall record, and retain in a facility record, all medication errors identified and reported by staff. Errors shall be recorded on a Department designated form. Any medication error resulting in a hospitalization shall be reported to the resident's physician and to the Department within 24 hours after discovery.
- d) Incident Report: Pursuant to Sections 146.295 and 146.305, the SLF shall notify the Department of suspected abuse, neglect or financial exploitation that results in contact with local law enforcement.
- ee) The SLF shall generate and submit to the Department the following reports in a format and medium designated by the Department and with the frequencies as specified:
- 1) ~~Personnel Report, which shall be due upon certification and semi-annually thereafter. The report shall contain a list of all SLF staff listing the names,~~



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~~titles, salaries, and total hours worked during the semi-annual period. This listing shall include the services to be performed and services outside of the service package.~~

- ~~12)~~ Resident Identification Report, which shall be due monthly. The report shall be in two parts, one for Medicaid-eligible residents and one for private pay residents. Each part shall contain an alphabetical list of residents residing in the SLF, including their names, case identification and recipient numbers for Medicaid-eligible residents or Department designated identifying numbers for private pay residents, dates of admission and dates of discharge.
- ~~3)~~ ~~Health Care Related Subcontractors and Manager Report, which shall be due upon certification and as changes occur thereafter.~~
- ~~24)~~ Cost Reports, which shall be submitted at any time upon request by the Department or when a significant change occurs in the SLF's financial status/solvency, and annually not later than 90 days after the end of the SLF's fiscal year. One extension up to 30 days shall be granted for circumstances that will not allow a cost report to be properly completed before the due date of the report. The written extension must be submitted to the Department's Bureau of Long Term Care prior to the original due date. Each enrolled SLF shall file an annual report with the Department in accordance with the following requirements:
  - A) All schedules contained in the cost report must be completed with the exception of those schedules specified in the cost report instructions as optional.
  - B) The cost report is not complete until all required schedules are filed and all inquiries to the provider are satisfactorily resolved.
  - C) If the cost report is prepared by other than the facility's manager or officer, the certification must be signed by the preparer as well as the officer or manager. The preparer's declaration is based upon all information of which the preparer has any knowledge.
  - D) All financial data contained in the cost report must be accounted for on the accrual basis of accounting.

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E) Copies of all independent audits and reviews performed on the SLF by certified public accounting firms shall be provided to the Department with the cost report.

~~35~~) Cost Report for Change of Ownership. The new owner or lessee must file a cost report nine months after acquisition (covering the first six months of operation). A change of ownership is dated from the closing of the sale or from the date of the oldest lease agreement between the present incumbents of a lease. The facility must also file a cost report within 90 days after the close of its first complete fiscal year. A change of corporate stock ownership does not constitute a change of ownership.

~~46~~) Cost Report for New Facility. A full cost report must be filed within nine months after opening the facility (covering at least the first six months of operation). The facility must also file a cost report within 90 days after the close of its first complete fiscal year.

~~fd~~) No funds shall be expended by the Department for the maintenance of any resident in an SLF that has failed to file an annual cost report.

~~ge~~) An SLF shall retain all records in accordance with provisions of 89 Ill. Adm. Code 140.28. The SLF shall provide the Department or its designee with access to financial and other records that pertain to covered services. The SLF shall keep fiscal records in accordance with acceptable accounting procedures.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.270 Quality Assurance Plan**

Each SLF shall be responsible for establishing an effective, internal quality assurance plan that encompasses oversight and monitoring, peer review, utilization review, resident satisfaction and ongoing quality improvement and implementation of any corrective action plans that address improved quality services. The quality assurance plan shall include:

a) Documentation of results of, and SLF responses to, the annual resident satisfaction survey that shall include, but not be limited to, whether the:

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- 1) Residents have the opportunity to provide input into development and implementation of existing SLF policies and procedures;
  - 2) Existing SLF policies and procedures are clear to residents;
  - 3) Residents have access to existing SLF policies and procedures;
  - 4) Residents have a degree of control over personal lifestyle preferences;
  - 5) Residents have access to common areas;
  - 6) Residents are satisfied with surroundings as "home-like"; and
  - 7) Residents have the opportunity to exercise personal lifestyle preferences and direct services according to personal preferences (for example, meal choices and refusal of services).
- b) Evaluation of care and services pursuant to accepted standards and practices and the service needs of the resident population.
- c) Tracking of improvements based on care outcomes such as changes in activities of daily living, resident response to services and other indicators of service quality listed in subsection (d) of this Section.
- d) A system of indicators of service quality that measure:
- 1) Quality of services provided;
  - 2) Resident rating of the services, including food service;
  - 3) Cleanliness and furnishings of the common area;
  - 4) Service availability;
  - 5) Adequacy of service provision and coordination;
  - 6) Provision of safe environment, including emergency contingency plans that are in accordance with Section 146.295;

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- 7) Socialization activities; and
- 8) Resident autonomy, which includes, but is not limited to:
  - A) Protection of resident rights;
  - B) Provision of appropriate oversight for vulnerable residents; and
  - C) Resident exercise of personal autonomy and choice.
- e) Procedures for preventing, detecting and reporting resident neglect and abuse.
- f) Objectives for improving service quality, including the service quality indicators and measures to determine when objectives have been met.
- g) Ongoing quality improvements resulting from the quality review data.
- h) A committee formed to organize and proceed with the required reviews for both the health care professionals and social service providers of the SLF staff or to serve in a contractual relationship with the SLF. Committee duties shall include:
  - 1) A regular schedule for review, and
  - 2) A system to evaluate the process and methods by which care is given by specific providers in accordance with the service plan developed by the SLF licensed nursing staff and approved by the resident.

i) [The Department shall review the SLF's plan initially and annually thereafter.](#)

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.280 [Non-Compliance Action](#)~~Termination or Suspension of SLF Provider Agreement~~**

- a) The Department may terminate or suspend or not renew ~~the~~ provider agreement subject to the provisions of 89 Ill. Adm. Code 140.16.
- b) [In the event that the SLF is found to be out of compliance with certification requirements during any on-site review or investigation conducted by the](#)

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Department, the following procedures shall be used based on whether the non-compliance is determined to result in immediate jeopardy or non-immediate jeopardy.

c) Non-Compliance Involving Immediate Jeopardy

- 1) In the event that it is determined that the findings of non-compliance result in immediate jeopardy that poses a current risk to the health and safety of the residents, Department staff shall notify the SLF of the non-compliance and Department staff may stay on-site until the area or areas of non-compliance have been abated.
- 2) For non-compliance involving immediate jeopardy where health and safety of residents is not currently at risk, the Department shall provide a written notice to the SLF within five working days after the conclusion of the on-site review giving the SLF ten calendar days from the date of the notice to correct the non-compliance issue or issues. No extension of the ten-day period shall be granted. Department staff shall conduct a follow-up review within ten working days after the conclusion of the ten-day correction period to verify compliance. If the follow-up review continues to show the potential for immediate jeopardy, the Department shall take action to suspend or terminate the SLF's provider agreement.

d) Non-Compliance Not Involving Immediate Jeopardy

- 1) The Department shall provide a written notice to the SLF, within ten working days after the conclusion of the on-site review, giving the SLF 30 calendar days to correct the non-compliance issue or issues.
- 2) The SLF shall provide a written notice to the Department, within 30 days after the date of the Departmental notice of non-compliance, notifying the Department that the non-compliance issue or issues are corrected or requesting an extension of the 30-day period to a specific date, along with any explanation or documentation necessary to justify the extension.
- 3) The Department shall provide a written decision to the SLF within ten working days after receipt of the request to extend the 30-day correction period.

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- 4) If the first 30 day follow-up review continues to show non-compliance, the facility may be granted a second 30-day period to correct the non-compliance issues.
- 5) Department staff shall conduct a follow-up review within ten working days after the conclusion of the 30- and/or 60-day correction period to verify compliance.
- 6) If subsequent reviews continue to show non-compliance with previously cited issues, the Department shall take action to apply one or more of the following sanctions, at the Department's sole discretion, depending on the severity of the non-compliance. Continued non-compliance may result in the Department issuing additional sanctions:
  - A) placing a hold on payment for new admissions;
  - B) withholding Medicaid payments;
  - C) directing in-service training;
  - D) directing a plan of correction.
- 7) The SLF shall have 30 days from the date of the letter from the Department imposing sanctions to correct the findings of non-compliance. If a follow-up review finds that the SLF remains out of compliance, additional sanctions may be issued. The SLF shall have 30 days to correct the findings of non-compliance after the imposition of each sanction.
- 8) If the SLF wishes to refute the Department's findings of non-compliance after sanctions have been imposed, written comments with any supporting documentation shall be sent to the Department within 30 days after the date of the letter sent from the Department imposing sanctions. If the SLF believes it has corrected the issues of non-compliance, it may request an on-site review. If the review indicates the findings have been corrected, the sanction or sanctions will be rescinded.
- 9) If subsequent follow-up reviews continue to show non-compliance, the Department may take action to suspend or terminate the SLF's provider agreement.

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- e) Suspension or Termination of Provider Agreement
- 1) In the event the Department does not impose a sanction to withhold Medicaid payments pursuant to subsection (d)(6) of this Section, the Department will continue to make payments during the pendency of the administrative proceedings for suspension or termination of the provider agreement set forth in 89 Ill. Adm. Code 104.208 until a final administrative decision terminating or suspending the provider agreement is issued. If a final administrative decision terminating or suspending the provider agreement is issued, payments for services rendered will cease as of the date the decision is issued, and shall recommence only when the SLF is recertified as being in compliance with program requirements.
  - 2) In the event the Department does not initially impose a hold on private pay and Medicaid admissions pursuant to subsection (d)(6)(A) of this Section, the SLF shall not admit any new private pay or Medicaid residents during the pendency of any administrative proceedings for suspension or termination of the provider agreement set forth in 89 Ill. Adm. Code 104.208. If a final administrative decision terminating or suspending the provider agreement is issued, new admissions may recommence only when the SLF is recertified as being in compliance with program requirements.
  - 3) Upon termination of the SLF provider agreement, Department payments will continue for no more than 30 days after the date of termination to ensure a smooth transition of residents to other settings.
- b) In the event that an SLF is found to be out of compliance with certification requirements during an on-site certification review or complaint investigation, the following procedure shall be used:
- 1) The Department shall mail a written notice to the SLF within ten days after the conclusion of the on-site review giving the SLF 30 days to correct the non-compliance issue or issues unless the non-compliance involves immediate jeopardy to the health and safety of residents.
  - 2) For non-compliance involving immediate jeopardy, the Department shall provide a written notice to the SLF within five days after the conclusion of

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~~the on-site review giving the SLF ten days to correct the non-compliance issue or issues. The immediate jeopardy must be corrected within ten days after the date of receipt of the notice. No extension of the ten-day period shall be granted.~~

- 3) ~~The SLF shall mail a written notice to the Department within 30 days after the date of the Departmental notice of non-compliance notifying the Department that the non-compliance issue or issues are corrected or requesting an extension of the 30-day period to a specific date with any explanation or documentation necessary to justify the extension.~~
- 4) ~~The Department shall mail a written decision to the SLF within ten days after receipt of the request to extend the 30-day correction period.~~
- 5) ~~The Department shall conduct the first follow-up review within ten days after the conclusion of the ten-day immediate jeopardy correction period or within 30 days after the SLF notice date for other non-compliance issues.~~
- 6) ~~In cases of immediate jeopardy, if the first follow-up review continues to show immediate jeopardy, the Department shall take action to suspend or terminate the provider agreement according to 89 Ill. Adm. Code 104.208, Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement. In cases of immediate jeopardy, where the first follow-up review shows that the immediate jeopardy has been abated, but other non-compliance issues exist, the facility shall be granted a further 30-day period to correct the non-compliance issues.~~
- 7) ~~If the first 30-day follow-up review continues to show non-compliance, the facility shall be granted a second 30-day period to correct the non-compliance issues.~~
- 8) ~~The SLF shall have 30 days to correct any new non-compliance issues cited during a follow-up survey.~~
- 9) ~~The SLF shall be required to submit a written notice identified in subsection (b)(3) of this Section prior to the Department conducting a second or any subsequent follow-up survey.~~



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- 10) ~~If the second follow-up review continues to show non-compliance with previously cited issues, the Department shall take action to apply one or more of the following sanctions at the Department's sole discretion, depending on the severity of the non-compliance:~~
- ~~A) placing a hold on new private pay and Medicaid admissions;~~
  - ~~B) withholding Medicaid payments;~~
  - ~~C) suspension or termination of the Medicaid provider agreement; and~~
  - ~~D) directed in-service trainings.~~
- e) ~~In the event the Department does not impose a sanction to withhold Medicaid payments pursuant to subsection (b)(10)(B) of this Section, the Department will continue to make payments during the pendency of the administrative proceedings set forth in subsection (b) of this Section until a final administrative decision terminating or suspending the provider agreement is issued, for services rendered to Medicaid residents residing in the SLF on the date of the Department's notice sent pursuant to subsection (b)(10) of this Section. If a final administrative decision terminating or suspending the provider agreement is issued, payments for such services rendered to such persons will cease as of the date the decision is issued, and shall recommence only if and when the SLF is recertified as being in compliance with program requirements.~~
- d) ~~In the event the Department does not initially impose a hold on private pay and Medicaid admissions pursuant to subsection (b)(10)(A) of this Section, the SLF shall not admit any new residents after receipt of the notice sent pursuant to subsection (b) of this Section. New admissions may recommence only if and when the SLF has been recertified as being in compliance with program requirements.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 146.295 Emergency Contingency Plan

For the purpose of this Section, "emergency" means ~~physical abuse involving physical injury, sexual abuse, a crime, or death of a resident that occurs as the result of actions by a staff member, visitor or another resident or~~ an event, as a result of a mechanical failure or natural

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force such as water, wind, fire or loss of electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the SLF.

- a) Each SLF shall have a written plan, which shall be part of the SLF's Quality Assurance Plan, for protection of all persons in the event of [mechanical failure or natural force](#) ~~an~~ emergency, for keeping persons in place, for evacuating persons to areas of refuge, and for evacuating persons from the building when necessary. The plan shall:
- 1) address the physical and cognitive needs of residents and include special staff response, including the procedures needed to ensure the safety of any resident. The plan shall be amended or revised whenever any resident with unusual needs is admitted;
  - 2) provide for the temporary relocation of residents for any emergency requiring relocation;
  - 3) provide for the movement of residents to safe locations within the SLF in the event of a tornado warning or severe thunder storm warning issued by the National Weather Service;
  - 4) provide for the health, safety, welfare and comfort of all residents when the heat index/apparent temperature, as established by the National Oceanic and Atmospheric Administration, inside the residents' living, dining, activities, or sleeping areas of the SLF exceeds a heat index/apparent temperature of [80°F, or falls below 55°F, for 12 hours or more90°F](#);
  - 5) address power outages, [including how residents call for help, how resident safety is monitored, and how food spoilage is checked while power is out](#);
  - 6) include contingencies in the event of flooding, if located in a flood plain; and
  - 7) be reviewed by local emergency response entities, such as fire department, ambulance and EMT services. The emergency response entities shall direct recommendations to the SLF concerning the SLF's plan and any issues that could be life threatening, and the SLFs shall make changes to the plan, as appropriate.

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- b) All personnel employed on the premises shall be instructed in the emergency contingency plan and the use of fire extinguishers.
- c) A diagram of emergency evacuation routes shall be posted in at least all corridors and common areas and all personnel employed on the premises shall be aware of the route.
- d) There shall be a means of notification to the SLF when the National Weather Service issues a tornado warning covering the area in which the SLF is located. The notification mechanism must be other than commercial radio or television. Notification measures include being within range of local tornado warning sirens, an operable National Oceanic and Atmospheric Administration weather radio in the SLF, or arrangements with local public safety agencies (police, fire, ESDA) to be notified if a warning is issued.
- e) Each resident shall be oriented to the emergency plans within ten days after the resident's admission. Orientation shall include assisting residents in identifying and using emergency exits. Documentation of the orientation shall be signed and dated by the resident or the resident's representative.
- f) The SLF shall conduct at least two drills per year. [At least one drill shall cover evacuation during a fire and the other shall cover evacuation during a tornado.](#)
- g) The SLF shall evaluate the effectiveness of emergency plans, procedures and training.
- h) Drills shall include residents, SLF personnel, and other persons in the SLF.
- r) Drills shall include making a general announcement throughout the SLF that a drill is being conducted or sounding an emergency alarm. Drills may be announced in advance to residents.
- j) Drills shall involve the actual evacuation of residents to an assembly point as specified in the emergency plan and shall provide residents with experience using various means of escape.
- k) A written evaluation of each drill shall be submitted to the SLF manager and the Quality Assurance Committee and shall be maintained for one year from the date

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of the drill. The evaluation shall include the date and time of the drill, names of employees participating in the drill, and identification of any residents who received assistance for evacuation.

~~l) The SLF shall contact local law enforcement authorities when physical abuse involving physical injury, sexual abuse, a crime, or death other than by disease processes occurs to a resident as the result of actions by a staff member, visitor or another resident.~~

~~lm)~~ Upon the occurrence of ~~anany~~ emergency resulting from a mechanical failure or natural force requiring hospital service, police, fire department or coroner, the SLF manager or designee must provide a preliminary report to the Department by fax within 24 hours after the occurrence. This includes, but is not limited to, loss of electrical power in excess of an hour, physical injury suffered by residents during a mechanical failure or force of nature, evacuation of residents for any reason, and fire alarm activation that results in an on-site response by the local fire department. It does not include fire department response that is the result of resident cooking mishaps that only cause minimal smoke limited to a resident's apartment. This preliminary report shall include, at a minimum:

- 1) name and location of the SLF;
- 2) type of emergency;
- 3) number of injuries or deaths to residents;
- ~~4)~~ names of residents involved in the emergency;
- ~~54)~~ number of units not usable due to the occurrence;
- ~~65)~~ estimate of the extent of damages to the SLF;
- ~~76)~~ type of assistance needed, if any;
- ~~87)~~ location of displaced residents, if any; and
- ~~98)~~ other State or local agencies notified about the problem.

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- m) The SLF manager or designee shall submit a final report to the Department that includes how the emergency was handled, final outcome, who was involved, and what steps are being taken to prevent the situation in the future.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.305 Reporting of Suspected Abuse, Neglect and Financial Exploitation**

- a) SLF staff shall make a report when there is suspected abuse, neglect or financial exploitation of the SLF resident. A person making a report in the belief that it is in the alleged victim's best interest shall be immune from criminal or civil liability or professional disciplinary action on account of making the report, notwithstanding any requirements concerning the confidentiality of information with respect to the eligible adult that might otherwise be applicable.
- b) The SLF manager or employee shall contact local law enforcement authorities immediately when suspected abuse, neglect or financial exploitation involving physical injury, sexual abuse, a crime or death occurs to a resident as the result of actions by a staff member, family member, visitor, or another resident. SLFs serving persons age 22 through 59 may also contact the Department of Human Services, Office of Inspector General Hotline at 1-800-368-1463, for an investigation of allegations of abuse, neglect or financial exploitation.
- c) Facility staff shall be trained at staff orientation and at least annually thereafter on the definitions of abuse, neglect and financial exploitation; on appropriate interventions; on how and to whom to report suspected abuse, neglect and financial exploitation; and emphasizing that reporting should be immediate.
- d) Residents, family members and residents' designated representative shall be made aware of the SLF's policy relating to reporting of suspected abuse, neglect and financial exploitation.
- e) Upon the occurrence of suspect abuse, neglect or financial exploitation that results in contact with local law enforcement, the SLF manager or designee must provide a preliminary report to the Department by fax within 24 hours after the occurrence. This includes, but is not limited to, suspected abuse of any nature, allegations of theft, elopement of residents or missing residents, and any crime that occurs on facility property. This preliminary report shall include, at a minimum:

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- 1) name and location of the SLF;
  - 2) description of situation, including what is alleged, what steps have been taken to immediately protect the residents involved, and any injury;
  - 3) number and names of residents involved; and
  - 4) other State or local agencies notified about the abuse, neglect or financial exploitation.
- f) The SLF manager or designee shall submit a final report to the Department that includes how the investigation was handled, final outcome, who was involved, and what steps are being taken to prevent the situation in the future.
- g) The SLF manager or designee shall be responsible for notifying the appropriate law enforcement or regulatory agency if reports of abuse, neglect or financial exploitation by a certified or licensed staff person are substantiated.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.310 Facility Management of Resident Funds**

- a) The SLF may manage a resident's personal funds only upon written authorization from, in order of priority, the resident, the resident's guardian, the resident's representative, or the resident's immediate family member. The authorization shall be attested to by a witness who has no pecuniary interest in the facility or its operations and who is not connected in any way to facility personnel or the manager. If the SLF manages residents' personal funds, it shall:
- 1) Deposit funds in excess of \$50 in an interest bearing account;
  - 2) Establish a separate, written record of each resident's account;
  - 3) Provide a written record of the account at least quarterly to each resident or authorized representative included in the account;

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- 4) Retain all records of managed funds for three years for residents currently residing in the facility and for residents who have died or been discharged from the facility;
  - 5) Report changes in circumstances to the Department of Human Services (DHS) local office;
  - 6) Notify the DHS local office of any lump sum payment received;
  - 7) Keep resident funds in an account or accounts that are separate from any facility operating funds or the funds of any person other than another resident. The facility shall establish and maintain a system that assures a full, complete and separate accounting of each resident's account balance. For resident funds that are commingled with the funds of other residents, all interest earned on the residents' funds shall be prorated and properly credited to each resident's account balance. The system shall contain documents identifying all transactions made by the facility on behalf of the resident. All deposits and withdrawals are to be shown by date and amount, and identifiable receipts for all purchases must be retained; and
  - 8) Notify each Medicaid-eligible resident when the amount in the resident's account reaches \$200 less than the asset limit for one person or a couple.
- b) SLFs that choose to manage resident funds shall purchase a surety bond to assure the security of all personal funds of residents deposited with the facility. The purpose of the surety bond is to guarantee that the facility compensates residents for any loss of funds that the facility holds, safeguards, manages and accounts for. Any resident funds that are entrusted to the facility for the resident must be covered by the surety bond, including refundable deposit fees.
  - c) SLFs that choose not to manage resident fund accounts, but arrange for a resident's monthly income to be direct-deposited into a facility account or name themselves as representative payee, shall deposit those funds into an account that is separate from any facility operating funds or the funds of any person other than another resident.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS

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**Section 146.600 General Description**

- a) The Department will implement a pilot program to test the viability of a dementia care unit in SLFs. The pilot shall not exceed three years from the time the first facility is ready to operate a dementia care unit. Up to five SLFs may be admitted to the pilot in the first 12 months of the three-year period. Applicants for the pilot shall demonstrate experience with serving persons with a diagnosis of Alzheimer's disease or related dementia.
- b) Unless otherwise indicated in this Subpart, the dementia care unit shall meet all requirements found in Subpart B of this Part.
- c) SLFs with dementia care units shall promote independence, dignity, respect and well-being in the most cost effective manner for residents age 65 years and over who have a diagnosis of Alzheimer's disease or related dementia and meet the requirements described in Section 146.630.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.610 Structural Requirements**

- a) General Requirements
  - 1) Each dementia care unit shall consist of no more than 20 apartments within each dementia care unit located within an existing SLF, attached to an existing SLF or in a free-standing SLF dementia care unit.
  - 2) Apartments designated for a dementia care unit shall not be located above the second story and shall be contiguous.
  - 3) Each dementia care unit shall have alarmed locked doors with delays requiring a resident to hold the push bar for several seconds before opening. This applies to all doors exiting the dementia care unit.
- b) Resident Apartments
  - 1) Each resident apartment shall have a sink, microwave and refrigerator with a separate freezer compartment.



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2) The use and availability of a sink, microwave and refrigerator in a resident apartment shall be determined based upon individual resident assessment.

c) Dining Areas

1) The dementia care unit shall have a dining area separate from the dining area of the general population of the SLF. This provision does not apply to a free-standing SLF dementia care unit.

2) The dementia care unit shall have a refrigerator for snacks and ice.

d) Common Areas

1) The dementia care unit shall have at least one common area for every ten residents to provide residents with space for socialization. The dining room may be used as one of the common areas.

2) Access to private or public outdoor recreation areas shall be available to residents of the dementia care unit. Outdoor recreation areas shall be secure.

3) Common areas shall be available that are separate from those used by the general SLF population.

e) Laundry Rooms

Residents in the dementia care unit shall have the use of the SLF resident laundry room with facility staff oversight.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.620 Participation Requirements**

If applicable, the reservation of 25 percent of apartments for Medicaid-eligible residents referenced in Section 146.215(d) shall be calculated separately from the general SLF population.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.630 Resident Participation Requirements**

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- a) Residents in the dementia care unit shall have a diagnosis of Alzheimer's disease or related form of dementia that has been confirmed by a physician. A record of the diagnosis shall be kept in the resident's record.
- b) Identified sex offenders shall not be admitted to the dementia care unit.
- c) A roommate, such as a spouse, sibling, parent, other relative or significant other without dementia, may be admitted to a double occupancy apartment in the dementia care unit as long as the roommate meets the resident participation requirements found in Section 146.220.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.640 Services**

- a) Medication Administration and Oversight
  - 1) Residents of the dementia care unit shall not be allowed to self-administer medications.
  - 2) At a minimum, SLF medication management services shall include set up, verbal reminders, and documentation by staff, CNA or licensed nurse, as applicable, that medication was taken or refused.
  - 3) All medication administration shall be delivered by a licensed nurse.
- b) Social and Recreational Programming
  - 1) Activities shall be suitable for residents with dementia, and may be shared with residents in the general SLF as appropriate.
  - 2) Activities for residents of the dementia care unit shall be carried out no less than three times a day.
  - 3) Activities shall include group socialization with the SLF and in the larger community.
- c) Daily Checks

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The SLF shall implement a system to check on the welfare of each dementia care unit resident no less than three times a day, at least once per shift.

d) Delivery of Mail

The SLF may develop its own policy for mail delivery by having SLF staff deliver mail to the dementia care unit or arranging for a specific time for residents to pick up their mail with staff supervision.

e) Smoking

Residents of the dementia care unit who smoke shall be supervised when smoking in accordance with SLF policy.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.650 Reimbursement for Medicaid Residents**

The Department shall establish its portion of the reimbursement for Medicaid residents residing in the dementia care unit by calculating 60 percent of the weighted average (weighted by Medicaid patient days) of nursing facility rates for the geographic group in which the SLF is located, as defined in Section 146.290. In calculating the SLF rate, only Medicaid-eligible nursing facility residents residing in Department of Public Health certified Alzheimer special care units pursuant to 77 Ill. Adm. Code 300.163 shall be considered in the calculation.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.660 Staffing**

a) The SLF manager shall be responsible for the entire facility, including the dementia care unit. However, this does not preclude the SLF from hiring a separate manager or director to oversee the dementia care unit.

b) The SLF shall have no less than one licensed nurse available at all times on-site or on-call to meet medication administration needs of the resident in the dementia care unit. The licensed nurse may share duties in the general SLF.

c) The SLF shall have no less than one certified nursing assistant (CNA) for every ten residents on all shifts. The unit shall have at least one CNA on duty and awake on the dementia care unit at all times. The CNA cannot work in the general SLF during the same shift.

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- d) The SLF dementia care unit may share activity, dietary, housekeeping and maintenance staff with the general SLF population.
- e) All staff who work on the unit (e.g., nurses, CNAs, housekeepers, activities staff) shall have four hours of training specific to working with persons with Alzheimer's disease or related dementia within seven days after working on the unit. The training shall include, but not be limited to, the following:
- 1) Information about the causes, nature, progression and management of Alzheimer's disease and other dementia;
  - 2) Techniques for successful communication;
  - 3) Handling behavior;
  - 4) Planning activities;
  - 5) Techniques for creating an environment that minimizes behavior;
  - 6) Identifying and minimizing safety risks;
  - 7) Delivering personal care; and
  - 8) How to partner with families and the community.
- f) All staff as indicated in subsection (e) of this Section shall annually complete at least 12 hours of in-service training regarding Alzheimer's disease and other related dementia. Training topics may include the following:
- 1) Assessing resident capabilities and developing and implementing service plans;
  - 2) Promoting resident dignity, independence, individuality, privacy and choice;
  - 3) Planning and facilitating activities appropriate for the dementia patient;
  - 4) Communicating with families and other persons interested in the resident;

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- 5) [Resident rights and principles of self-determination;](#)
- 6) [Care of elderly persons with physical, cognitive, behavioral and social disabilities;](#)
- 7) [Medical and social needs of the resident;](#)
- 8) [Pharmacological and non-pharmacological interventions for persons with dementia; and](#)
- 9) [Local community sources.](#)

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.670 Assessment and Service Plan and Quarterly Evaluation**

- a) [Residents who move from the general population of the SLF to the dementia care unit shall be reassessed prior to the move. This includes a new Comprehensive Resident Assessment and Service Plan. This provision does not apply to a free-standing SLF dementia care unit.](#)
- b) [In addition to the Comprehensive Resident Assessment, a more in-depth mental and cognitive assessment, the Saint Louis University Mental Status \(SLUMS\) or the Montreal Cognitive Assessment \(MOCA\), shall be required. During the term of the pilot, the Department has the sole discretion to require a different or additional in-depth assessment as determined by the Department's evaluation during the pilot.](#)
- c) [A Department-designated quarterly assessment specifically designed for use in the dementia care unit shall be used.](#)

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.680 Monitoring**

[Designated Department staff shall monitor compliance for certification of the dementia care unit no less than biannually.](#)

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(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.690 Reporting Requirements**

- a) Costs for the dementia care unit shall be included in the cost report required under Section 146.265(c)(4); however, for purposes of this pilot, the SLF with a dementia care unit shall also submit a separate cost report reflecting only the costs associated with the dementia care unit.
- b) Residents of the dementia care unit shall be identified separately when submitting the Resident Identification Report required in Section 146.265.
- c) The Department reserves the right to request periodic reporting to assist with evaluation of the pilot.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 146.700 Resident Rights**

- a) Department posters with the phone number of the Department's Complaint Hotline shall be posted on the dementia care unit in a location accessible to all residents. Department brochures providing resident rights and the phone number to the Complaint Hotline shall be made available to all residents and their families or designated representatives.
- b) Long Term Care Ombudsman Program posters provided by the ombudsman shall be posted on the dementia care unit in a location accessible to all resident.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Source 146.710 Discharge**

No resident shall remain in the dementia care unit if he or she is a danger to self or others and the SLF is unable to eliminate the danger through the use of treatment modalities or interventions.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Water Use Designations and Site-Specific Water Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 303
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
303.447	New
303.448	New
- 4) Statutory Authority: Implementing Section 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/10, 27 and 28]
- 5) A Complete Description of the Subjects and Issues Involved: For a more detailed discussion of these amendments, see the Board's February 5, 2009 opinion and order in docket R09-11 (City of Galva Site Specific Water Quality Standard for Boron Discharges to Edwards River and Mud Creek (35 Ill. Adm. Code 303.447 and 303.448 (R09-11))). The City of Galva (Galva) proposed site-specific amendments to allow alternative boron standards for discharges from both of its Sewage Treatment Plants (STPs). The proposal seeks to establish a 3.0 milligram per liter (mg/L) alternative boron standard to the generally applicable 1.0 mg/L boron water quality standard in 35 Ill. Adm. Code. 302.208(g). The alternative standard for boron would apply to certain segments of an unnamed tributary to the South Branch of the Edwards River, the South Branch of the Edwards River, and the Mud Creek Run. These segments receive discharges from the two Sewage Treatment Plants (STPs) operated by Galva. Galva states that the source of the boron in its STP discharge is the groundwater from aquifers that supply Galva's drinking water. Galva states that the requested relief from this standard is necessary to ensure that it does not violate any relevant regulation or appropriate permit condition. 35 Ill. Adm. Code 303.447 contains certain exemptions that are only applicable to boron standards in discharges from the Northeast STP into the South Branch Edwards River, and its Southwest STP discharges into Mud Run Creek. According to Galva, compliance with the Agency effluent standard for boron would be cost prohibitive for a rural community without the resources to deal with these costs. In response to Galva's request, the Board accepted the proposal for hearing, and First Notice publication, but does not comment on the merits of the Galva proposal.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None presently identified.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

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## NOTICE OF PROPOSED AMENDMENTS

- 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, there is a new section at 32 Ill. Reg. 16303, proposed in the October 10, 2008 Register.
- 11) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will hold a hearing in the rulemaking on March 31, 2009. Additionally, the Board will accept written public comment on this proposal for 45 days after the date of publication in the Illinois Register. Comments should reference Docket R09-11 and be addressed to:

Clerk's Office  
Illinois Pollution Control Board  
100 W. Randolph St., Suite 11-500  
Chicago, IL 60601

Interested persons may request copies of the Board's opinion and order by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

For more information, contact hearing officer Marie E. Tipsord at 312/814-4925 or email at [tipsorm@ipcb.state.il.us](mailto:tipsorm@ipcb.state.il.us).

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: This proposed rulemaking is site specific and will only impact the City of Galva.
- B) Reporting, bookkeeping or other procedures required for compliance: This rulemaking does not impose any additional reporting or recordkeeping requirements.



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- C) Types of Professional skills necessary for compliance: No professional skills beyond those currently required by the existing state and federal air pollution control regulations applicable to affected source will be required.
- 14) Regulatory Agenda in which this rulemaking was summarized: This rulemaking was not included in the two most recent regulatory agendas because: the Board did not anticipate that the City of Galva would request this site-specific relief.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 303  
WATER USE DESIGNATIONS AND SITE-SPECIFIC  
WATER QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

- Section
- 303.100 Scope and Applicability
- 303.101 Multiple Designations
- 303.102 Rulemaking Required

SUBPART B: NONSPECIFIC WATER USE DESIGNATIONS

- Section
- 303.200 Scope and Applicability
- 303.201 General Use Waters
- 303.202 Public and Food Processing Water Supplies
- 303.203 Underground Waters
- 303.204 Secondary Contact and Indigenous Aquatic Life Waters
- 303.205 Outstanding Resource Waters
- 303.206 List of Outstanding Resource Waters

SUBPART C: SPECIFIC USE ~~DESIGNATIONS~~DESIGNATIONS AND SITE  
SPECIFIC WATER QUALITY STANDARDS

- Section
- 303.300 Scope and Applicability
- 303.301 Organization
- 303.311 Ohio River Temperature
- 303.312 Waters Receiving Fluorspar Mine Drainage
- 303.321 Wabash River Temperature
- 303.322 Unnamed Tributary of the Vermilion River
- 303.323 Sugar Creek and Its Unnamed Tributary
- 303.326 Unnamed Tributary of Salt Creek, Salt Creek, and Little Wabash River
- 303.331 Mississippi River North Temperature

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303.341	Mississippi River North Central Temperature
303.351	Mississippi River South Central Temperature
303.352	Unnamed Tributary of Wood River Creek
303.353	Schoenberger Creek; Unnamed Tributary of Cahokia Canal
303.361	Mississippi River South Temperature
303.400	Bankline Disposal Along the Illinois Waterway/River
303.430	Unnamed Tributary to Dutch Creek
303.431	Long Point Slough and Its Unnamed Tributary
303.441	Secondary Contact Waters
303.442	Waters Not Designated for Public Water Supply
303.443	Lake Michigan Basin
303.444	Salt Creek, Higgins Creek, West Branch of the DuPage River, Des Plaines River
303.445	Total Dissolved Solids Water Quality Standard for the Lower Des Plaines River
<a href="#">303.447</a>	<a href="#">Unnamed Tributary of the South Branch Edwards River and South Branch Edwards River</a>
<a href="#">303.448</a>	<a href="#">Mud Run Creek</a>

## SUBPART D: THERMAL DISCHARGES

## Section

303.500	Scope and Applicability
<a href="#">303.502</a>	Lake Sangchris Thermal Discharges

303.APPENDIX A References to Previous Rules

303.APPENDIX B Sources of Codified Sections

AUTHORITY: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b) and 27].

SOURCE: Filed with the Secretary of State January 1, 1978; amended at 2 Ill. Reg. 27, p. 221, effective July 5, 1978; amended at 3 Ill. Reg. 20, p. 95, effective May 17, 1979; amended at 5 Ill. Reg. 11592, effective October 19, 1981; codified at 6 Ill. Reg. 7818; amended at 6 Ill. Reg. 11161, effective September 7, 1982; amended at 7 Ill. Reg. 8111, effective June 23, 1983; amended in R87-27 at 12 Ill. Reg. 9917, effective May 27, 1988; amended in R87-2 at 13 Ill. Reg. 15649, effective September 22, 1989; amended in R87-36 at 14 Ill. Reg. 9460, effective May 31, 1990; amended in R86-14 at 14 Ill. Reg. 20724, effective December 18, 1990; amended in R89-14(C) at 16 Ill. Reg. 14684, effective September 10, 1992; amended in R92-17 at 18 Ill. Reg. 2981, effective February 14, 1994; amended in R91-23 at 18 Ill. Reg. 13457, effective August 19, 1994; amended in R93-13 at 19 Ill. Reg. 1310, effective January 30, 1995; amended

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in R95-14 at 20 Ill. Reg. 3534, effective February 8, 1996; amended in R97-25 at 22 Ill. Reg. 1403, effective December 24, 1997; amended in R01-13 at 26 Ill. Reg. 3517, effective February 22, 2002; amended in R03-11 at 28 Ill. Reg. 3071, effective February 4, 2004; amended in R06-24 at 31 Ill. Reg. 4440, effective February 27, 2007; amended in R09-11 at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART C: SPECIFIC USE DESIGNATIONS AND SITE  
SPECIFIC WATER QUALITY STANDARDS**Section 303.447 Unnamed Tributary of the South Branch Edwards River and South Branch Edwards River**

The general use water quality standard for boron at 35 Ill. Adm. Code 302.208(g) does not apply to the waters of the State that are located from the point of discharge of the publicly owned treatment works located at 523 NE 9<sup>th</sup> Street in Galva, known as the Galva Northeast Sewage Treatment Plant, to an unnamed tributary of the South Branch of the Edwards River (the discharge point being located in Henry County, Township 14 North, Range 4 East, occupying portions of Sections 21, 26, 27, 28, 33, 34 and 35 in the Fourth Principal Meridian, Latitude N 41.175°, Longitude W 90.035°) to the confluence of unnamed tributary with the South Branch Edwards River; to the confluence with the Edwards River. Boron levels in these waters must meet a water quality standard for boron of 3.0 mg/L.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 303.448 Mud Run Creek**

The general use water quality standard for boron set forth at 35 Ill. Adm. Code 302.208(g) does not apply to the waters of the State that are located from the point of discharge of the publicly owned treatment works located at ½ mile South of the Burlington Northern Santa Fe Railroad and SW 4<sup>th</sup> Street in Galva, known as the Galva Southwest Sewage Treatment Plant, to Mud Run Creek (the point is located in Henry County, Township 14 North, Range 4 East, occupying portions of Sections 21, 26, 27, 28, 33, 34 and 35 of the Fourth Principal Meridian, Latitude N 41.154°, Longitude W 90.053°) to the confluence of Mud Run Creek with Walnut Creek. Boron levels in these waters must meet a water quality standard for boron of 3.0 mg/L.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

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- 1) Heading of the Part: Sexual Assault Survivors Emergency Treatment Code
- 2) Code Citation: 77 Ill. Adm. Code 545
- 3)
 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
545.10	Amend
545.20	Amend
545.25	Amend
545.35	Amend
545.50	Amend
545.60	Amend
545.65	Amend
545.67	Amend
545.95	Amend
545.100	Repeal
545.APPENDIX A	Amend
545.APPENDIX B	Amend
545.APPENDIX C	Amend
- 4) Statutory Authority: Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]
- 5) A Complete Description of the Subjects and Issues Involved: The Sexual Assault Survivors Emergency Treatment Code establishes minimum standards for the treatment of sexual assault survivors in hospital emergency rooms, including initial care and follow-up visits. These proposed amendments implement Public Act 95-432, which made extensive changes to the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70] (the Act).
 

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking may create a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:
- Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761
- 217/782-2043  
e-mail: DPH.RULES@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Hospitals
- B) Reporting, bookkeeping or other procedures required for compliance: Collecting evidence for processing by law enforcement agencies
- C) Types of professional skills necessary for compliance: Medical and nursing skills
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 545  
SEXUAL ASSAULT SURVIVORS  
EMERGENCY TREATMENT CODE

## Section

545.10	Applicability
545.20	Definitions
545.25	Incorporated and Referenced Materials
545.30	Application of Rules (Repealed)
545.35	Development and Approval of Plans
545.40	Program Administration (Repealed)
545.50	<del>Community or</del> Areawide <a href="#">Sexual Assault Treatment</a> Plans
545.60	Treatment of <del>Alleged</del> Sexual Assault Survivors
545.65	Transfer of <del>Alleged</del> Sexual Assault Survivors
545.67	Compliance Review
545.70	Requirements of Sexual Assault Transfer Plans (Repealed)
545.80	Approval of a Sexual Assault Treatment Plan (Repealed)
545.90	Approval of a Sexual Assault Transfer Plan (Repealed)
545.95	Emergency Contraception
545.100	Hospital Charges and Reimbursement ( <a href="#">Repealed</a> )
545.APPENDIX A	Sexual Assault Treatment Plan Form
545.APPENDIX B	Sexual Assault Transfer Plan Form
545.APPENDIX C	Emergency Contraception Protocols

AUTHORITY: Implementing and authorized by the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

SOURCE: Filed December 30, 1977; rules repealed and new rules adopted at 5 Ill. Reg. 1139, effective January 23, 1981; codified at 8 Ill. Reg. 16334; amended at 11 Ill. Reg. 1589, effective February 1, 1987; amended at 12 Ill. Reg. 20790, effective December 1, 1988; emergency amendment at 26 Ill. Reg. 5151, effective April 1, 2002, for a maximum of 150 days; emergency expired August 28, 2002; amended at 27 Ill. Reg. 1567, effective January 15, 2003; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 545.10 Applicability**

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This Part establishes requirements for the treatment of ~~alleged~~ sexual assault survivors in ~~hospital~~ emergency departments of hospitals licensed under the Hospital Licensing Act [210 ILCS 85], ~~including requirements for plans for furnishing hospital services to alleged sexual assault survivors on a community or areawide basis.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.20 Definitions**

Act – the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

Advanced practice nurse or APN – a person who has met the qualifications of a certified nurse midwife (CNM); certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department of Financial and Professional Regulation, as defined in the Nurse Practice Act. (Section 50-5 of the Nurse Practice Act)

~~Alleged sexual assault survivor – a person who applies for hospital emergency services in relation to injuries or trauma resulting from an alleged sexual assault.~~

Ambulance provider – an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients. (Section 1a of the Act)~~Ambulance provider – an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients.~~

Areawide sexual assault treatment plan or areawide plan – a plan, developed by the hospitals in the community or area to be served, which provides for hospital emergency services to sexual assault survivors that shall be made available by each of the participating hospitals. (Section 1a of the Act)

Caregiver – any person who is legally responsible for providing care to the patient or who renders support to the patient.

~~Community or areawide sexual assault treatment plan – a plan, developed by the hospitals or other health care facilities in the community or area to be served, that provides for the hospital emergency services to alleged sexual assault survivors that shall be made available by each of the participating hospitals and health care facilities. (Section 4 of the Act)~~



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Date rape drug – as used in this Part, a controlled substance, given without consent of the victim, that produces relaxant effects, including blackouts, coma, impaired ~~judgment~~~~judgement~~ and/or loss of coordination.

~~Department – the Illinois Department of Public Health.~~ *Department – the Department of Public Health. (Section 1a of the Act)*

~~Emergency contraception – medication approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault. (Section 1a2.2(a)(3) of the Act)~~ *Emergency contraception – medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault. (Section 1a2.2(a)(3) of the Act)*

~~Follow-up healthcare – healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days after the initial visit for hospital emergency services. (Section 1a of the Act)~~ *Follow-up healthcare – healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days after the initial visit for hospital emergency services. (Section 1a of the Act)*

~~Forensic services – the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit. (Section 1a of the Act)~~ *Forensic services – the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit. (Section 1a of the Act)*

~~Health care professional – a physician, a physician assistant, or an advanced practice nurse. (Section 1a of the Act)~~ *Health care professional – a physician, a physician assistant, or an advanced practice nurse. (Section 1a of the Act)*

~~Health care facility – a location that provides emergency treatment services 24 hours per day but is not required to be licensed as a hospital, and that participates in a community or areawide plan.~~ *Health care facility – a location that provides emergency treatment services 24 hours per day but is not required to be licensed as a hospital, and that participates in a community or areawide plan.*

~~Hospital – a facility licensed as a hospital by the Department pursuant to the Hospital Licensing Act [210 ILCS 85].~~ *Hospital – has the meaning given to that term in the Hospital Licensing Act. (Section 1a of the Act)*

~~Hospital emergency services – health care delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department. (Section 1a of the Act)~~ *Hospital emergency services – health care delivered to outpatients within or under the care and supervision of personnel working in a designated*

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~~emergency department of a hospital.~~

~~*Illinois State Police Sexual Assault Evidence Collection Kit – a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault.*~~ *Illinois State Police Sexual Assault Evidence Collection Kit – a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault State Police Sexual Assault Evidence Collection Kit, (Section 1a6.4 of the Act):*

~~*Nurse – a person licensed under the Nurse Practice Act. (Section 1a of the Act)*~~ *Nurse – a registered nurse, an advanced practice nurse, or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65].*

~~*Patient – an alleged sexual assault survivor.*~~

~~*Physician – a person licensed to practice medicine in all its branches as defined in the Medical Practice Act of 1987. (Section 1a of the Act)*~~ *Physician – a person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].*

~~*Physician assistant – any person not a physician who has been certified as a physician assistant by the National Commission on the Certification of Physician Assistants or equivalent successor agency and performs procedures under the supervision of a physician as defined in the Physician Assistant Practice Act of 1987. (Section 4 of the Physician Assistant Practice Act of 1987)*~~

~~*Sexual assault – an act of nonconsensual ~~nonconsensual forced~~ sexual conduct ~~penetration~~ or sexual penetration ~~conduct~~, as defined in Section 12-12 of the Criminal Code of 1961 [720 ILCS 5], including, without limitation ~~without limitation~~, acts prohibited under Sections 12-13 through 12-16 of the Criminal Code of 1961. (Section 1a of the Act)*~~

~~*Sexual assault nurse examiner – a registered nurse who has completed a sexual assault nurse examiner (SANE) training program that meets the Forensic Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses. (Section 6.4(c) of the Act)*~~

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Sexual assault survivor or survivor – a person who presents for hospital emergency services in relation to injuries or trauma resulting from a sexual assault. (Section 1a of the Act)

Sexual assault transfer plan – a written plan developed by a hospital and approved by the Department, which describes the hospital's procedures for transferring sexual assault survivors to another hospital in order to receive emergency treatment. (Section 1a of the Act)~~Sexual Assault Transfer Plan—a written plan, developed by a hospital and approved by the Department, which describes the hospital's procedures, as part of a community or areawide plan, for transferring alleged sexual assault survivors to another hospital in order to receive emergency treatment.~~

Sexual assault treatment plan – a written plan developed by a hospital that describes the hospital's procedures and protocols for providing hospital emergency services and forensic services to sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital. (Section 1a of the Act)~~Sexual Assault Treatment Plan—a written plan developed by a hospital that describes the hospital's procedures and protocols for providing hospital emergency treatment services and forensic evidence collection to alleged sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital.~~

Transfer ~~hospital~~facility – a hospital ~~or health care facility~~ that provides only transfer services to ~~alleged~~ sexual assault survivors, pursuant to ~~ana~~Community or Areawide Sexual Assault Treatment Plan.

Transfer services – the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to a hospital that provides hospital emergency services and forensic services to sexual assault survivors pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan. (Section 1a of the Act)

Treatment ~~hospital~~facility – a hospital that provides hospital emergency treatment services and forensic evidence collection to ~~alleged~~ sexual assault survivors, pursuant to a ~~sexual assault treatment plan~~Sexual Assault Treatment Plan or ~~areawide sexual assault treatment plan~~Community or Areawide Sexual Assault Treatment Plan.

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Unauthorized personnel – all individuals whose presence in the examination room is not desired or required either by the hospital and/or by the [survivorpatient](#) (e.g., [representatives of](#) the media).

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.25 Incorporated and Referenced Materials**

- a) The following materials are referenced in this Part:
  - 1) State of Illinois Statutes:
    - A) Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].
    - B) Hospital Licensing Act [210 ILCS 85].
    - C) Criminal Code of 1961 [720 ILCS 5].
    - D) Crime Victims Compensation Act [740 ILCS 45].
    - E) Criminal Identification Act [20 ILCS 2630].
    - F) Code of Criminal Procedure of 1963 [725 ILCS 5].
    - G) Illinois Public Aid Code [305 ILCS 5].
    - H) Illinois Insurance Code [215 ILCS 5].
    - I) Medical Practice Act of 1987 [225 ILCS 60].
    - J) Emergency Medical Treatment Act [210 ILCS 70].
    - K) [Nurse](#)~~Nursing and Advanced~~ Practice ~~Nursing~~ Act [225 ILCS 65].
    - L) Consent by Minors to Medical Procedures Act [410 ILCS 210].
    - [M\) AIDS Confidentiality Act \[410 ILCS 305\].](#)

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[N\) Physician Assistant Practice Act of 1987 \[225 ILCS 95\].](#)

2) State of Illinois Rules  
Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

3) Federal ~~Statute~~Statutes  
~~A) Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (26 USC 4980B). B) Emergency Medical Treatment and Active Labor Act (EMTALA) (42 USC 1395dd).~~

b) The following materials are incorporated in this Part:

1) Federal Guidelines

[A\) Sexually Transmitted Diseases Treatment Guidelines, 2006~~2002~~ Guidelines for Treatment of Sexually Transmitted Diseases, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report \(MMWR\), August 4, 2006, May 10, 2002; Vol. 55~~vol. 51~~, \(RR 11\); updated April 13, 2007; Fluoroquinolones No Longer Recommended for Treatment of Gonococcal Infections, Vol. 56, No. 14~~no. RR-6~~. Available from the Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Georgia 30333.](#)

[B\) Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV in the United States, Morbidity and Mortality Weekly Report \(MMWR\), January 21, 2005, Vol. 54 \(RR 02\). Available from the Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Georgia 30333.](#)

2) Association Standards  
Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient, American College of Emergency Physicians, June 1999. Available from the American College of Emergency Physicians, Post Office Box 619911, Dallas, Texas 75261-9911.

c) All incorporations by reference of federal guidelines and association standards

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refer to the guidelines and standards in effect on the date specified and do not include any later editions or amendments.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.35 Development and Approval of Plans**

- a) *Every hospital required to be licensed by the Department ~~of Public Health~~, pursuant to the Hospital Licensing Act ~~that, which~~ provides general medical and surgical hospital services, ~~except those designated as transfer hospitals~~, shall provide ~~either transfer services or hospital emergency services and forensic services~~ emergency hospital service, in accordance with this Part, to all ~~alleged~~ sexual assault survivors who apply for ~~either transfer services or hospital emergency services and forensic services~~ such hospital emergency services in relation to injuries or trauma resulting from the sexual assault. (Section 2 of the Act)*
- b) *Every such hospital, regardless of whether or not a request is made for reimbursement, ~~except hospitals participating as transfer hospitals in community or areawide plans in compliance with Section 4 of the Act and Section 545.50 of this Part~~, shall submit to the Department a plan to provide ~~either transfer services or hospital emergency services and forensic services~~ hospital emergency services, including a protocol to provide emergency contraception information and treatment, as required in Section 545.90, to ~~alleged~~ sexual assault survivors, ~~which shall be made available by such hospital~~. (Section 2 of the Act)*
- c) *Such plan shall be submitted to the Department for approval prior to becoming effective. The hospital shall submit the plan to the Department ~~for approval~~ within 60 days ~~after receiving~~ after receipt of the Department's request for ~~the plan~~ the plan. (Section 2 of the Act)*
- d) *A sexual assault treatment plan shall be completed using the form provided in Appendix A of this Part. A sexual assault transfer plan shall be completed using the form provided in Appendix B of this Part. An emergency contraception protocol consistent with the sample protocols in Appendix C shall be completed. The Department shall approve ~~asuch~~ plan for either transfer services or hospital emergency services and forensic services to sexual assault survivors if it finds that the implementation of the proposed plan would provide adequate transfer services or hospital emergency services and forensic services ~~hospital emergency service~~*

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*for ~~alleged~~ sexual assault survivors and provide sufficient protections from the risk of pregnancy to sexual assault survivors.* (Section 2 of the Act)

- e) Every hospital shall submit an updated treatment, transfer, or areawide plan to the Department every three years. A transfer or treatment plan may be part of an areawide plan pursuant to Section 545.50 of this Part.
- f) To provide hospital emergency medical services to sexual assault survivors, a hospital shall have ~~an approved~~ plan that has been approved by the Department to provide emergency medical services to sexual assault survivors.
- g) If the Department disapproves the plan because the plan does not provide adequate hospital emergency services for the ~~alleged~~ sexual assault survivor, the Department shall send notice of the rejection and the reason for the rejection to the hospital. The hospital shall have 10 days after receipt of the notice of rejection in which to submit a modified plan.
- h) Questions regarding a hospital's~~the certification process and~~ compliance ~~by a hospital~~ with its approved plan and this Part should be directed to:

Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson St., 4<sup>th</sup> Floor  
Springfield, Illinois 62761  
(217) 782-7412

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.50 ~~Community or~~ Areawide Sexual Assault Treatment Plans**

- a) Hospitals in the area to be served may develop and participate in areawide plans that shall describe the hospital emergency services and forensic services to sexual assault survivors that each participating hospital has agreed to make available. Each hospital participating in such a plan shall provide such services as it is designated to provide in the plan agreed upon by the participants. Areawide plans may include hospital transfer plans. A hospital is authorized to participate, in conjunction with one or more other hospitals or health care facilities, in a community or areawide plan for the furnishing of hospital emergency service to alleged sexual assault survivors on a community or areawide basis, provided that

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~~each hospital participating in such a plan shall furnish such hospital emergency services or transfer services as it is designated to provide in the plan agreed upon by the participating hospitals to any alleged sexual assault survivor who applies for such services in relation to injuries or trauma resulting from the sexual assault.~~ (Section 3 of the Act)

~~b) Community or areawide plans may be developed by the hospitals or other health care facilities in the community or area to be served, and shall provide for the hospital emergency services and transfer services to alleged sexual assault survivors that shall be made available by each of the participating hospitals and health care facilities.~~ (Section 4 of the Act)

~~b)e) All areawide~~such~~ plans shall be submitted to the Department for ~~prior~~ approval ~~prior to~~before becoming effective.~~ (Section ~~34~~ of the Act)

~~c)d) The Department shall approve a ~~proposed~~such plan for community or areawide hospital emergency service to alleged sexual assault survivors if it finds that the implementation of the ~~proposed~~ plan would provide ~~for appropriate~~an adequate and appropriate hospital emergency services and forensic services, pursuant to this Part, for ~~the people of the~~alleged sexual assault survivors of the community or area to be served.~~ (Section ~~34~~ of the Act)

~~d)e) Each plan shall include a description of the role of each hospital or health care facility participating in the plan, as well as individual treatment or transfer plans for each hospital, in accordance with Section 545.60 or Section 545.65 of this Part.~~

~~e)f) Areawide~~Community or areawide~~ plans shall conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act.~~

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.60 Treatment of ~~Alleged~~ Sexual Assault Survivors**

a) Every hospital providing ~~hospital emergency services and forensic~~appropriate emergency hospital services to ~~an alleged~~sexual assault ~~survivors~~survivor shall comply with~~conform to the requirements of~~ the federal Emergency Medical Treatment and Active Labor Act (~~42 USC 1395dd~~) and, as minimum requirements for such services, provide, with the consent of the alleged sexual assault survivor,



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*and as ordered by the attending physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes provision of emergency services, or a physician assistant who has been delegated authority to provide hospital emergency services and forensic services, the following:*

- 1) *Appropriate medical examinations and laboratory tests required to ensure the health, safety, and welfare of ~~an~~ alleged sexual assault survivor or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both. Records of the results of such examinations and tests shall be maintained by the hospital and made available to law enforcement officials upon the request of the alleged sexual assault survivor. (Section 5(a) of the Act) Examinations and tests shall include, but not be limited to:*
  - A) *A general~~General~~ physical examination;*
  - B) *Evaluation and/or treatment for sexually transmitted infections in accordance with the guidelines of the Centers for Disease Control and Prevention titled Guidelines for Treatment of Sexually Transmitted Diseases Treatment Guidelines, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient (see Section 545.25);*
  - C) *Evaluation and possible treatment for HIV exposure in accordance with the guidelines of the Centers for Disease Control and Prevention titled Sexually Transmitted Diseases Treatment Guidelines, or the recommendations titled Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV in the United States, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient. Testing for HIV shall be conducted in accordance with the AIDS Confidentiality Act; and*
  - D) *Pregnancy test for ~~all~~ females of childbearing age;*
- 2) *Appropriate oral and written information concerning the possibility of*

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*infection, sexually transmitted disease and pregnancy resulting from sexual assault* (Section 5(a) of the Act);

- 3) *Medically and factually accurate written and oral information about emergency contraception; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when sexual assault survivors~~victims~~ may be provided emergency contraception upon the written order of a physician, an advanced practice nurse, or a physician assistant (Section 2.2(b) of the Act);*
- 4) *Appropriate oral and written information concerning accepted medical procedures, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault* (Section 5(a) of the Act);
- 5) *An amount of medication for treatment at the hospital and after discharge as is deemed appropriate by the attending physician, an advanced practice nurse, or a physician assistant and consistent with the hospital's current approved protocol for sexual assault survivors. (Section 5(a) of the Act);~~Such medication, dispensed at the time of service, including, but not limited to, HIV and STD prophylaxis, as deemed appropriate by the attending physician, for treatment at the hospital and after discharge (Section 5(a) of the Act);~~*
- 6) *An evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from sexual assault. When HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with written and oral instructions indicating the importance of timely follow-up health care, shall be given to the provider. (Section 5(a) of the Act) In developing policies on risk assessment of HIV exposure and on HIV prophylaxis, hospitals shall consider the guidelines of the Centers for Disease Control and Prevention (CDC) titled Sexually Transmitted Diseases Treatment Guidelines, or the CDC recommendations titled Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV in the United States, or the Standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient;*

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- ~~7)6)~~ Written and oral instructions indicating the need for follow-up examinations and laboratory tests one to two weeks~~a follow-up appointment two weeks~~ after the sexual assault to determine the presence or absence of sexually transmitted disease (Section 5(a) of the Act);
- ~~8)7)~~ Appropriate referral to a physician. The survivor shall be referred for follow-up health care and/or monitoring of medication given or prescribed at the time of the initial hospital emergency visit as may be deemed appropriate by the attending physician, advanced practice nurse, or physician assistant licensed to practice medicine in all of its branches as provided in the Medical Practice Act of 1987;
- ~~9)~~ Referral by hospital personnel for appropriate counseling. (Section 5(a) of the Act) Initial referral should be to a community-based rape crisis center, if such a center is available, or other counseling shall be provided to address the behavioral and psychological issues of the sexual assault survivor;
- ~~8)~~ Appropriate counseling that provides:
- ~~A)~~ Emotional support;
  - ~~B)~~ Confidentiality;
  - ~~C)~~ Explanations of treatment and related questioning to ensure that the patient understands that such procedures are necessary for his/her health, safety and welfare and for the collection of forensic evidence;
- ~~10)D)~~ The Distribution of the brochure "After Sexual Assault" (1982, updated 1989 and 1998), published by the Illinois Coalition Against Sexual Assault and the Illinois Department of Public Health, and the pamphlet "Recover/Rebuild: Crime Victims Assistance", "Financial Aid for Crime Victims", published by the Illinois Office of the Attorney General; and
- ~~E)~~ Referrals, which may include rape crisis or other counseling services;

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- ~~11)9)~~ Information on date rape drug testing, including an explanation of the comprehensive scope of a drug screen and the limited time frame within which ~~such~~ evidence can be collected; and
- ~~12)40)~~ Information regarding evidence collection, and the process and use of evidence in criminal investigation/cases.
- b) The hospital shall develop a *uniform system for recording results of medical examinations and all diagnostic tests performed in connection with the examination*~~with the examination~~ to determine the condition and necessary treatment of ~~alleged~~ sexual assault survivors. ~~The~~~~Such~~ results shall be preserved in a confidential manner as part of the hospital record of the *sexual assault survivor*~~patient~~. (Section 6.1 of the Act) A medical record shall include, but not be limited to, the following information:
- 1) The medical record shall ~~indicateshow~~ if the *sexual assault survivor*~~patient~~ changed clothes, bathed or douched, defecated, urinated, ate, smoked, or performed oral hygiene between the time of the ~~sexual~~~~alleged~~ assault and the time of the examination.
  - 2) The medical record shall indicate presence of all *indications of* trauma, major or minor, that may be used in a criminal proceeding (*e.g.i.e.*, cuts, scratches, bruises, red marks, any minor signs of trauma). Photographs of ~~indications~~~~incidence~~ of trauma may be taken for evidentiary purposes with the written consent of the *sexual assault survivor*~~patient~~ or the ~~survivor's~~~~patient's~~ parent or guardian if the ~~survivor~~~~patient~~ is under 13 years of age. If the ~~survivor~~~~patient~~ is under 13 years of age and the parent or guardian is not immediately available, photographs may be taken and shall be released to law enforcement personnel and State's Attorney staff with written consent of ~~a~~ parent, guardian, ~~or~~ law enforcement officer, ~~or~~ ~~the~~ Department of Children and Family Services.
  - 3) The medical record shall not reflect any conclusions regarding whether a crime (e.g., criminal sexual assault, criminal sexual abuse) occurred.
  - 4) Medical history shall include brief, general information concerning possible injury, ~~and~~ drug allergies, ~~and~~ for female patients, a detailed gynecological history ~~must be obtained~~ including: ~~Menstrual history (last menstrual period)~~, whether the patient knows or believes that she is

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pregnant, history of prior gynecological surgery such as hysterectomy or tubal ligation, history of contraceptive use, history of cancer, and any prior genital injury or trauma.

- 5) The medical record shall indicate the presence of any and all persons during the examination process.
  - 6) The medical record shall document the compliance with each procedure required by subsection (d) of this Section.
  - 7) The medical record shall indicate whether a report was filed with the Department of Children and Family Services, or whether the Department on Aging or the Department of Public Health was contacted.
  - 8) The medical record shall include a completed emergency department record.
  - 9) The medical record shall indicate whether [the Illinois State Police Sexual Assault Evidence Collection Kit](#)~~an evidence collection kit~~ was completed.
  - 10) All medical records for ~~alleged~~ sexual assault survivors shall be maintained through a filing system that allows for immediate accessibility during Department surveys. [This filing system may be maintained electronically.](#)
- c) The [Illinois State Police Sexual Assault Evidence Collection Kit](#)~~appropriate evidence collection kit~~ shall be used, in the manner prescribed by the information contained in the [Evidence Collection Kit](#)~~kit~~.
- 1) With the survivor's consent, the [Evidence Collection Kit](#)~~kit~~ shall be completed if the survivor presents himself/herself within seven days after the sexual assault.
  - 2) If the [Evidence Collection Kit](#)~~evidence collection kit~~ is not collected by law enforcement promptly after completion, [or the sexual assault survivor has not yet released the Evidence Collection Kit to law enforcement,](#) hospital staff shall store it in a safe location for at least two weeks.
- d) Procedures to ensure the welfare and privacy of the [survivor](#)~~patient~~ shall be

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followed and shall include, but not be limited to, the following:

- 1) A member of the health care team shall respond within minutes to move the survivorpatient to a closed environment to ensure privacy. Healthcare personnel-and shall refer to survivorssuch patients by code to avoid embarrassment.
  - 2) If, for any reason, the survivorpatient is incapable of receiving oral and written information required in subsection (a) of this Section, the information shall be given to the caregiver/guardian.
  - 3) All unauthorized personnel, including law enforcement personnel, shall remain outside the examination room during the medical examination. If a survivorpatient who is in the custody of law enforcement officers exhibits behavior that may cause physical harm to herself/himself or hospital staff, the staff shall request that law enforcement officers be posted outside the examinationtreatment room door.
  - 4) The hospital shall offer to call a friend or; family member and a ~~or~~ rape crisis advocate, where available, to accompany the survivor.
  - 5) All hospitals are strongly encouraged to enter into an agreement with a community-based rape crisis center to assist the survivor in receiving ongoing support, information and counseling.
- e) *Where a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections 12-13 through 12-16 of the Criminal Code of 1961 ~~[720 ILCS 5/12-13 to 12-16]~~, the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital, physician or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. The minor may consent to such counseling, diagnosis or treatment as if the minor had reached his or her age of majority. Such consent shall not be voidable, nor subject to later disaffirmance, because of minority. (Section 3 of the Consent by Minors to Medical Procedures Act ~~[410 ILCS 210/3]~~)*
- f) *A sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. In the case of a survivor who is*

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*a minor 13 years of age or older, evidence and information concerning the ~~alleged~~ sexual assault may be released at the written request of the minor. If the survivor is a minor who is under 13 years of age, evidence and information concerning the ~~alleged~~ sexual assault may be released at the written request of the parent, guardian, investigating law enforcement officer, or Department of Children and Family Services. Any health care professional, including any physician, ~~advanced practice nurse, physician assistant, or nurse,~~ or sexual assault nurse examiner, and any health care institution, including any hospital, who provides evidence or information to a law enforcement officer pursuant to a written request as specified in this subsection (f) is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all the requirements of this Section and Section 6.4 of the Act are met. (Section 6.4 of the Act)*

- g) All hospitals that provide emergency medical services to ~~alleged~~ sexual assault survivors shall comply with the Crime Victims Compensation Act ~~[740 ILCS 85]~~, the Consent by Minors to Medical Procedures Act ~~[410 ILCS 210]~~ and any local ordinances, municipal codes, rules, or regulations that may apply to the ~~treatment~~health of sexual assault survivors.
- h) All hospitals shall comply with the reporting procedures for sexual assault survivors ~~as~~ required by Section 3.2 of the Criminal Identification Act ~~[20 ILCS 2630]~~. When notifying local law enforcement that a sexual assault survivor has presented himself/herself for treatment, hospital staff shall not provide any identifying information about the survivor or the sexual assault.
- i) Nothing in this Section creates a physician-patient relationship that extends beyond discharge from the hospital emergency department. (Section 5(c) of the Act)
- ~~i) All treatment hospitals are strongly encouraged to enter into a networking agreement with a community-based rape crisis center, to assist the victim in receiving ongoing support, information, counseling and advocacy.~~
- j) The hospital shall take all reasonable steps to secure the patient's written informed consent to or refusal of ~~the~~such examination and treatment.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 545.65 Transfer of ~~Alleged~~ Sexual Assault Survivors**

- a) All transfers shall ~~comply with~~conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act.
- b) ~~Sexual~~Alleged-sexual assault survivors may be transferred to another hospital, in accordance with the requirements of this Section, as part of ~~ana community or~~ areawide plan.
- c) The hospital shall provide an appropriate medical screening examination and necessary stabilizing treatment prior to transfer of the ~~survivor~~patient. If a ~~survivor~~patient has an emergency medical condition that has not stabilized, the requirements of the federal Emergency Medical Treatment and Active Labor Act shall be met.
- d) All unauthorized personnel, including law enforcement personnel, shall remain outside the examination room during the medical examination. If a ~~survivor~~patient who is in the custody of law enforcement officers exhibits behavior that may cause physical harm to herself/himself or hospital staff, the staff shall request that law enforcement officers be posted outside the ~~examination~~treatment room door.
- e) A member of the health care team at the receiving hospital shall respond within minutes to ensure privacy, shall refer to ~~survivors~~such patients by code to avoid embarrassment, and shall offer a private room if a short wait is unavoidable.
- f) The ~~alleged~~-sexual assault survivor shall be given ~~an appropriate~~a tactful and humane explanation concerning the reason for the ~~transfer~~referral to another hospital for treatment.
- g) The emergency department personnel of the transfer hospital shall notify the receiving hospital of the ~~transfer~~referral of the ~~alleged~~-sexual assault survivor.
- h) The receiving ~~hospital~~treatment facility shall:
  - 1) Have the available space and ~~staff~~qualified personnel for the treatment of the ~~alleged~~-sexual assault survivor; and



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- 2) Agree to accept the transfer of the ~~alleged~~ sexual assault survivor and to provide appropriate medical treatment pursuant to the Act and this Part.
- i) An emergency department record shall be completed and a copy transported with the ~~survivorpatient~~ to the receiving ~~hospitaltreatment facility~~. This record shall include:
    - 1) A completed emergency department admission form;
    - 2) ~~ClinicalPhysicians'~~ findings, if any;
    - 3) Nurses' notes;
    - 4) The name and relationship to the ~~survivorpatient~~, if known, of any person present during an examination conducted pursuant to this Section;
    - 5) Observations of signs and symptoms and the presence of any trauma or injury (e.g., cuts, scratches, bruises, red marks, and broken bones), if any examination was conducted or treatment rendered pursuant to subsection ~~(c)(a)~~ of this Section; and
    - 6) The results of any tests.
  - j) The emergency department record shall not reflect any conclusions regarding whether a crime (e.g., criminal sexual assault, criminal sexual abuse) occurred.
  - k) The hospital shall maintain a chain of custody in the handling of the ~~alleged~~ sexual assault survivor and his or her clothing.
    - 1) The hospital shall handle the ~~survivorpatient~~ and clothing as minimally as possible.
    - 2) The hospital shall not attempt to obtain any specimens for evidentiary purposes (e.g., blood, saliva, hair samples, etc.).
    - 3) If ~~removal of any clothing~~~~it~~ is necessary ~~to remove any clothing in order~~ to render emergency services as described in subsection (a) of this Section, removal should be attempted without cutting, tearing or shaking the garments.

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- 4) All loose or removed articles of clothing or other possessions of the ~~survivorpatient~~ shall be left to dry if possible, placed in separate paper bags, and then placed in one larger paper bag. The bag shall be sealed and labeled with the ~~survivor'spatient's~~ name, the names of the health care personnel in attendance, the contents, the date, and the time collected. The bag shall be transported with the ~~survivorpatient~~ to the receiving ~~hospitaltreatment facility~~.
- l) If the ~~alleged~~ sexual assault survivor was brought to the transfer ~~hospitalfacility~~ by the police, a friend, or ~~a~~ family member, and has no life-threatening conditions, the survivor may be transported by the police or by the friend or family member to a treatment ~~hospitalfacility~~, with the consent of the survivor. All other transfers shall be by ambulance.
- m) A transfer ~~hospitalfacility~~ shall ~~first attempt to transfer attransport or refer an~~ ~~alleged~~ sexual assault survivor ~~only~~ to a treatment ~~hospitalfacility~~ designated in its approved transfer plan.
- n) The hospital shall offer to call a friend, family member or rape crisis advocate to accompany the ~~survivorpatient~~.
- o) The hospital shall take all reasonable steps to secure the ~~alleged~~ sexual assault survivor's written informed consent to ~~refuse~~ a transfer to another ~~hospitalfacility~~.
- p) The hospital shall comply with the Emergency Medical Treatment Act [~~210 ILCS 70~~], ~~COBRA requirements (26 USC 4980B)~~, and the federal Emergency Medical Treatment and Active Labor Act (~~see Section 245.25~~).

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.67 Compliance Review**

- a) *The Department shall conduct on-site reviews of approved plans with hospital personnel at least once during each three-year approval period ~~to ensure that the established procedures are being followed~~ ~~to ensure that the established procedures are being followed~~.* (Section 2 of the Act)
- b) *If the Department determines that the hospital is not in compliance with its*

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*approved plan, the Department shall provide the hospital with a written list of the specific items of noncompliance within ~~10 working days~~<sup>2 weeks</sup> after the conclusion of the ~~on-site~~ review. The hospital shall have ~~10~~<sup>14</sup> working days to submit to the Department a plan of correction that contains the hospital's specific proposals for correcting the items of noncompliance. The Department shall review the plan of correction and notify the hospital in writing ~~within 10 working days~~ as to whether the plan is acceptable or unacceptable. (Section 2.1 of the Act)*

- c) Specific proposals for correcting items of noncompliance shall include:
- 1) A time frame for implementing corrections;
  - 2) A description of the activity that will be undertaken to correct the items of noncompliance;
  - 3) Identification of the person or persons responsible for implementing the corrections; and
  - 4) A description of how the requirements of this Part will be met.
- d) *If the Department finds the plan of correction unacceptable, the hospital shall have ~~10~~<sup>7</sup> working days to resubmit an acceptable plan of correction. Upon notification that its plan of correction is acceptable, a hospital shall implement the plan of correction within 60 days. (Section 2.1 of the Act)*
- e) *The failure to submit an acceptable plan of correction or to implement the plan of correction, within the time frames required in this Section, will subject a hospital to the imposition of a fine by the Department. The Department shall impose a fine of up to ~~\$500~~<sup>\$100</sup> per day until a hospital complies with the requirements of this Section. (Section 2.1 of the Act)*
- f) *Before imposing a fine pursuant to this Section, the Department shall provide the hospital via certified mail with written notice and an opportunity for an administrative hearing. Such hearings must be requested within 10 working days ~~after~~<sup>after</sup> receipt of the Department's notice. All hearings shall be conducted in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (~~77 Ill. Adm. Code 100~~). (Section 2.1 of the Act)*

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- g) The Department shall maintain the confidentiality of all patient identities and medical information provided during a site survey or otherwise received by the Department pursuant to this Part.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.95 Emergency Contraception**

- a) ~~Every~~ ~~By April 30, 2002,~~ ~~every~~ hospital providing services to ~~alleged~~ sexual assault survivors in accordance with a plan approved under Section 545.35 of this Part ~~must develop a protocol~~ for providing emergency contraception information and treatment to ~~alleged~~ sexual assault survivors. (Section 2.2(b) of the Act)
- b) ~~The Department shall request a plan that complies with the requirements of this Section by April 1, 2002.~~ The Department ~~shall~~ will approve the protocol if it finds that the implementation of the protocol would provide sufficient protection for survivors of ~~an alleged~~ sexual assault and if the protocol provides for the following as soon as possible and, in any event, no later than 12 hours after the ~~alleged~~ sexual assault survivor presents herself/himself at the hospital for emergency care:
- 1) *medically and factually accurate written and oral information about emergency contraception;*
  - 2) *the indications and counter-indications and risks associated with the use of emergency contraception;*
  - 3) *a description of how and when victims may be provided emergency contraception upon the written order of a physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes prescription of emergency contraception, or a physician assistant who has been delegated authority to prescribe emergency contraception (Section 2.2(b) of the Act); and*
  - 4) *appropriate referral to a physician ~~licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987.~~*
- c) *The hospital shall implement the protocol upon approval by the Department.*

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(Section 2.2(b) of the Act)

- d) The Department shall produce medically and factually accurate written materials that all treatment hospitals shall provide to each female sexual assault survivor of childbearing age.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 545.100 Hospital Charges and Reimbursement (Repealed)**

~~*When any hospital or ambulance provider furnishes emergency services to any alleged sexual assault survivor, as defined by the Department of Public Aid pursuant to Section 6.3 of the Act, who is neither eligible to receive such services under the Illinois Public Aid Code [305 ILCS 5] nor covered as to such services by a policy of insurance, as defined in the Illinois Insurance Code [215 ILCS 5], the hospital and ambulance provider shall furnish such services to that person without charge and shall be entitled to be reimbursed for its billed charges in providing such services by the Department of Public Aid. (Section 7 of the Act)*~~

(Source: Repealed at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 545.APPENDIX A Sexual Assault Treatment Plan Form**

**Sexual Assault Treatment Plan**

Instructions: This form describes the minimum components of a Sexual Assault Treatment Plan. References to the "Regulations" mean the Illinois Department of Public Health Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545). All responses shall be written as clearly and succinctly as possible. If additional sheets are necessary, attach those sheets to the page on which the information is originally requested. A completed copy of the plan shall be retained by the hospital. The completed plan shall be sent to:

Illinois Department of Public Health  
Division of Health Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield, Illinois 62761-0001

**PART A**

Name of Treatment Hospital: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person for Program: \_\_\_\_\_

(Name)

(Job Title)

[\(E-mail\)](#)

(Telephone Number)

(Fax Number)

Contact Person for Billing: \_\_\_\_\_

(Name)

(Job Title)

[\(E-mail\)](#)

(Telephone Number)

(Fax Number)

Estimated number of [sexual assault survivors to be patients](#) served in coming FY: \_\_\_\_\_

~~Areawide~~[Community or Area-](#)  
[wide](#) Plan:

Yes

No

If yes, names of participating transfer [hospitals](#)[facilities](#): \_\_\_\_\_

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**PART B**

1. Describe the ~~geographic area to be covered by the treatment facility, procedures that will be adopted that are compatible with the needs of alleged sexual assault survivors, type of staff available, and steps that will be taken for public education at least annually to ensure that such a program is understood by other medical facilities, police, State's Attorneys, local sexual assault crisis centers, social services agencies, and citizens groups. If the treatment facility is part of a community or areawide plan, the hospital shall formalize the arrangements by contracts, letters of agreement or standard operating procedures. (See Section 545.60 of the Regulations and attach any agreements to the plan).~~
2. Describe any local ordinance, municipal codes, rules or regulations that apply to the health care or reporting procedures for alleged sexual assault survivors in the hospital's area.
3. State that the Evidence Collection Kit Medical Report Form for Sexual Assault Cases is used as a permanent medical record and approved by your Records Review Committee. (See Section 545.60(b) of the Regulations).
- 1.4. Attach copies of appropriate documents/forms distributed to ~~alleged~~ sexual assault survivors that describe:
  - a) Risk of sexually transmitted diseases and infections.
  - b) Types of medication for sexually transmitted diseases and side effects.
  - c) Medical procedures, medication given, and possible contraindications of thesuch medication.
  - d) Necessity of ~~two week~~ follow-up visits, examinations and laboratory tests/visit.

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- e) Information concerning emergency contraception in accordance with Section 545.95 of the Regulations.
- f) The Evidence Collection Kit Patient Information Sheet shall be used as a component of written information distribution. (See Section 545.60(d) of the Regulations.)
- g) Date rape drug testing information, including an explanation of the comprehensive scope of drug ~~screening~~ and the limited time frame within which ~~such~~ evidence can be collected.
- 2.5- Describe evidence collection procedures to be taken. The Illinois State Police Evidence Collection Instruction Sheet and Notes to Forensic Examiner Sheet may be used and attached.
- 3.6- Describe counseling ~~services provided to~~ available for sexual assault survivors. Counseling services shall comply with Section 545.60(d) of the Regulations.

**PART C**

Review and sign the Conditions of Approval:

## CONDITIONS OF APPROVAL

The following conditions of approval shall apply to all ~~hospitals providing treatment services to sexual assault survivors~~ ~~Sexual Assault Emergency Treatment Programs~~. These conditions are enumerated below to ensure that all treatment ~~hospitals~~ ~~facilities~~ are informed and aware of their responsibilities in accordance with the Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545) and the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]

1. The hospital shall provide hospital emergency services to ~~alleged~~ sexual assault survivors, with the consent of the sexual assault survivor and as ordered by the attending physician, ~~advanced practice nurse or physician assistant~~ in accordance with the Sexual Assault Survivors Emergency Treatment Act and with the Sexual Assault Survivors Emergency Treatment Code (see Section 545.60 of the Regulations).
2. The hospital shall provide ~~emergency~~ ~~such~~ services at no direct charge to the ~~survivor~~ ~~patient~~. If the ~~survivor~~ ~~patient~~ is neither eligible to receive ~~such~~ services



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under the Illinois Public Aid Code nor ~~is~~ covered by a policy of insurance, the hospital shall seek reimbursement only from the Illinois Department of [Healthcare and Family Services \(HFS\)](#), according to procedures established by HFS for that ~~purpose~~[Public Aid \(IDPA\)](#).

3. The hospital shall submit billings to ~~HFS~~[IDPA](#) on properly authenticated vouchers supplied by ~~HFS~~[IDPA](#) for all eligible ~~survivors~~[patients](#) for whom hospital emergency services were provided pursuant to its approved Treatment Plan.
4. The hospital shall maintain and preserve all ~~survivor~~[patient](#) medical records in a manner and for a duration established by hospital policy ~~and~~ for not less than 10 years, in accordance with Section 6.17 of the Hospital Licensing Act.
5. The hospital shall maintain all business and professional records in accordance with acceptable business and accounting practices, and all records shall be legible. Records shall be retained for a period of not less than three years after the date of service or as required by State law, whichever period is longer, except that if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved.
6. The hospital shall comply with the reporting procedures for sexual assault survivors as required by Section 3.2 of the Criminal Identification Act [20 ILCS 2630].
7. The hospital shall post information in the emergency department concerning crime victim compensation to comply with the Crime Victims Compensation Act [740 ILCS 45].

FOR THE HOSPITAL:

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Administrator

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 545.APPENDIX B Sexual Assault Transfer Plan Form**

Sexual Assault Transfer Plan

Note: All transfer plans shall conform to the requirements of the federal Emergency Medical Treatment and Active Labor Act (42 USC 1395dd).

Instructions: This form describes the minimum components of a Sexual Assault Transfer Plan as part of ~~ana community-based or~~ areawide plan. References to the "Regulations" mean the Illinois Department of Public Health Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545). All responses shall be written as clearly and succinctly as possible. If additional sheets are necessary, attach those sheets to the page on which the information is originally requested. A completed copy of the plan shall be retained by the hospital. The completed plan shall be sent to:

Illinois Department of Public Health  
Division of Health Care Facilities and Programs  
525 West Jefferson Street, 4<sup>th</sup> Floor  
Springfield, Illinois 62761-0001

**PART A**

Name of Transfer Hospital: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person for Program: \_\_\_\_\_

(Name)

(Job Title)

| (E-mail) \_\_\_\_\_ (Telephone Number) \_\_\_\_\_ (Fax Number)

Contact Person for Billing: \_\_\_\_\_

(Name)

(Job Title)

| (E-mail) \_\_\_\_\_ (Telephone Number) \_\_\_\_\_ (Fax Number)

| Estimated number of sexual assault survivors to be patients transferred in coming FY: \_\_\_\_\_

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Name of affiliated Treatment HospitalFacility: \_\_\_\_\_

Distance of Transfer Hospital from affiliated Treatment HospitalFacility: \_\_\_\_\_

Estimate of maximum distance survivorpatient may have to travel to receive treatment: \_\_\_\_\_

Name, telephone number and address of ambulance provider(s): \_\_\_\_\_

**PART B**

- ~~1.~~ Describe the ~~geographic area to be covered by the transfer facility, procedures that will be adopted that are compatible with the needs of alleged assault survivors, type of staff available, and steps that will be taken for public education at least annually to ensure that such a program is understood by other medical facilities, police, State's Attorneys, local sexual assault crisis centers, social services agencies, and citizen's groups. The hospital shall formalize transfer arrangements with one or more treatment facilities by contracts, letters of agreement or standard operating procedures as part of a community based or areawide plan. (See Section 545.65 of the Regulations and attach any jointly signed agreements to the plan.)~~
- ~~2.~~ Describe the hospital's reasons for electing to provide services to alleged sexual assault survivors as a transfer facility rather than a treatment facility. Factors that should be discussed include accessibility to the community, existing hospital facilities and services, availability and location of nearby treatment facilities, and any other relevant community health planning considerations.
- ~~3.~~ Describe any local ordinances, municipal codes, rules or regulations that apply to the health care or reporting procedures for alleged sexual assault survivors in the hospital's area.
- 1.4. Describe the procedures that will be taken to ensure privacy and support for the survivor. Services shall be in accordance with Section 545.65(b), (e), (g) and (i) of the Regulations.

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- ~~2.5-~~ Attach a copy of the emergency department treatment record that shall be used as required by Section 545.65(e) of the Regulations.

**PART C**

Review and sign the Conditions of Approval:

## CONDITIONS OF APPROVAL

The following conditions of approval shall apply to all hospitals providing transfer services to sexual assault survivors~~Sexual Assault Emergency Transfer Programs~~. These conditions are enumerated below to ensure that all transfer hospitals~~facilities~~ are informed and aware of their responsibilities in accordance with the Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545) and the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

1. The hospital shall provide an appropriate medical screening examination and initial stabilizing treatment. (See Section 545.65 of the Regulations.)
2. The hospital shall provide pre-transfer and transfer services to ~~alleged~~ sexual assault survivors in accordance with Section 545.65 of the Regulations.
3. The hospital shall provide services at no direct charge to the survivor~~patient~~. If the survivor~~patient~~ is neither eligible to receive ~~such~~ services under the Illinois Public Aid Code nor ~~is~~ covered by a policy of insurance, the hospital shall seek reimbursement only from the Department of Healthcare and Family Services (HFS) according to procedures established by HFS for that purpose~~Public Aid (IDPA)~~.
4. The hospital shall comply with the Emergency Medical Treatment Act [210 ILCS 70] and the federal Emergency Medical Treatment and Active Labor Act (42 USC 1395dd).
5. The hospital shall submit billings to HFS~~IDPA~~ on properly authenticated vouchers supplied by HFS~~the IDPA~~ for all eligible survivors~~patients~~ for whom hospital emergency services were provided pursuant to its Transfer Plan.
6. The hospital shall maintain all survivor~~patient~~ medical records in a manner and for a duration established by hospital policy ~~and~~ for not less than 10 years, in accordance with Section 6.17 of the Hospital Licensing Act.

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7. The hospital shall maintain all business and professional records in accordance with acceptable business and accounting practices, and all records shall be legible. Records shall be retained for a period of not less than three years after the date of service or as required by State law, whichever period is longer, except that if an audit is initiated within the required retention period, the records shall be retained until the audit is completed and every exception is resolved.

FOR THE HOSPITAL:

\_\_\_\_\_  
Administrator

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 545.APPENDIX C Emergency Contraception Protocols**

## CONTRACEPTIVE INTERVENTION

## SAMPLE PROTOCOL I

## A. GENERAL

Each survivor of sexual assault will receive medically and factually accurate written and oral information about emergency contraception as soon as possible and, in any event, no later than 12 hours after the ~~alleged~~ sexual assault survivor presents herself/himself at the hospital for emergency treatment services; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when ~~alleged~~ survivors will be provided emergency contraception upon the written order of a physician licensed to practice medicine in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes prescriptions of emergency contraception, or a physician assistant who has been delegated authority to prescribe emergency contraception. If the alleged sexual assault survivor accepts this treatment, the physician will administer emergency contraception as approved by the federal Food and Drug Administration (FDA), unless contraindicated for medical reasons, while the ~~alleged~~ survivor is in emergency care. Each survivor of sexual assault will be provided with an appropriate referral to a physician licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987.

## CONTRACEPTIVE INTERVENTION

SAMPLE PROTOCOL II  
(CATHOLIC HOSPITAL ASSOCIATION)

## A. GENERAL

Each survivor of sexual assault will receive medically and factually accurate written and oral information about emergency contraception as soon as possible and, in any event, no later than 12 hours after the ~~alleged~~ sexual assault survivor presents herself/himself at the hospital for emergency treatment services; the indications and counter-indications and risks associated with the use of emergency contraception; and a description of how and when survivors/victims will be provided emergency contraception upon the written order

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of a physician licensed to practice medicine in all its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes prescriptions of emergency contraception, or a physician assistant who has been delegated authority to prescribe emergency contraception. A female survivor of ~~alleged~~-sexual assault who shows a negative result for pregnancy on the blood test and a negative result with respect to the urine dip-stick test, and whose history corresponds to this, will be offered a contraceptive intervention of high dose Ovral (or equivalent). If the ~~alleged~~-sexual assault survivor accepts this treatment, the first dose will be provided in the emergency department to achieve the contraceptive effect.

If the ~~alleged~~-survivor presents a positive result on the tests, the survivor will be counseled that the emergency department will not offer the formulation. If the blood test is positive for pregnancy, the ~~alleged~~-sexual assault survivor will be counseled that this pregnancy is not of immediate or recent origin. If the urine test is positive and relates to the individual's history, it indicates that the LH surge is under way or that the woman is ovulating, and that a contraceptive formulation would not be effective in preventing ovulation, and contraceptive intervention will not be provided by the hospital.

~~Sexual/Alleged-sexual~~ assault survivors will be referred to a physician for appropriate ~~follow-up health~~followup care.

## B. CLINICAL APPLICATION

- I. If a woman is determined to be in the preovulatory phase of her cycle, then Ovral (or equivalent) will be immediately available for the most effective contraceptive intervention in the dosage of 2 pills at the present time, and 2 in 12 hours.
  - 1) History: Compatible with preovulatory phase
  - 2) Physical examination: Compatible with preovulatory phase
  - 3) LH urine: Negative  
Progesterone level less than 1.5 ng/mL
- II. If the woman is determined to be past the early postovulatory phase (LH urine: negative; progesterone: greater than or equal to 6 ng/mL), because the timing of the sexual assault could not have coincided with the presence of an ovum, Ovral (or equivalent) may be prescribed for the psychological benefit of the woman who requests it.

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- III. If the woman is determined to be in the late postovulatory phase, because the timing of the sexual assault could not have coincided with the presence of an ovum, Ovral (or equivalent) may be prescribed for the benefit of the woman who requests it:
- 1) Progesterone level: Less than 6 ng/mL
  - 2) LH urine: Negative
  - 3) Menstrual history: Anticipation of menses in less than 7 days (usually 3-5 days)
- IV. If a woman is determined to be in (1) her midcycle LH surge phase or (2) early ~~postovulatory~~ postovulatory phase, Ovral (or equivalent) will not be given by the emergency department physician:
- 1) LH urine: Positive  
Progesterone level: Unnecessary to perform
  - 2) LH urine: Negative  
Progesterone level: Greater than or equal to 1.5 or less than or equal to 5.9 ng/mL  
Menstrual history: Compatible with midcycle and early postovulatory phase (menses expected in greater than 7 days).

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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- 1) Heading of the Part: Community Health Center Expansion
- 2) Code Citation: 77 Ill. Adm. Code 975
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
975.100	New
975.110	New
975.200	New
975.210	New
975.220	New
975.230	New
975.240	New
975.250	New
975.260	New
975.270	New
- 4) Statutory Authority: Community Health Center Expansion Act [410 ILCS 66]
- 5) A Complete Description of the Subjects and Issues Involved: Part 975 administers the Community Health Center Expansion Act [410 ILCS 66], which established a grant program to provide additional support to Community Health Centers throughout the State. The rules include definitions, incorporated and referenced materials, grant requirements, sustainability funding guidelines, eligibility requirements, use of grant moneys, reporting obligations, and public comment requirements.
- 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? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

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

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> floor  
Springfield, Illinois 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Expanded not-for-profit Federally Qualified Health Centers (FQHC) in an area add to the quality of life through new and expanded health care services in the communities served and throughout the area, thus attracting new business, and stronger economies.
- B) Reporting, bookkeeping or other procedures required for compliance: Applications must provide specific information regarding community health center (CHC) proposed activities on forms provided by the Department.

Section 25 of the Act requires the grant recipient to submit a progress report to the Department within 60 days after the conclusion of the first and second years of a grant. Grantees are required to submit a final report within 60 days after the conclusion of year three of the grant addressing the degree to which each objective in the grant proposal has been met.

Grantees receiving sustainability funding are required submit a progress report 60 days after the conclusion of each year of funding.

- C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 975  
COMMUNITY HEALTH CENTER EXPANSION

## SUBPART A: GENERAL PROVISIONS

Section	
975.100	Definitions
975.110	Incorporated and Referenced Materials

SUBPART B: GRANTS TO EXPAND  
FEDERALLY QUALIFIED HEALTH CENTER PROGRAMS

Section	
975.200	Grants
975.210	Sustainability Funding
975.220	Eligibility for Grant
975.230	Program Requirements
975.240	Use of Grant Moneys
975.250	Application Evaluation Process
975.260	Reporting
975.270	Public Comment

AUTHORITY: Implementing and authorized by the Community Health Center Expansion Act [410 ILCS 66].

SOURCE: Adopted at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 975.100 Definitions**

"Act" means the Community Health Center Expansion Act [410 ILCS 66].

*"Acquire a new physical location"* means acquisition through leasing arrangements or construction of existing or new space *for the purpose of*

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*delivering primary health care services.* The purchase of land is excluded.  
(Section 20 of the Act)

"Community health center" means migrant health centers or community health centers or health care programs for the homeless or for residents of public housing supported under section 330 of the federal Public Health Service Act and Federally Qualified Health Centers, including Look-Alikes, as designated by the Secretary of the United States Department of Health and Human Services, that operate at least one federally designated primary health care delivery site in the State of Illinois.

*"Community health center site" means a new physical site where a community health center will provide primary health care services either to a medically underserved population or area or to the uninsured population of this State.*  
(Section 5 of the Act)

*"Community provider" means a Federally Qualified Health Center or FQHC Look-Alike (community health center or health center), designated as such by the Secretary of the United States Department of Health and Human Services, that operates at least one federally designated primary health care delivery site in the State of Illinois.* (Section 5 of the Act)

*"Department" means the Illinois Department of Public Health.* (Section 5 of the Act)

"Eligible applicant" means a Federally Qualified Health Center or an FQHC Look-Alike.

"Federally Qualified Health Center" or "FQHC" means a health center funded under section 330 of the Public Health Service Act.

"FQHC Look-Alike" means an organization that meets the requirements for receiving a grant under section 330 of the Public Health Service Act, but does not receive federal grants under that authority.

"Grantee" refers to a community health center that is the recipient of an expansion grant or sustainability grant award.

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"Initial proposed project objectives" refers to objectives included in the application that was approved and funded under a Community Health Center Expansion Act Grant.

*"Medically underserved area" or "MUA" means an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services. (Section 5 of the Act)*

*"Medically underserved population" or "MUP" means the population of an urban or rural area designated by the Secretary of the United States Department of Health and Human Services as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of those services. (Section 5 of the Act)*

*"Primary health care services" means the following:*

*Basic health services consisting of the following:*

*Health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and, if appropriate, physician assistants, nurse practitioners, and nurse midwives.*

*Diagnostic laboratory and radiologic services.*

*Preventive health services, including the following:*

*Prenatal and perinatal services.*

*Screenings for breast, ovarian, and cervical cancer.*

*Well-child services.*

*Immunizations against vaccine-preventable diseases.*

*Screenings for elevated blood lead levels, communicable diseases, and cholesterol.*

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*Pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care.*

*Voluntary family planning services.*

*Preventive dental services.*

*Emergency medical services.*

*Pharmaceutical services as appropriate for particular health centers.*

*Referrals to providers of medical services and other health related services (including substance abuse and mental health services).*

*Patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to federal, State, and local programs that provide or financially support the provision of medical, social, educational, or other related services.*

*Services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of those individuals).*

*Education of patients and the general population served by the health center regarding the availability and proper use of health services.*

*Additional health services consisting of services that are appropriate to meet the health needs of the population served by the health center involved and that may include the following:*

*Environmental health services, including the following:*

*Detection and alleviation of unhealthful conditions associated with water supply.*

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*Sewage treatment.*

*Solid waste disposal.*

*Detection and alleviation of rodent and parasite infestation.*

*Field sanitation.*

*Housing.*

*Other environmental factors related to health.*

*Special occupation-related health services for migratory and seasonal agricultural workers, including the following:*

*Screening for and control of infectious diseases, including parasitic diseases.*

*Injury prevention programs, which may include prevention of exposure to unsafe levels of agricultural chemicals, including pesticides. (Section 5 of the Act)*

"Project service area" means the geographic area to be served by the grantee.

"Recipient" refers to a community provider that is or will become a community health center and meets the application requirements outlined in Section 975.220.

"Rural" means any geographic area not located in a U.S. Bureau of the Census Metropolitan Statistical Area; or a county located within a Metropolitan Statistical Area but having a population of 60,000 or less; or a community located within a Metropolitan Statistical Area but having a population of 2,500 or less.

"Service area" is the geographic area composed of the Medically Underserved Area or Medically Underserved Population.

"Sustainability funding" means an additional three years of funding by the Department after the initial three year expansion grant period. These funds shall be in an amount up to 50% of a grantee's third-year grant funding for each of three additional years.

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*"Uninsured population" means persons who do not own private health care insurance, are not part of a group insurance plan, and are not eligible for any State or federal government-sponsored health care program. (Section 5 of the Act)*

"Urban" means any geographic area not designated as a rural area.

**Section 975.110 Incorporated and Referenced Materials**

- a) The following Illinois statutes and rules are referenced in this Part:
  - 1) Community Health Center Expansion Act [410 ILCS 66]
  - 2) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- b) The following federal statute is referenced in this Part:

Public Health Service Act (42 USC 201 et seq.)
- c) The following federal guidelines are incorporated in this Part:
  - 1) "Defining Scope of Project and Policy for Requesting Changes" (Policy Information Notice (PIN number 2008-010), December 31, 2007, U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care Policy, Office of Grants Management, 4350 East West Highway, Bethesda, Maryland 20814
  - 2) "Federally Qualified Health Center Look-Alike Guidelines and Application" (PIN) number 2003-21), August 26, 2003, U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Primary Health Care Policy, Office of Grants Management, 4350 East West Highway, Bethesda, Maryland 20814
- d) The following federal regulation is incorporated in this Part:

Grants for Community Health Services (42 CFR 51c, October 1, 2007)



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- e) All incorporations by reference of federal regulations and guidelines refer to materials on the date specified and do not include any subsequent amendments or editions.

SUBPART B: GRANTS TO EXPAND  
FEDERALLY QUALIFIED HEALTH CENTER PROGRAMS

**Section 975.200 Grants**

- a) *The Department shall establish a community health center expansion grant program and may make grants to eligible community providers subject to appropriations for that purpose. The grants shall be for the purpose of:*
- 1) *establishing new community health center sites to provide primary health care services to medically underserved populations or areas as defined in Section 5 of the Act; or*
  - 2) *providing primary health care services to the uninsured population of Illinois. (Section 10 of the Act)*
- b) *Grants under this Section shall be for periods of 3 years. The Department may make new grants whenever the total amount appropriated for grants is sufficient to fund both the new grants and the grants already in effect. (Section 10 of the Act)* Sustainability grant funding for an additional three years shall be available in accordance with Section 975.210.
- c) *A recipient of a grant to establish a new community health center site must add each such site to the recipient's established service area for the purpose of extending federal FQHC or FQHC Look-Alike status to the new site in accordance with federal regulations (42 CFR 51c). The grant recipient must complete this process by the end of the second year of the grant. (Section 10 of the Act)*
- d) Failure to comply with this Part shall result in the discontinuation of grant funding.

**Section 975.210 Sustainability Funding**

- a) *Sustaining funds shall be available to grantees under Section 10 of the Act that have met the initial proposed project objectives and can demonstrate continued*

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*financial need. These funds shall be provided by the Department for a 3-year period, subject to appropriation. Funds granted each year under this Section shall be in an amount up to 50% of a grantee's third-year-grant funding under Section 975.200. (Section 10.5 of the Act)*

- b) Sustaining grant funding will be awarded to grantees meeting the following requirements:
  - 1) Be a prior recipient of a Community Health Center Expansion Act Grant;
  - 2) Be able to document successful accomplishment of goals and objectives from the originally funded project; and
  - 3) Be able to document the need for additional funding from the Community Health Center Expansion Act Grant for the continuation of the goals and objectives presented in the original application.

**Section 975.220 Eligibility for Grant**

*To be eligible for a grant under the Act and this Part, a recipient must be a community provider as defined in Section 975.100. (Section 15 of the Act)*

- a) Applicants shall meet the following requirements:
  - 1) Be an FQHC or FQHC Look-Alike as defined in Section 975.100;
  - 2) Serve, in whole or in part, a designated MUA or MUP as defined in Section 975.100;
  - 3) Meet requirements for FQHC grantees and Look-Alikes under section 330 of the Public Health Service Act; and
  - 4) Offer primary health care services as defined in Section 975.100.
- b) Applicants may not apply for funding that would allow a community health center site to receive two or more grants at the same time.
- c) Letter of intent

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The applicant shall send a letter of intent (LOI) and an application to apply for grant funds to the Department that include the following:

- 1) The proposed grant project description, location and applicant.
- 2) The proposed users of the primary health care services and project service area, including identification of any MUA or MUP designations.
- 3) Issues creating a high need for primary health care services, including any significant or unique barriers to care.
- 4) Other providers of care in the project service area, including any other FQHCs under section 330 of the Public Health Service Act.
- 5) All primary health care services to be provided, including mental health, substance abuse, and oral health care services, as well as the mechanism for providing each service (e.g., direct service, referral).
- 6) Project stage of development and the ability of the applicant to meet the requirements of this Part for program compliance.
- 7) The readiness to receive funding, including the ability of the facility and providers at the new access point or expanded facility to be operational within 120 days after the warrant for payment of the grant award is issued by the Office of the Comptroller.

d) Application

The application format shall include, but not be limited to:

- 1) A summary of the applicant's plan of action to address the goals of either:
  - A) Establishing a *new community health center (CHC) site to provide primary health care services to medically underserved populations or areas* or to provide *primary health care services to the uninsured population of Illinois*; or
  - B) Expanding the services of an existing CHC site to provide *primary health care services to medically underserved populations or areas*

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*or primary health care services to the uninsured population of Illinois.* (Section 10(a) of the Act)

- 2) A project narrative that shall include the following information:
  - A) Proposed service area and applicant description;
  - B) Statement of need for the project;
  - C) Project objectives;
  - D) Plan of operation;
  - E) Project evaluation; and
  - F) Budget.
- e) Notification process

As soon as the decision to apply is made, the prospective applicant shall send a copy of the "Notification of Application for State Funding of Community Health Center Expansion" to each of the following entities in the geographic area of the FQHC for their input. The application packet submitted to the Department shall include a copy of the completed notification form, as well as the names and addresses of individuals to whom the forms were sent, the organizations that the individuals represent, and the date of the notification.

  - 1) Local health department administrator;
  - 2) Local hospital administrators;
  - 3) Illinois State Medical Society;
  - 4) Illinois Primary Health Care Association;
  - 5) Other FQHCs and FQHC Look-Alikes in the service area;
  - 6) Illinois State Dental Society;
  - 7) Illinois Public Health Association; and

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- 8) At least one newspaper of general circulation in the geographic area of the FQHC.

**Section 975.230 Program Requirements**

- a) Projects *shall be for the purpose of*:
  - 1) *Establishing new community health center (CHC) sites to provide primary health care services to medically underserved populations or areas or to provide primary health care services to the uninsured population of Illinois; or*
  - 2) *Expanding the services of an existing CHC site to provide primary health care services to medically underserved populations or areas or to provide primary health care services to the uninsured population of Illinois.*  
(Section 10(a) of the Act)
- b) Projects that create a new community health center site are required to expand their federal scope of project according to the U.S. Department of Health and Human Services Policy Information Notice 2008-010 "Defining Scope of Project and Policy for Requesting Changes" or submit an application for section 330 funding before the end of the second grant year.
- c) Projects that are managed by FQHC Look-Alikes shall comply with the U.S. Department of Health and Human Services Policy Information Notice 2003-21 "Federally Qualified Health Center Look-Alike Guidelines and Application".
- d) Projects shall be in operation within 120 days after the warrant for payment of the grant award is issued by the Office of the Comptroller.
- e) Grantees shall develop an evaluation component to determine the effectiveness and efficiency of the project.

**Section 975.240 Use of Grant Moneys**

- a) *A recipient of a grant under the Act and this Part may use the grant moneys to do any one or more of the following:*

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- 1) *Purchase equipment.*
  - 2) *Acquire a new physical location for the purpose of delivering primary health care services.*
  - 3) *Hire and train staff.*
  - 4) *Develop new practice networks.*
  - 5) *Purchase services or products that will facilitate the provision of health care services at a new community health center site. (Section 20 of the Act)*
- b) Grant funds shall not be used for the following:
- 1) To offset existing debt;
  - 2) To supplant existing funds that support a service, program or activity for which grant support is requested;
  - 3) To purchase real property.

**Section 975.250 Application Evaluation Process**

The Department will review applications for completeness and eligibility. Applications meeting all requirements will be forwarded to a review committee. Those applications that are determined to be ineligible or incomplete will be returned to the applicant and will not be eligible for review.

- a) The review committee will consist of volunteers who have worked with uninsured populations or MUA or MUP and, when possible, have prior grant review experience and who represent different geographic areas in the State.
- b) The review committee will review the grant applications. Applications are assigned a point score based on the following criteria:
  - 1) Documented need for the project (0-25 Points)
  - 2) Increased access to health care for service area residents (0-20 Points)

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- 3) Ability to implement the proposed plan (0-20 Points)
  - 4) Description of project expectations to be accomplished (0-20 Points)
  - 5) Realistic budget for the development of the project (0-15 Points)
- c) Upon completion of the review committee's evaluation, the Department will assign bonus points to applications based on the following criteria:
- 1) Applicants who have never been a grantee of the Community Health Center Expansion Grant program (0-10 points).
  - 2) Applicants who are not currently receiving grant funds under the Community Health Center Expansion Grant program (0-5 points).

**Section 975.260 Reporting**

- a) *Within 60 days after the first and second years of a grant under the Act and this Part, the grant recipient must submit a progress report to the Department. The Department may assist each grant recipient in meeting the goals and objectives stated in the original grant proposal submitted by the recipient, and may assist the grant recipient in ensuring that grant moneys are being used for appropriate purposes, and that residents of the community are being served by the new community health center sites established with grant moneys. (Section 25 of the Act)*
- b) Grantees shall submit a final report within 60 days after the conclusion of year three of the grant. The degree to which each objective in the grant proposal has been met shall be fully addressed in this report.
- c) Grantees receiving sustainability funding shall submit a progress report 60 days after the conclusion of each year of funding.
- d) Grantees shall annually provide progress and fiscal reports.
- e) Grantees shall be limited to three years of initial funding and three years of sustainability funding.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED RULES

**Section 975.270 Public Comment**

- a) *Notification of a 30-day general public comment period shall be given to the community into which a grant applicant proposes to expand by publication in at least one newspaper of general circulation in that community. (Section 30(b) of the Act) Comments shall be submitted to the Department.*
- b) *The Department shall consider the contents of written comments only as part of the overall grant review process. (Section 30(b) of the Act)*



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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Uniform Partnership Act (1997)
- 2) Code Citation: 14 Ill. Adm. Code 166
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u>
166.20	Amend
166.25	Amend
166.45	Amend
166.60	Amend
166.80	Amend
166.85	New
- 4) Statutory Authority: Implemented and authorized by Section 1208 of the Illinois Uniform Partnership Act (805 ILCS 206/1208)
- 5) A Complete Description of the Subjects and Issues Involved: Sections 166.20 and 166.25 are amended to conform to terminology in use. Section 166.45 is amended to correspond to the most recent versions of forms in use by the Department of Business Services. Section 166.60 is amended to correct the description of the business entities governed by the Uniform Partnership Act (1997) and this Part, and also to show the possessive when referring to the Department's files. An apparent transcription error is corrected in Section 166.80. New Section 166.85 is added to provide for the development and implementation of of new practices and technologies. Note that the language used in this new Section conforms to that currently appearing at 14 Ill. Adm. Code 178.65 pertaining to the Limited Liability Company Act.
- 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 incorporation by reference? No
- 10) Are there any other proposed rulemakings pending on this part? No
- 11) Statement of Statewide Policy Objectives: These rulemakings do not affect units of local government.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Anthony Gordon  
Assistant General Counsel  
Illinois Secretary of State  
100 West Randolph Street, Suite 5-400  
Chicago, Illinois

312-814-9509  
Fax: 312-814-5958  
Email: tgordon1@ilsos.net

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Uniform Partnerships
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which these rulemakings were summarized: January 2009

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

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## NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE  
SUBTITLE A: REGULATION OF BUSINESS  
CHAPTER I: SECRETARY OF STATEPART 166  
UNIFORM PARTNERSHIP ACT (1997)

Section	
166.10	Prohibited Terms in Title
166.15	Improper Names
166.20	Definitions
166.25	Applicability
166.30	Filing Location
166.35	Business Hours
166.40	Filing Requirements
166.45	Additional Requirements for Forms
166.50	Renewal Reports
166.55	Payment of Fees
166.60	Sale of Information
166.65	Refunds
166.70	Service of Process
166.75	Interrogatories
166.80	Right to Counsel
<a href="#">166.85</a>	<a href="#">New Practices and Technologies</a>

AUTHORITY: Implementing and authorized by Section 1208 of the Uniform Partnership Act (1997) [805 ILCS 206/1208].

SOURCE: Adopted at 32 Ill. Reg. 332, effective January 7, 2008; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 166.20 Definitions**

In addition to the definitions contained in Section 101 of the Uniform Partnership Act [805 ILCS 206/101], the following definitions shall apply:

"Abstracts of Record" shall consist of a hard copy printout of the information shown on the computer records of the Department of Business Services of the Office of the Secretary of State.

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"Department" shall mean the Department of Business Services of the Office of the Secretary of State.

"Director" shall mean the Director of the Department of Business Services.

"Interrogatories" shall mean a written request for information to ascertain whether a limited liability partnership has complied with the provisions of the UPA.

"~~LLP~~" shall mean a ~~Registered~~ Limited Liability Partnership.

"Secretary" shall mean the Secretary of State of Illinois.

"UPA" shall mean the Uniform Partnership Act (1997) [805 ILCS 206].

"UPA Section" shall mean the unit of the Department that administers the provisions of the UPA.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 166.25 Applicability**

The provisions of this Part shall be applicable to all ~~registered~~ limited liability partnerships that are, will be or may become subject to the provisions of the UPA.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 166.45 Additional Requirements for Forms**

a) All documents required by this Act to be filed in the Office of the Secretary of State shall be made on the most recent version of forms prescribed and furnished by the Secretary of State. The Secretary of State employs the following forms:

- 1) Form UPA 303 Statement of Partnership Authority (see 805 ILCS 206/303);
- 2) Form UPA 304 Statement of Denial (see 805 ILCS 206/304);

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- 3) Form UPA 704 ~~Limited Liability Partnership~~ Statement of Dissociation (see 805 ILCS 206/704);
- 4) Form UPA 805 Statement of Dissolution of Statement of Partnership Authority (see 805 ILCS 206/805);
- 5) Form UPA 907 LLP/LP Statement of Merger (see 805 ILCS 206/907);
- 6) Form UPA 908 LLP/LLC Statement of Merger (see 805 ILCS 206/908);
- 7) Form UPA 1001 Limited Liability Partnership Statement of Qualification (see 805 ILCS 206/1001);
- 8) Form UPA 1001(e)/1101(f) Statement of Withdrawal (see 805 ILCS 206/1001(e) and 1102(f));
- 9) Form UPA 1001(h)/1102(g) Statement of Amendment (see 805 ILCS 206/1001(h) and 1102(g));
- ~~10)7)~~ Form UPA 1003(D) Application for Renewal of Domestic Limited Liability Partnership (see 805 ILCS 206/1003);
- ~~11)8)~~ Form UPA 1003(F) Renewal Statement~~Application for Renewal~~ of Foreign Limited Liability Partnership (see 805 ILCS 206/1003);
- 9) ~~Form UPA 1004 VWN Voluntary Withdrawal Notice (see 805 ILCS 206/1001(e) for domestic LLP) (see 805 ILCS 206/1102(f) for foreign LLP);~~
- ~~10)~~ ~~Form UPA 1001 Limited Liability Partnership Statement of Qualification (see 805 ILCS 206/1001);~~
- ~~12)11)~~ Form UPA 1102 Limited Liability Partnership Statement of Foreign Qualification (see 805 ILCS 206/1102);
- ~~13)12)~~ Form UPA 1103 Affidavit of Compliance for Service on Secretary of State (see 805 ILCS 206/1103(e) and 14 Ill. Adm. Code 166.70);
- ~~13)~~ ~~Form UPA 105 Statement of Amendment (see 805 ILCS 206/105);~~

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- b)4) Fees for the above forms can be found at 805 ILCS 206/108.
- cb) All documents filed with the Department shall contain the federal employer identification number of the limited liability partnership with respect to which the document was filed.
- de) All documents and attachments submitted by a limited liability partnership shall be typewritten on 8½ x 11" white paper.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 166.60 Sale of Information**

- a) Information concerning any limited liability partnership shall be available to the public from the Department of Business Services upon written request, or by telephone or in person, or, if technology is available, on line through interactive computer.
- b) Information in the form of an abstract of record concerning the limited liability partnerships on file with the Department shall be printed from the computer file of the Department and shall consist of the limited liability partnership name, its date of qualification, its registered agent, the address of the office at which the records are maintained, the foreign jurisdiction where formed (if applicable), the date of filing with the Department, and the file number assigned by the Department. The fee for each abstract of record shall be \$25.
- c) Copies of all documents pertaining to limited liability partnerships on file with the Department are available:
  - 1) upon written request and payment of the required fee.
  - 2) by telephone request with advance payment using a credit card, a debit card or an electronic funds transfer.
  - 3) in person and with payment of the required fee at the Department's address set forth in Section 166.30.
- d) Computer connections by non-Department users:

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- 1) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge so long as the requesting agency incurs all costs and so long as the service does not substantially increase costs or network traffic on the Secretary's computer.
  - 2) Computer terminal connections may be allowed to commercial users provided that all costs are borne by the commercial user. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, cost-effectiveness of providing the information through computer terminal connections as opposed to other methods, and other factors that may impede the operations of the Office of the Secretary of State. This service will be suspended at any time should the connection interfere with the Secretary's internal work schedules and processing.
  - 3) Fees for information supplied by means of computer connections between the Secretary of State's computers and those of any other agency, corporation, or person may be paid on an annual basis for all information delivered during that year, as determined by the Secretary and the agency or person to be the economically simplest way of billing. The proper fee shall be determined by negotiation between the agency or commercial user and the Director based upon telephone line charges, rental or purchase fees for terminals, and any other appropriate factors, such as the statutory fees set forth at 805 ILCS 206/108 for certificates of information, and the requirements of this Part.
  - 4) No users may print any list or abstract from the computer connection. Lists of UPA information including the names and information for all limited [liability](#) partnerships may only be purchased pursuant to the provisions of this Part. Computer connections are to be used only to look up information. No changes on the [Department's Departments](#) UPA files may be made by any computer connection user.
- e) Terms and conditions for computer maintained UPA information:

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- 1) The information supplied by the Department to other agencies, commercial users, or other persons shall be in the abstract format only, as specified in subsection (b) of this Section.
- 2) The fee for the entire file of current and expired limited liability partnerships shall be determined in accordance with the provisions of subsection (d)(3) of this Section. If the file is purchased on computer disc or tape, the purchaser shall supply the Department with computer disc, discs, tape or tapes, compatible with the Secretary's computer equipment, on to which discs or tapes the information shall be transferred.
- 3) All purchase requests shall be submitted in writing to the Director. Payment shall be made to the Department before delivery of the information to the purchaser. No refunds will be made after the request is approved by the Director. Payment shall be made by check or money order payable to the "Secretary of State", or by credit or debit card.
- 4) All commercial or other type purchasers shall sign a written agreement setting forth the terms and conditions required by Illinois law, and as may be deemed appropriate after negotiation between the Department and the purchaser.
- 5) The commercial purchaser shall not resell to any other purchaser the information obtained from the Department in the same form or format in which it is obtained from the Department. Resale of information in the same form or format shall result in cancellation of access to information by the Department. The commercial purchaser may sell the information to the subscribers of its computer or business information services only as information specific to an individual limited partnership, as needed by the subscriber.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 166.80 Right to Counsel**

- a) Hearing procedures will be governed by 14 Ill. Adm. Code 150, Subpart A.
- b) Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois.



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- 1) Attorneys admitted to practice in states other than the State of Illinois may appear and be heard upon the attorney's verbal representation of written documentation as to the attorney's admittance, ~~pursuant admittance,~~ pursuant to an order pro hac vice, entered by a judge of the circuit court of the county in which the hearing is conducted, as provided in Supreme Court Rule 707.
  - 2) A natural person may appear and be heard on his or her own behalf.
  - 3) A corporation, limited liability company, association or partnership may appear and present evidence by any bonafide officer, employee or representative.
- c) Only an attorney properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 166.85 New Practices and Technologies**

The Secretary of State is authorized to accept and file electronically submitted UPA documents and correspondence by means of an electronic storage system.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Number: 1030.15                      Proposed Action:  
Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104; 625 ILCS 5/6-207(a)
- 5) A Complete Description of the Subjects and Issues Involved: Upon review of our rules relating to medical cites and examinations, it was discovered that two Sections in Part 1030 conflicted. The provision being amended does not reflect current procedure and, as such, is being stricken.
- 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 rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the proposed amendment is posted on the Secretary of State's website, [www.sos.il.us/departments/index/home](http://www.sos.il.us/departments/index/home) as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Arlene J. Pulley  
Office of the Secretary of State  
Driver Services Department  
2701 South Dirksen Parkway  
Springfield, Illinois 62723

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217-557-4462

- 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 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 1030  
ISSUANCE OF LICENSES

Section	
1030.1	Definitions
1030.10	What Persons Shall Not be Licensed or Granted Permits
1030.11	Procedure for Obtaining a Driver's License/Temporary Visitor's Driver's License
1030.13	Denial of License or Permit
1030.15	Cite for Re-testing
1030.16	Physical and Mental Evaluation
1030.17	Errors in Issuance of Driver's License/Cancellation
1030.18	Medical Criteria Affecting Driver Performance
1030.20	Classification of Drivers – References (Repealed)
1030.30	Classification Standards
1030.40	Fifth Wheel Equipped Trucks
1030.50	Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
1030.55	Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
1030.60	Third-Party Certification Program
1030.63	Religious Exemption for Social Security Numbers
1030.65	Instruction Permits
1030.70	Driver's License Testing/Vision Screening
1030.75	Driver's License Testing/Vision Screening With Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lenses
1030.80	Driver's License Testing/Written Test
1030.81	Endorsements
1030.82	Charter Bus Driver Endorsement Requirements
1030.83	Hazardous Material Endorsement
1030.84	Vehicle Inspection
1030.85	Driver's License Testing/Road Test
1030.86	Multiple Attempts – Written and/or Road Tests
1030.88	Exemption of Facility Administered Road Test
1030.89	Temporary Driver's Licenses and Temporary Instruction Permits
1030.90	Requirement for Photograph and Signature of Licensee on Driver's License
1030.91	Disabled Person Identification Card
1030.92	Restrictions
1030.93	Restricted Local Licenses

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- 1030.94 Duplicate or Corrected Driver's License or Instruction Permit
- 1030.95 Consular Licenses (Repealed)
- 1030.96 Seasonal Restricted Commercial Driver's License
- 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege
- 1030.98 School Bus Commercial Driver's License or Instruction Permit
- 1030.100 Anatomical Gift Donor (Repealed)
- 1030.110 Emergency Medical Information Card
- 1030.115 Change-of-Address
- 1030.120 Issuance of a Probationary License
- 1030.130 Grounds for Cancellation of a Probationary License
- 1030.140 Use of Captured Images
- 1030.APPENDIX A Questions Asked of a Driver's License Applicant
- 1030.APPENDIX B Acceptable Identification Documents

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

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

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13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007;

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amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1030.15 Cite for Re-testing**

- a) Any competent medical specialist, commissioned police officer, state's attorney, member of the judiciary, authorized Secretary of State employee or member of the judiciary may submit information to the Department relative to the physical condition of a person, including suspected chronic alcoholism or habitual use of narcotics or dangerous drugs, if that condition interferes with the person's ability to operate a motor vehicle safely (see IVC Sections 6-900 through 911). Upon receipt of a written request citing good cause, the Department shall require a driver to submit to driver's license re-testing. All written requests shall be confidential and signed by the source unless sent electronically, and the Secretary of State shall not release the information without a court order.
- b) The Department shall notify the driver of the obligation to appear within five days on a choice of three given dates at a designated driver services facility nearest in location to the city or town of residence that is recorded on the driver's most recent license renewal. There will be a 10-day grace period after the third given date before the Department will cancel the driver's license or permit. If the driver notifies the Department that he/she will be unable to appear on any of the three designated dates but prior to the final day of the 10-day grace period and provides a statement on official letterhead, signed by a competent medical specialist stating that, due to an existing medical condition, the driver is or will be unable to appear on any of the three designated dates, the Department shall issue three more dates on which the driver may appear for re-testing. There will also be a 10-day grace period after the last date given for appearance prior to the Department canceling the driver's license or permit. If the driver notifies the Department that he/she will not be able to appear during any of the second set of dates, but prior to the final day of the 10-day grace period, and provides a statement on letterhead signed by a competent medical specialist that states, due to an existing medical condition, the driver is or will be unable to appear during any of the second set of dates, the Department shall notify the driver of a final set of three dates on which the driver may appear. Once the 10-day grace period

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expires, the Department will cancel the driver's driving privileges. The driver may not request additional dates to appear for re-testing.

- c) Cited drivers shall be tested on the specific sections of the driver's license test indicated in the written request for re-testing received from the Department. If no reference to a specific section of the driver's license test was made by a competent medical specialist, commissioned police officer, state's attorney, member of the judiciary, or authorized Secretary of State employee, the Department shall administer the cited driver the complete driver's license test.
- d) Drivers cited for any portion of the test shall receive only one opportunity to pass the test. Failure to pass any required portion of the test shall result in the cancellation of the person's driver's license in accordance with IVC Section 6-201. Failure of the driver cited to appear on any one of the three alternative dates indicated on the notice, or during a 10-day grace period that follows the last date, will result in the cancellation of the driver's license. A cited driver who passes all administered sections of the driver's license test shall be deemed to be in compliance with the Department's request, and shall be allowed to retain a valid driver's license.
- e) Driver's license tests shall be administered to the cited driver at no fee.
- f) In the event of application error, two requests shall be made of the licensee to return to a Driver Services Facility to obtain a corrected license. If the licensee complies, a corrected driver's license shall be issued without a fee. If the licensee fails to comply, he/she shall be cited for re-testing. Failure to appear for re-testing or failure to pass the test shall result in cancellation of the driver's license.
- ~~g) If follow-up vision reports are received indicating a driver's license restriction change, and the licensee has not complied with two written requests to return to a Driver Services Facility to obtain a corrected license, the driver shall be cited. If appearance is made, the licensee shall be issued a corrected driver's license with a fee. If the licensee fails to appear or fails the test, the driver's license shall be canceled.~~
- gh) If a facility errs in not giving a certain section of the driver's license test and the licensee has not complied with two written requests to return to a Driver Services Facility for re-testing, the driver will be cited for the section of the test previously omitted. If appearance is made and the cited driver passes the administered



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section of the driver's license test, he/she shall retain his/her driver's license. If the licensee fails to appear or fails the test, the driver's license shall be canceled.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Calculation of Excess Cost Under Section 18-3 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 140
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
140.10	Amendment
140.20	Amendment
140.30	Amendment
140.40	Amendment
- 4) Statutory Authority: 105 ILCS 5/18-3
- 5) A Complete Description of the Subjects and Issues Involved: Portions of these amendments respond to P.A. 95-793, which revised Section 18-3 of the School Code (Tuition of Children from Orphanages and Children's Homes). That statute provides for State reimbursement to school districts for the cost of serving students who would not be residents but for the fact that they live in orphanages, children's homes, detention centers, or penal institutions. These students either attend the regular classes of the district or are educated in general education classes provided to them at the facility where they reside. Formula-based reimbursement is provided for programs serving those students, equivalent to 120 percent of the serving district's per capita tuition charge. However, Section 18-3 also provides for reimbursement of costs in excess of that amount that are attributable to individual students who need more intensive services. Part 140 addresses only the claiming of this additional reimbursement.

Prior to the advent of P.A. 95-793, expenses for the summer term were claimed on the same basis as those for the regular school term. Now those claims will be separate, with costs for the summer session reimbursed based on actual expenditures. This means that Part 140 is no longer relevant to reimbursement for the summer term, leading to minor technical revisions in the rules. The deadline for submission of claims for the regular term has also been changed from July 30 to July 15, in keeping with the statutory change.

The other portions of the amendments being proposed are intended to clarify more specifically the information that districts submit as part of their claims, as well as the exact basis for identifying excess cost to be reimbursed. In particular, the method of calculation is somewhat different depending upon whether students are served at an attendance center operated by the district or are served at the facility where they reside. The distinction has to do with the fact that costs for programs that are operated by a district at an off-site facility are readily identifiable, while costs associated with students

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served as part of the general student body are not so readily apparent. Thus Section 140.40(b) explains that the district's per capita tuition charge is used as the main cost element attributable to students in that situation (in place of the cost per student in average daily attendance in the program, which is used otherwise). Other information being added to Section 140.40 simply makes the mathematical calculations more explicit. The definitions being added to Section 140.10 are further components of this approach.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or 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 after 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

217/782-5270

Comments may also be submitted via e-mail, addressed to:

[rules@isbe.net](mailto: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: None
  - B) Reporting, bookkeeping or other procedures required for compliance: School districts must submit information on the expenditures for which reimbursement is being claimed under this Part.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER c: FINANCE

## PART 140

## CALCULATION OF EXCESS COST UNDER SECTION 18-3 OF THE SCHOOL CODE

## Section

140.10	Purpose and Applicability
140.20	Allowable Costs
140.30	Requirements for Submission of Claims
140.40	Calculation of Reimbursement

AUTHORITY: Implementing and authorized by Section 18-3 of the School Code [105 ILCS 5/18-3].

SOURCE: Adopted at 23 Ill. Reg. 7882, effective July 1, 1999; amended at 25 Ill. Reg. 14122, effective October 22, 2001; amended at 26 Ill. Reg. 8100, effective May 20, 2002; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 140.10 Purpose and Applicability**

Section 18-3 of the School Code [105 ILCS 5/18-3] provides for the reimbursement to school districts of the cost of the regular program provided to the students described in that Section during both the regular and summer terms. It also provides for the reimbursement of excess costs incurred by a district during the regular school term for that provides to such students services to those students beyond those encompassed by the district's regular program. This Part establishes the requirements applicable to claims for reimbursement of such excess costs. For purposes of this Part:

- a) The "regular school term" is the time period reflected on the calendar prepared for the school year by the school board to meet the requirements of Sections 10-19 and 18-8.05 of the School Code [105 ILCS 5/10-19 and 18-8.05] and maintained in the main office of the school district.
- b) The basis for identifying and documenting excess cost will vary according to whether a student is served in one of a district's attendance centers or on the premises of a facility where he or she resides or that is otherwise physically

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separate from district facilities. For purposes of this Part: The "summer term" consists of school days in excess of the regular term.

- 1) a program provided in one of a district's attendance centers is an "on-site program"; and
- 2) a program provided elsewhere is an "off-site program".
- c) "Regular program" means the normal configuration of services generally provided to students.
- d) "Individual cost" means the cost of any services provided to an individual student that are not included in the regular program or that are provided at a greater level of intensity than in the regular program, as recorded pursuant to Section 140.30(a)(4) of this Part.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 140.20 Allowable Costs**

- a) The reimbursement that is the subject of this Part shall be available only with respect to individual ~~students~~pupils who are:
  - 1) enrolled full-time in a claiming district's ~~general~~regular education program; and
  - 2) served at a cost that exceeds 120 percent of the district's per capita tuition charge calculated as specified in Section 18-3 of the School Code.
- b) Claims may be submitted pursuant to this Part only with respect to costs incurred in the provision of equipment, diagnostic and other services, or materials that are not part of or that exceed the regular program provided to other students who are served in the district's schools.
  - 1) Special equipment used for only one ~~student~~pupil may be claimed only if it will move with the student if ~~he or she~~the student changes districts or programs.
  - 2) Specific, unique services provided for an individual ~~student~~pupil may be

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claimed only if they exceed or are not part of the normal configuration of services and if their costs are not already included in the cost of the regular program for which the district also claims reimbursement under Section 18-3 of the School Code.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 140.30 Requirements for Submission of Claims**

*Each school district shall certify to the State Superintendent of Education, using a format specified by the State Superintendent, its report of claims for tuition payments no later than July 1531. Failure on the part of the school board to certify its claim on July 31 shall constitute a forfeiture by the district of its right to the payment of any such tuition claim for the school year just ended.* (Section 18-3 of the School Code) ~~No payment shall be made for any mailed claim that is postmarked later than July 31 of the relevant year or for any claim filed electronically (when such filing has been authorized by the State Superintendent) or otherwise delivered after that date.~~ Claims shall reflect the costs incurred by the school district for the regular school ~~term~~year (July 1 through June 30), ~~inclusive of regular and summer term expenditures during that time period.~~

- a) When a district files a claim for excess costs relative to individual students~~pupils~~ who are served in an off-sitea program ~~that is provided solely on the premises of the facility where they reside or is otherwise physically separate~~, the claim must include:
- 1) a description of the regular program for which the district also claims reimbursement under Section 18-3 of the School Code that includes:
    - A) The name and address of the off-site program;
    - B) The total number of students who received any services in the regular program;
    - C) The total days of attendance of all the students claimed;
    - D) The total number of days for which the program was in session;
    - E) The amount of instruction time offered daily;

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- F) The name, certificate number, and assignment of each professional staff member who served the students being claimed; and
- G) A brief description of the curriculum and support services that are offered in the regular program;
- 2) a report of the expenditures incurred by the district for the regular off-site program described pursuant to subsection (a)(1) of this Section, on forms supplied by the State Superintendent of Education;
- 3) the number of studentspupils in average daily attendance in the regular off-site program described in subsection (a)(1) of this Section during the term to which the claim applies;
- 4) a record for each student with respect to whom excess cost is being claimed, indicating:
- A) the student'spupil's name and date of birth,
- B) the services provided to the studentpupil that are not included in or that exceed the level provided in the regular off-site program,
- C) the amount, intensity, and/or frequency of the services,
- D) the total hours of service provision, and
- E) the total cost of the services.
- b) When a district files a claim for excess costs relative to studentspupils who are served in the district's on-site programsregular attendance centers, the claim must include:
- 1) a description of the services provided thatwhich exceed those otherwise provided to students served in the regular program within the attendance center in question, e.g., services not provided to the other students in that attendance center or services provided for more time than to other students within that attendance center; and
- 2) a record for each student containing the information specified in



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subsection (a)(4) of this Section.

- c) ~~Each~~~~No later than ten days after receipt of a request for additional information, a~~ district shall submit ~~any additional~~~~such~~ information ~~as~~ the State Superintendent of Education may require for the purposes of clarifying the basis for its claim.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 140.40 Calculation of Reimbursement**

- a) The cost per student in average daily attendance ("ADA") in the regular off-site program provided to students pursuant to Section 18-3 of the School Code will be calculated by dividing the total cost of that program as reported under Section 140.30(a)(2) of this Part by the number of students in average daily attendance in the program.
- b) ~~Reimbursable excess cost shall exist with respect to a given student only if the total costs attributable to that student exceed 120 percent of the district's per capita tuition charge. The total costs attributable to a student who is served in an off-site program consist of the cost per student in ADA in the program the student attends, derived from the information called for in Section 140.30(a)(1) through (3) of this Part, plus any individual cost for that student. The total costs attributable to a student who is served in an on-site program consist of the district's per capita tuition charge plus any individual cost for that student. The cost per student in ADA will be compared to the amount that represents 120 percent of the district's per capita tuition charge. 1)If the cost per student in ADA is equal to or greater than 120 percent of the district's per capita tuition charge, the State Superintendent will reimburse the district for 100 percent of the individual costs claimed pursuant to Section 140.30 of this Part. 2)If the cost per student in ADA is less than 120 percent of the district's per capita tuition charge, a calculation will be performed to offset the amount the district is allowed to claim for the regular program pursuant to Section 18-3 of the School Code. The excess cost amount claimed for serving a particular student will be added to the cost per student in ADA. From the sum of those two amounts, the amount that represents 120 percent of the per capita charge will subtracted. The State Superintendent will reimburse the district for 100 percent of the remainder.~~ In other words:

Cost per student in ADA in the program or district's per capita tuition charge, as applicable

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+ ~~Individual~~Excess cost for Student X

= Subtotal

Subtotal from above

- 120% of district's per capita charge

= ~~Excess cost~~Reimbursable amount for Student X

c) If the remainder resulting from the calculation set forth in subsection (b) of this Section is a positive number, that number represents excess cost and shall be reimbursed. If the remainder is a negative number, the district's cost has been captured by the reimbursement at 120 percent of the per capita tuition charge provided under Section 18-3 of the School Code, and no reimbursable excess cost exists.

d) The State Superintendent may decline to reimburse costs that are not adequately documented or are inappropriate to a particular student's placement.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Alternative Learning Opportunities Program
- 2) Code Citation: 23 Ill. Adm. Code 240
- 3) Section Number: 240.80                      Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 13B
- 5) A Complete Description of the Subjects and Issues Involved: This proposed amendment represents technical updating only. A reference to the now-repealed Program Accounting Manual (formerly Part 110 of ISBE's rules) is being replaced with a reference to the new rules covering the same topics (Part 100; Requirements for Accounting, Budgeting, Financial Reporting, and Auditing).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or 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 after 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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

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Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 240  
ALTERNATIVE LEARNING OPPORTUNITIES PROGRAM

## SUBPART A: PROGRAM APPROVAL

## Section

240.10	Purpose
240.20	Requirements for Student Participation
240.25	Enrollment of Students with Individualized Education Programs
240.30	Program Requirements
240.40	Student Success Plan
240.50	Requirements for Returning the Student to the Regular School Program
240.60	Supplemental Services and Instructional Time
240.70	Application for Program Approval
240.75	Program Approval Criteria
240.80	Application for Program Continuation
240.90	Program Funding
240.100	Suspension and Revocation of Program Approval
240.110	Terms and Conditions of Approval

## SUBPART B: ALTERNATIVE LEARNING OPPORTUNITIES PROGRAM GRANTS

240.200	Purpose (Repealed)
240.210	Eligible Applicants (Repealed)
240.220	Planning Grants (Repealed)
240.230	Implementation Grants (Repealed)
240.240	Supplemental Grants (Repealed)
240.250	Grant Awards (Repealed)
240.260	Terms of the Grant (Repealed)

AUTHORITY: Implementing and authorized by Article 13B of the School Code [105 ILCS 5/Art. 13B].

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SOURCE: Adopted at 26 Ill. Reg. 11888, effective July 22, 2002; amended at 27 Ill. Reg. 10004, effective June 23, 2003; amended at 29 Ill. Reg. 18451, effective October 31, 2005; amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: PROGRAM APPROVAL

**Section 240.80 Application for Program Continuation**

- a) In order to continue to operate an Alternative Learning Opportunities Program approved pursuant to Article 13B of the School Code and this Part, the school district shall annually submit an application for continuation, on a form supplied by the State Board of Education, that shall include the following:
  - 1) a description of proposed changes in any of the elements of the district plan for the Alternative Learning Opportunities Program (see Section 240.70(c) of this Part);
  - 2) the results of the evaluation of the previous year's program conducted pursuant to Section 240.70(c)(12) of this Part, including the educational outcomes achieved by the students enrolled in the program;
  - 3) the activities proposed for the continuation period in light of the evaluation of the preceding year's project, including the identification of each unmet objective and the rationale for its continued inclusion or its deletion from the program;
  - 4) an expenditure report, on a form supplied by the State Board of Education, for the previous school year; and
  - 5) updated information regarding any subcontracts, contracts, or cooperative or intergovernmental agreements into which the district has entered to operate the program or provide services, including any changes to the entities involved or in their roles and responsibilities.
- b) Pursuant to Section 13B-30.20 of the School Code [105 ILCS 5/13B-30.20], an Alternative Learning Opportunities Program shall be approved for continuation provided that it:
  - 1) submits evidence that it is meeting the educational outcomes specified in

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the district plan, including the educational outcomes identified for the individual students served;

- 2) continues to comply with all applicable State and federal laws;
  - 3) in the year previous to the continuation application, complied with:
    - A) the terms and conditions of any grant it received pursuant to Subpart B of this Part;
    - B) the plan submitted for program approval pursuant to Section 240.70 of this Part; and
    - C) any updates to that plan subsequently submitted to the State Board of Education pursuant to subsection (a) of this Section; and
  - 4) maintains financial records in accordance with [the requirements of 23 Ill. Adm. Code 100 \(Requirements for Accounting, Budgeting, Financial Reporting, and Auditing\)](#) ~~procedures specified in 23 Ill. Adm. Code 110 (Program Accounting Manual).~~
- c) An Alternative Learning Opportunities Program that is not approved for continuation shall be subject to the requirements of Section 240.100 of this Part.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE BOARD OF EDUCATION

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- 1) Heading of the Part: Payments to Certain Facilities Under Section 14-7.05 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 405
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
405.10	New Section
405.20	New Section
405.30	New Section
405.40	New Section
405.50	New Section
405.60	New Section
405.70	New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: This new set of rules responds to Public Act 95-938, which was enacted in the summer of 2008. That legislation revised Section 14-7.05 of the School Code by establishing some conditions on the obligation of a school district to pay the provider of a program that is not approved under Part 401 of the State Board's rules (Special Education Facilities Under Section 14-7.02 of the School Code) for the costs of educating a student with a disability who is placed into a residential facility by a court or a State agency. The new provisions require that the provider of the program furnish three elements of proof to ISBE, as well as enrollment and attendance information. Unless this information is provided to ISBE's satisfaction, the student's district of residence will not be under any obligation to pay the provider.

In addition to the obvious need to state in rule what will be considered satisfactory proof or information in each of the areas specified in the law, there is a need to set forth some procedures that will ensure communication among the provider, ISBE staff, and the district of residence. In particular, agency staff will need to know that a student has been placed, and the provider will need to know what information to submit and how to submit it so that payment by the district will eventually be warranted. Similarly, the district of residence will have to be notified of its obligation and of the amount involved. Section 405.30 has been written to initiate the flow of all this information in a timely manner.

Section 405.40 explains "satisfactory proof" in the areas required by the statute.



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For "appropriate certification of teachers for the student population", the proof will include a description of the program and the student population involved and a list identifying all the teachers serving in the program. The certificates held by those individuals must be those that are acceptable for serving students with disabilities in the public schools and in programs approved under Part 401.

For "age-appropriate curriculum", the proof will involve a showing that the provider bases the program on the current levels of academic achievement of the students and affords them access to the general curriculum in ways that will help them make progress in achieving the Illinois Learning Standards; that academic assessments are comparable to those administered to other students of the same age; that the age range in classes does not exceed that permissible in the public schools and in programs approved under Part 401; and that the setting is age-appropriate.

For "ability to implement the child's IEP", proof will need to consist of information showing the availability of all the professional staff time that is needed for delivery of the services specified in the individualized education program, including assurances that paraprofessionals are not used in place of qualified professionals.

In addition, Section 405.40 requires information about enrollment in the program generally and certain early information about the attendance of the student in question. This will be complemented by the quarterly attendance reports called for in Section 405.50.

The final substantive matter that needs to be dealt with is the amount for which the student's district of residence will be responsible. The statute states that "the resident district's financial responsibility and reimbursement must be calculated in accordance with the provisions of Section 14-7.02 of the School Code". The rate-setting methodology used by the Illinois Purchased Care Review Board implements Section 14-7.02 and is thus the obvious choice in this instance as well. Accordingly, Section 405.60 calls for use of that method, while making it clear that programs need not seek approval from ISBE under Part 401 in order to qualify for payment in the instances discussed in Section 14-7.05 of the School Code.

It should be noted that ISBE staff will need to conduct certain outreach and awareness efforts so that the staff of juvenile courts and other placing agencies will be aware of the requirements of Section 14-7.05 and these new rules. By identifying contacts in those offices, providing them with the necessary materials, and urging them to pass those on to providers when students are placed, we hope to ensure that the necessary information will

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be available to those affected when they need to use it. Additional means of promoting awareness, including especially the agency's web site, will also be used. These preparations will occur "behind the scenes" and do not need to be described in the rules.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or 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 after the publication of this Notice to:

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Illinois State Board of Education  
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Springfield, Illinois 62777

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Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some of the facilities that might be affected by this Part may be operated as small businesses.

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- B) Reporting, bookkeeping or other procedures required for compliance: In order to qualify for payment by students' districts of residence, affected providers will need to have rates set as provided in the rules of the Illinois Purchased Care Review Board (89 Ill. Adm. Code 900). This will involve the submission of cost-related information to the Review Board as required in that Part. Affected providers will also need to submit to ISBE the types of "proof" called for in Part 405 if they wish to receive payment.
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

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

## STATE BOARD OF EDUCATION

## NOTICE OF PROPOSED RULES

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER 1: NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS

## PART 405

## PAYMENTS TO CERTAIN FACILITIES UNDER

## SECTION 14-7.05 OF THE SCHOOL CODE

## Section

405.10	Purpose and Applicability
405.20	Definitions
405.30	Procedural Requirements
405.40	Satisfactory Proof
405.50	Quarterly Attendance Reports
405.60	Calculation of Costs
405.70	Termination of Placement

AUTHORITY: Implementing Section 14-7.05 of the School Code [105 ILCS 5/14-7.05] and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6].

SOURCE: Adopted at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 405.10 Purpose and Applicability**

This Part applies to the obligation of school districts to pay the cost of educating students who are served, pursuant to Section 14-7.05 of the School Code [105 ILCS 5/14-7.05], in residential facilities providing educational programs that are not approved by the State Board of Education. This Part shall not apply to districts' payment for educational services in programs approved under the rules of the State Board of Education for Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401) or to districts' payment for educational services provided by other school districts (see 23 Ill. Adm. Code 130, Calculating Special Education Per Capita Tuition Charge). The purposes of this Part are:

- a) to establish procedures and timelines for providers' presentation of the required proof as a prerequisite to districts' payment of the cost of educating affected students;

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- b) to identify the proof that will be considered as adequate evidence of programs' conformance with the requirements identified in Section 14-7.05 of the School Code; and
- c) to establish a uniform basis for the calculation of the costs for which districts will be responsible under Section 14-7.05 of the School Code.

**Section 405.20 Definitions**

"Affected Student": For purposes of this Part, *an individual with a disability*, as defined in Sections 14-1.02 and 14-1.03a of the School Code [105 ILCS 5/14-1.02 and 14-1.03a], *whose placement in a residential facility has been made or paid for by an Illinois public State agency or made by any court in Illinois* (Section 14-7.05 of the School Code), when the educational program provided to the student has not been approved pursuant to 23 Ill. Adm. Code 401 (Special Education Facilities Under Section 14-7.02 of the School Code).

"Facility": Physical premises where a provider offers services.

"Program": A set of educational services, residential services, or both that is designed to serve students who have similar educational needs. An "educational program" is one that consists of instruction, supportive services, supplies, materials, adjustments to the physical plant, and activities intended to lead to students' attainment of the annual goals and short-term objectives set forth in their Individualized Education Programs (IEPs).

"Provider": An organization not approved under Section 14-7.02 of the School Code and 23 Ill. Adm. Code 401 that offers special educational services to students with disabilities pursuant to Section 14-7.05 of the School Code.

**Section 405.30 Procedural Requirements**

- a) No later than 15 days after a provider is notified of the placement of an affected student and wishes to receive payment from the student's district of residence for the cost of educating that student, the provider shall furnish to the State Superintendent of Education, using a method and format specified by the State Superintendent, as much of the following information as may be available to the provider:

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- 1) the affected student's full name and date of birth;
  - 2) contact information for the student's parent or guardian;
  - 3) the placing authority;
  - 4) the effective date of the placement and the date on which educational services began or will begin, as applicable;
  - 5) the ending date of the placement, if any has been established;
  - 6) the unique identifying number assigned to the student by the Student Information System (see 23 Ill. Adm. Code 1.75);
  - 7) the student's district of residence; and
  - 8) the provider's calendar for the educational program for the school year in which the placement occurs.
- b) No later than 15 days after an affected student's placement into an educational program, the provider shall submit the documentation and information required under Section 405.40 of this Part to the State Superintendent of Education, using a method and format specified by the State Superintendent. However, when an affected student's placement occurs during the month of June, the provider will only be able to preserve the right to payment by the district of residence by submitting the required documentation and information quickly enough to leave time for the district to make payment out of funds available for the fiscal year ending June 30.
- c) The State Superintendent or designee shall review the materials submitted pursuant to subsection (b) of this Section and, within ten business days, notify the provider either:
- 1) that satisfactory proof has been furnished as required by Section 14-7.05 of the School Code; or
  - 2) that the materials submitted do not constitute satisfactory proof in one or more specified respects and the nature of the deficiency.

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- d) A provider receiving notice of insufficient proof may submit additional documentation related to the identified areas of deficiency, provided that additional submissions received after June 30 following the end of the school year in which the placement occurred shall not be considered and a student's district of residence shall not be obligated to pay the costs of educating the student for that school year.
- e) The State Superintendent shall provide copies of all notifications to providers under this Section to the districts of residence of the affected students. *A school district is under no obligation to pay the residential facility until the district receives notification from the State Superintendent that satisfactory proof has been provided (Section 14-7.05 of the School Code).*
- f) The decision of the State Superintendent as to the obligation of a school district to make payments pursuant to this Part shall be final, subject to the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

**Section 405.40 Satisfactory Proof**

All information called for in this Section, except the quarterly attendance reports called for in Section 405.50 of this Part, shall be submitted no later than 15 days after an affected student's placement, using the method and format prescribed by the State Superintendent of Education.

- a) As satisfactory proof of *appropriate certification of teachers for the student population* (Section 14-7.05 of the School Code) in a given program, the provider of the program shall submit:
  - 1) a description of the program, including the characteristics of the students for whom it is intended and the number of students served;
  - 2) a listing of the names and certificate numbers of all certified teachers assigned to the program, demonstrating that each individual who provides instruction to the students in the program holds:
    - A) a special preschool-age 21 certificate endorsed for the population to be served, in accordance with the certification policies of the State Board of Education that are in effect pursuant to the federal court orders of February 27 and August 15, 2001, in the matter of

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Corey H., et al., vs. Board of Education of the City of Chicago, et al; or

- B) another teaching certificate that is valid for the grade range of the students served and bears an endorsement or approval for the population served, in accordance with the certification policies identified in subsection (a)(2)(A) of this Section; or
  - C) a short-term emergency certificate in special education issued in accordance with the certification policies identified in subsection (a)(2)(A) of this Section; or
  - D) the specific qualifications comparable to those issued in Illinois in connection with the positions in question, if the facility is located outside Illinois.
- b) As satisfactory proof that a program offers *an age-appropriate curriculum* (Section 14-7.05 of the School Code), the provider shall submit information demonstrating that:
- 1) the program is based upon evaluation of the participating students' current levels of academic achievement and performance and is designed to afford the students access to the general curriculum in the fundamental areas of learning identified in Section 27-1 of the School Code [105 ILCS 5/27-1] at levels that will promote their attainment of the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D);
  - 2) academic assessments administered to affected students are the same as those administered to other individuals served in the program who are of approximately the same age;
  - 3) the age range of the pupils grouped in any class does not exceed four years (if at the elementary level) or six years (if at the secondary level); and
  - 4) the program is delivered in an age-appropriate setting.
- c) The provider shall submit a description of the method used for recording attendance on a daily basis, as well as information on enrollment in the program



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for which payment is being sought and information on the attendance of each affected student.

- 1) Enrollment information shall include:
    - A) the total number of individuals receiving educational services in or through the facility;
    - B) a description of how individuals are grouped (e.g., by grade level or age);
    - C) identification of the grouping or "program" in which the affected student is being served; and
    - D) the number of individuals served in each grouping described.
  - 2) Attendance information shall include:
    - A) a signed assurance indicating that the provider will keep daily attendance records with respect to the affected student and will submit those records to the State Superintendent using the format prescribed by the State Superintendent; and
    - B) a record reflecting the student's attendance during the first 10 days of service.
- d) As satisfactory proof of the provider's ability to implement a particular student's IEP, the provider shall submit:
- 1) a copy of the student's current or most recent available IEP;
  - 2) a list of all teachers and other professional service providers that also:
    - A) indicates the specific portions of the IEP that each will be responsible for fulfilling; and
    - B) identifies the certificate, license, or other credential held by each professional other than a teacher that qualifies the individual to provide the professional services in question;

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- 3) if a paraprofessional will be assigned to assist in any class attended by the student, an assurance that the assignment of the individual will conform to the requirements of 23 Ill. Adm. Code 1.630(b); and
- 4) for any teacher or professional not directly employed by the provider, information regarding the individual's contractual status that will clarify the amount of time for which the individual is available for the program, and the number of students whom the individual is responsible for serving during that time, and the total amount of service time required with respect to those students.

**Section 405.50 Quarterly Attendance Reports**

The provider serving a student shall, no later than five business days after the conclusion of each quarter of the school year, submit to the State Superintendent of Education a record reflecting the attendance of the affected student during that quarter. Provided that complete information is submitted in the required format, the State Superintendent shall forward the report to the district of residence for use in responding to billing by the provider. A district shall have no obligation to pay a provider for educational services performed during any period of time until the student's attendance has been reported as required.

**Section 405.60 Calculation of Costs**

The provider of an educational program not approved by the State Board of Education under its rules at 23 Ill. Adm. Code 401 shall not be required to seek approval for the program. In order to receive payment from a student's district of residence, however, the provider shall be required to submit information to the Illinois Purchased Care Review Board (IPCRB), in a format specified by the IPCRB, so that a rate can be established for the program using the method described in IPCRB's rules at 89 Ill. Adm. Code 900 (Illinois Purchased Care Review Board). The *costs of educating the child* (Section 14-7.05 of the School Code) that must be paid by the district of residence of a student under this Part shall be determined on the basis of the daily rate set for the respective educational program by the IPCRB and the number of days for which the student is enrolled. The State Superintendent shall inform the district of residence of the rate as soon as it has been set.

**Section 405.70 Termination of Placement**

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The provider of an educational program into which an affected student is placed shall notify the State Superintendent of Education no later than 10 days after receiving information as to the date on which the student's placement will be terminated.

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
130.605	Amendment
130.2145	Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-25 and 35 ILCS 120/12; 20 ILCS 2505/ 2505-795
- 5) Effective Date of Amendments: February 23, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Copies 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:  
32 Ill. Reg. 15763; September 26, 2008  
32 Ill. Reg. 17654; November 14, 2008
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made. This rulemaking reflects consolidation of 2 separate proposed rulemakings into a single adopted rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Amendments: Section 130.605 is amended to add a fly-away aircraft exemption created by Public Act 95-304 and makes a technical correction to the numbering provisions of the exemptions.

The amendment to Section 130.2145 is proposed in order to explain the application of Retailers' Occupation Tax to charges made by hotels and similar establishments for the rental of meeting, conference, banquet, and other similar types of rooms when food and beverages are provided. Examples of such situations include wedding receptions, conferences and business luncheons. This rule applies a true-object test to these transactions. The rule provides that if only snacks (examples of "snacks" are provided) or non-alcoholic beverages are transferred incidental to the renting of a room, the true object of the transaction will be deemed the rental of the room, and the charges for the room rental are not subject to tax. If, however, any food other than snacks is provided or alcohol is served, the true object of the transaction will be deemed the sale of food or beverages and the charges for the room rental are part of the seller's taxable gross receipts. Numerous examples applying these rules are provided. The rationale for this rule is that when the true object of the transaction is the provision of food or beverages, provision of the room is considered an inseparable link in the chain of events leading to the sale of food or beverages. As such, the room rental is part of the seller's cost of doing business, which is not deductible from gross receipts. The rule also provides examples of other types of charges related to the provision of food and beverages which are considered taxable (e.g., food serving or carving and corkage fees), and charges which are not related to the provision of food and beverages which are considered nontaxable (e.g., security, valet, coat check and entertainment).

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

Jerilynn T. Gorden  
Deputy General Counsel – Sales and Excise Taxes

Debra M. Boggess  
Associate Counsel  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794

217/782-2844

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 130  
RETAILERS' OCCUPATION TAX

## SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

## SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

## SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled

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	Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

## SUBPART D: GROSS RECEIPTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

## SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period



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130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

## SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

## SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

## SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

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SUBPART I: PENALTIES AND INTEREST

Section

- 130.901 Civil Penalties
- 130.905 Interest
- 130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section

- 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

- 130.1101 Definition of Federal Area
- 130.1105 When Deliveries on Federal Areas Are Taxable
- 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

- 130.1201 General Information
- 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

- 130.1301 When Lessee of Premises Must File Return for Leased Department
- 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
- 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

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- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON  
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers

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## NOTICE OF ADOPTED AMENDMENTS

- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians

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## NOTICE OF ADOPTED AMENDMENTS

130.2170 Warehousemen

## SUBPART T: DIRECT PAYMENT PROGRAM

## Section

130.2500	Direct Payment Program
130.2505	Qualifying Transactions, Non-transferability of Permit
130.2510	Permit Holder's Payment of Tax
130.2515	Application for Permit
130.2520	Qualification Process and Requirements
130.2525	Application Review
130.2530	Recordkeeping Requirements
130.2535	Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

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amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009.

## SUBPART F: INTERSTATE COMMERCE

**Section 130.605 Sales of Property Originating in Illinois**

- a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.
  - 1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in this State.
  - 2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.
  - 3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.



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- b) There are three exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or his representative receives physical possession of the property in Illinois.
- 1) Except as otherwise provided in subsection (b)(1)(C), the tax is not imposed upon the sale of a motor vehicle in this State *even though the motor vehicle is delivered in this State*, if all of the following conditions are met: *the motor vehicle is sold to a nonresident; the motor vehicle is not to be titled in this State; and either a drive-away permit for purposes of transporting the motor vehicle to a destination outside of Illinois is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or the nonresident purchaser has non-Illinois vehicle registration plates to transfer to the motor vehicle upon transporting the vehicle outside of Illinois. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State. [35 ILCS 120/2-5(25)]*
- A) Documentation of nonresidency. The exemption under subsection (b)(1) is available only to nonresidents. A vehicle purchased by an Illinois resident is not eligible for the exemption (even if the purchaser is only a part-time Illinois resident or has dual residency in both Illinois and another state, and, in the case of more than one purchaser, even if only one of the purchasers is an Illinois resident). Effective July 1, 2008, if a retailer claims the exemption under subsection (b)(1), the retailer must keep evidence that the purchaser is not a resident of Illinois, along with the records related to the sale (e.g., in the deal jacket).
- i) When the purchaser is a natural person, the best evidence of nonresidence is a non-Illinois driver's license. Retention of a copy of the purchaser's permanent non-Illinois driver's license in the records related to the sale is prima facie evidence that the purchaser is a nonresident eligible for the exemption under this subsection (b)(1). In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

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"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for 30 or more days in a calendar year, I am also liable for tax, penalty and interest on this purchase."

- ii) When the purchaser is a natural person, failure to keep a copy of the purchaser's non-Illinois driver's license or the presence of a copy of the purchaser's Illinois driver's license in the records related to the sale creates a rebuttable presumption that the purchaser is an Illinois resident ineligible for the exemption under this subsection (b)(1). To rebut this presumption, the retailer must keep evidence of the nonresidency of the purchaser in the records related to the sale, such as a voter registration card listing a non-Illinois address, a copy of a purchase contract or lease agreement for a new residence outside of Illinois, a copy of a tax return from another state that declares residency in that other state, a credit report listing the primary address as out-of-state, property tax records claiming a homestead exemption for an out-of-state residence, or any other documentation that clearly shows that the purchaser is not an Illinois resident. In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for 30 or more days in a calendar year, I am also liable for tax, penalty and interest on this purchase."

- iii) When the purchaser is not a natural person (e.g., corporation, partnership, limited liability company, trust, etc.), then the purchaser shall be deemed a resident of the state or foreign country under whose laws the purchaser

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was incorporated, created or organized, as well as the state or foreign country of the purchaser's commercial domicile, if different. When the purchaser is a grantor trust or other entity that claims it has no state or foreign country of incorporation, creation, organization and commercial domicile, then the purchaser's state or foreign country of residence shall be deemed to be the place of residency of the principal user of the vehicle and a copy of the user's non-Illinois driver's license or other evidence of non-Illinois residency must be kept by the retailer in the records related to the sale. When the purchaser is not a natural person, the retailer must obtain and keep in the records related to the sale a certificate from the purchaser that states substantially the following:

"(Purchaser) states, under applicable penalties, including penalties for perjury and fraud, that it is a (corporation, partnership, LLC, trust, etc.), incorporated, organized or created under the laws of (state or foreign country) and has its commercial domicile in (state or foreign country), or alternatively that it has no state or foreign country of incorporation, creation, organization and commercial domicile, but the principal user's state or foreign country of residence is (state). The undersigned has authority to sign this certification on behalf of the purchaser, and understands that in doing so, if the purchaser is a resident of Illinois or uses the motor vehicle in Illinois for 30 or more days in a calendar year, it will be liable for tax, penalty and interest on this purchase."

- iv) If the retailer meets the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then, absent fraud, the Department shall pursue any claim that the exemption does not apply solely against the vehicle purchaser. If, however, the retailer does not meet the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then the exemption claimed by the retailer shall be disallowed subject to further review by the Department.

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- B) When the motor vehicle is purchased for lease and delivery to a lessee, the provisions of subsection (b)(1) shall apply to the lessee as if the lessee is the purchaser of the motor vehicle.
- C) The exemption under this subsection (b)(1) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under the Retailers' Occupation Tax Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under the Retailers' Occupation Tax Act. (See 35 ILCS 120/2-5(25-5).)
- D) For purposes of this subsection (b)(1), the term "motor vehicle" does not include (list not exhaustive):
- i) "watercraft" or "personal watercraft" as defined in the Boat Registration and Safety Act [625 ILCS 45] or any boat equipped with an inboard motor, regardless of whether the watercraft, personal watercraft or boat is sold individually or included with the sale of a trailer. If the watercraft, personal watercraft or boat is included with the sale of a trailer, the trailer may be an exempt "motor vehicle" under this subsection (b)(1), but the watercraft, personal watercraft or boat is not an exempt motor vehicle and tax is still owed on it. If the two items are sold together for one non-itemized price, and the trailer is exempt under this subsection (b)(1), only the gross receipts representing the selling price of the trailer are exempt. Please note that Section 130.540 requires separate transaction returns to be filed with the Department for each item of property sold by the retailer that is required to be titled or registered with an agency of Illinois government;

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- ii) "all-terrain vehicles" as defined in Section 1-101.8 of the Illinois Vehicle Code;
- iii) "motorcycles", as defined in Section 1-147 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
- iv) "motor driven cycles", as defined in Section 1-145.001 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
- v) "off-highway motorcycles" as defined in Section 1-153.1 of the Illinois Vehicle Code; or
- vi) "snowmobiles" as defined in Section 1-2.15 of the Snowmobile Registration and Safety Act [625 ILCS 40/1-2.15].

2) *Beginning July 1, 2007, the Retailers' Occupation Tax is not imposed on the sale of an aircraft, as that term is defined in Section 3 of the Illinois Aeronautics Act [620 ILCS 5/3], if all of the following three conditions are met:*

*A) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;*

*B) the aircraft is not based or registered in this State after the sale of the aircraft; and*

*C) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this subsection (b)(2) are met. The certificate must also include the name and address of the*

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*purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require. [35 ILCS 120/2-5(25-7)] (See Section 130.120.)*

D) For purposes of this subsection (b)(2):

i) *"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations, for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.*

ii) *"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State. [35 ILCS 120/2-5(25-7)]*

32) The seller does not incur Retailers' Occupation Tax liability with respect to *the proceeds from the sale of an item of tangible personal property to a common carrier by rail or motor that receives physical possession of property in Illinois and that transports the property, or shares with another common carrier in transporting the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois. [35 ILCS 120/2-5(17)]*~~3~~ The exception for sales to common carriers by rail or motor, which is described in subsection (b)(~~32~~), is also applicable to local occupation taxes administered by the Department.

- c) The tax does not extend to gross receipts from sales in which the seller is obligated, under the terms of his or her agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that the delivery is actually made.
- d) Nor does the tax apply to gross receipts from sales in which the seller, by carrier (when the carrier is not also the purchaser) or by mail, under the terms of his or

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her agreement with the purchaser, delivers the goods from a point in this State to a point outside this State not to be returned to a point within this State. The fact that the purchaser actually arranges for the common carrier or pays the carrier that effects delivery does not destroy the exemption. However, it is critical that the seller is shown as the consignor or shipper on the bill of lading. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply.

- e) The place at which title to the property passes to the purchaser is immaterial. The place at which the contract of sale or contract to sell is negotiated and executed and the place at which the purchaser resides are also immaterial. Sales of the type described in subsections (c) and (d) are deemed to be within the protection of the Commerce Clause of the Constitution of the United States.
- f) To establish that the gross receipts from any given sale are exempt because the tangible personal property is delivered by the seller from a point within this State to a point outside this State under the terms of an agreement with the purchaser, the seller will be required to retain in his or her records, to support deductions taken on his or her tax returns proof that satisfies the Department that there was an agreement and a bona fide delivery outside this State of the property that is sold. The most acceptable proof of this fact will be:
  - 1) If shipped by common carrier, a waybill or bill of lading requiring delivery outside this State;
  - 2) if sent by mail, an authorized receipt from the United States Post Office department for articles sent by registered mail, parcel post, ordinary mail or otherwise, showing the name of the addressee, the point outside Illinois to which the property is mailed and the date of the mailing; if the receipt does not comply with these requirements, other supporting evidence will be required;
  - 3) if sent by seller's own transportation equipment, a trip sheet signed by the person making delivery for the seller and showing the name, address and signature of the person to whom the goods were delivered outside this State; or, in lieu thereof, an affidavit signed by the purchaser or his or her representative, showing the name and address of the seller, the name and address of the purchaser and the time and place of the delivery outside Illinois by the seller; together with other supporting data as required by Section 130.810 of this Part and by Section 7 of the Act.

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- g) Retailers who ship property to freight forwarders who take possession of the property in Illinois and ship the property to foreign countries, not to be returned to the United States, are making exempt sales in foreign commerce and do not incur Retailers' Occupation Tax liability on the gross receipts from those sales. However, there is no exemption for property delivered in Illinois to foreign vessels. If foreign vessels purchase items of tangible personal property from Illinois retailers and have those items delivered to the vessels in an Illinois port, the sale is made in Illinois, the purchaser takes possession of the items in Illinois, and therefore, the sale is taxable.

(Source: Amended at 33 Ill. Reg. 3999, effective February 23, 2009)

## SUBPART S: SPECIFIC APPLICATIONS

**Section 130.2145 Vendors of Meals**

- a) Vendors of Meals – When Liable For Tax
- 1) Persons engaged in the business of selling meals to purchasers for use or consumption incur Retailers' Occupation Tax liability on their receipts from ~~thosesuch~~ sales. It is immaterial that no profit is realized from the operation of ~~this type of any such~~ business if the seller is engaged in a commercial enterprise, or if the seller engages in activities ~~thatwhich~~ make him/her taxable under the terms of Section 130.2005 of this Part. It is also immaterial that the class of purchasers may be a limited one, such as the employees of a particular employer who operates a cafeteria or other dining facilities for the benefit of his/her employees.
  - 2) Subsection (a)(1) includes, but is not limited to, the following types of vendors:
    - A) hotels;
    - B) restaurants;
    - C) caterers;
    - D) boarding houses;



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- E) concessionaires;
  - F) nonprofit service organizations and institutions to the extent indicated in Section 130.2005(a), (b) and (c) of this Part, and similar enterprises when conducted with a view to profit to the extent indicated in Section 130.2005(o) of this Part;
  - G) employers who operate dining facilities for the benefit of their employees, except to the extent noted in Section 130.2005(b) of this Part; and
  - H) sellers of food and beverages, delivered in Illinois to airlines, for use in serving passengers on aircraft without a separate charge for the food or beverages being made by the airline, regardless of whether the airline may serve the food and beverages in Illinois or outside Illinois; sales of meals to airlines for use on their aircraft in serving crews, where the cost is deducted from a food allowance, are nontaxable sales for resale, but if the meals are delivered to the airline in Illinois, the airline incurs Retailers' Occupation Tax liability on its receipts (consideration in the form of compensation for service rendered) from reselling ~~thesueh~~ meals to crews, regardless of whether the aircraft is in Illinois or outside Illinois when it serves ~~thesueh~~ meals to its crew.
- b) Vendors of Meals to Organizations or Their Members
- 1) Effective August 1, 1961, when members of an organization meet at a hotel, restaurant or other place of business where food or drinks are sold and pay for ~~thoseany-sueh~~ items, the hotel, or other vendor of meals, is considered to be selling such tangible personal property directly to ~~sueh~~ members as users or consumers, and ~~thesueh~~ sales shall be considered to be taxable. This is true even if the organization collects from the members and makes payment to the vendor, and even if the organization is permitted to retain a portion of what it collects for its own purposes.
  - 2) In this situation, the organization is deemed to be acting for the accommodation of all concerned and is not deemed to be standing in the role of a purchaser and reseller.

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- 3) The measure of the tax is the amount received by the hotel, etc., for the tangible personal property ~~that~~which it furnishes.
  - 4) The principles stated in this Section apply also when the tangible personal property that is being sold is something other than food and drinks, but this Section is concerned primarily with vendors of food and drinks.
- c) Cover Charges and Minimum Charges
- 1) Cover Charges
    - A) Cover charges are not included in the taxable receipts of persons operating restaurants, hotels and other places of business ~~that~~which come within the Act, ~~when~~where ~~such~~ cover charges are made exclusively for the privilege of occupying space within ~~the~~such eating place, and ~~when~~where the payment of a cover charge by a patron does not entitle ~~the~~such patron to use or consume any food or beverage or other tangible personal property.
    - B) In such an instance, the cover charge is a receipt on account of a service rendered, whether ~~the~~such service be entertainment or otherwise, and does not accrue on account of the sale of tangible personal property at retail.
  - 2) Minimum Charges
    - A) The provisions regarding cover charges do not apply to so-called "minimum charges" ~~that~~which are made by night clubs, public eating places, private clubs or other retailers of food or beverages or both, and ~~that~~which entitle the persons paying ~~the~~such charge to use or consume some tangible personal property, such as food or beverages, without additional payment. The retailer's receipts from these charges are subject to Retailers' Occupation Tax.
    - B) Similarly, when a single charge is made for both entertainment and food and the charge for food is not separately stated on the customer's bill, the entire charge is subject to tax. For example, when a dinner theater charges \$50 for a show and includes food

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and beverages, the entire \$50 is subject to tax unless a separate charge is made for the food and beverages.

- C) However, minimum charges imposed by country clubs that must be paid regardless of whether the member purchases food or beverages are subject to tax only to the extent they are incurred for actual food or beverage purchases. (See *Aurora Country Club, Inc. v. Department of Revenue*, 50 Ill.App.3d 756, 365 N.E.2d 229 (2d Dist. 1977).)
- d) **Mandatory Service Charges**  
Mandatory gratuities are not included in the taxable receipts of persons operating restaurants, hotels and other places of business ~~that which~~ come ~~under within~~ the Act, if ~~thesueh~~ mandatory gratuity is added to banquet or dinner checks in the form of a percentage of the total bill, or as a flat rate, to the extent that *the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.* (Section 2-5(15) of the Act) If any part of the service charges are used to fund or pay wages, labor costs, employee benefits or employer costs of doing business, that part of the service charge is includable in gross receipts.
- e) **Rentals of Banquet, Meeting and Conference Rooms – True-object Test**  
The taxation of charges for the rental of a banquet, meeting, conference or similar room in conjunction with the providing of food or beverages will depend upon the nature of the transaction. The Department uses a "true-object" test to characterize the nature of these transactions.
- 1) If the true object of the transaction is the rental of the room and if food or beverages are provided incidentally to the rental of the room, no tax is incurred on the charges for the rental of the room. If no separate charge is made under the contract for the incidental amount of food or beverages provided, the rentor is considered the user of the food or beverages and incurs Use Tax on its cost price of the food or beverages transferred incidentally to the rental of the room. If a separate charge is made for any food and beverages transferred incidentally to the rental of the room, the rentor incurs Retailers' Occupation Tax on the selling price of the food or beverages. See Section 130.310 of this Part regarding the appropriate tax rate for sales of food.

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- 2) If the true object of the transaction is the sale of food or beverages, any room rental charges are part of the seller's costs of doing business and are includable in the seller's taxable gross receipts even if the charges for the room rental are separately stated on the agreement or bill between the seller and its customers. See Section 130.410 of this Part. The rental of the room is considered an inseparable link in the sale of the food and beverages to the customer and is not merely incidental to the seller's business of selling food or beverages.
- 3) If the rental contract requires that alcoholic beverages or food and other beverages be provided or sold by a specific third party or from a choice of providers specified by the rentor, the rentor shall be deemed to be the provider of the alcoholic beverages, food and other beverages for purposes of determining the taxation of the room rental charge.
- 4) This subsection (e) is applicable to rentals of rooms in situations in which those rentals are not subject to tax under the Hotel Operators' Occupation Tax Act.

f) True Object – Rental of Room

The Department deems an incidental provision of food or beverages to include the providing of non-alcoholic beverages, such as coffee, tea and soft drinks, and the providing of snacks, such as cookies, popcorn, candy, doughnuts, fruits and raw vegetables.

EXAMPLE 1: A person contracts for the rental of a meeting room at a hotel for a business meeting. As part of the contract, the hotel agrees to provide coffee, tea, soft drinks and cookies at no extra charge to the participants of the meeting. The true object of this transaction is deemed to be the rental of the room and any food and beverages provided are incidental to the renting of the room. The hotel does not incur Retailers' Occupation Tax on the charges for the rental of the room and the incidental providing of food and beverages. The hotel does incur Use Tax on its cost price of the coffee, tea, soft drinks and cookies provided incidental to the rental of the room.

EXAMPLE 2: A person contracts for the rental of a meeting room at a hotel for a business meeting. The hotel agrees to provide coffee, tea, soft drinks and cookies at the meeting for a separately stated charge as part of the contract. The true

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object of this transaction is deemed to be the rental of the room and any food and beverages provided are incidental to the renting of the room. In this transaction, the hotel incurs Retailers' Occupation Tax on the charge for sale of the coffee, tea, soft drinks and cookies. The gross receipts subject to Retailers' Occupation Tax do not include the separate charge for the rental of the room.

EXAMPLE 3: A person rents a room for a wedding reception from a hotel, but that person separately contracts for the food and beverages with a caterer instead of the hotel. The contract between the hotel and the customer did not specify any particular caterers. The true object of the transaction is deemed to be the rental of the room since the caterer and not the hotel provides the food and beverages. No Retailers' Occupation Tax is incurred on the hotel's rental charges in this instance.

g) True Object – Sale of Food and Beverages

The Department deems the providing of any food other than snacks to be the true object of the transaction and not the rental of the room. If alcoholic beverages are either provided or sold by the rentor to the persons attending the event for which the room is rented, the true object of the transaction will always be deemed the sale of food or beverages and not the rental of the room. If the rental contract requires that the alcoholic beverages or the food and other beverages be provided or sold by a specific third party or from a choice of providers specified by the rentor, the rentor shall be deemed to be the provider of those alcoholic beverages, food and other beverages for purposes of determining the taxation of the room rental charge.

EXAMPLE 1: A person contracts for the rental of a meeting room at a hotel for a business luncheon. As part of the contract, the hotel agrees to provide coffee, tea, soda, soup, sandwiches and various desserts to the participants of the luncheon meeting for no extra charge. The true object of this transaction is deemed to be the sale of food and beverages and not the rental of the room. The hotel incurs Retailers' Occupation Tax on its gross receipts from the sale of the food and beverages, including the charges for the rental of the room.

EXAMPLE 2: A person contracts for the rental of a meeting room at a hotel for a business after hours gathering with a speaker from a local business group. The hotel provides snacks and non-alcoholic beverages for a separately stated charge as part of the contract. The hotel provides for a bartender and agrees to sell alcoholic beverages to the participants at the gathering. The true object of this transaction is deemed to be the sale of food and beverages and not the rental of

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the room. The hotel incurs Retailers' Occupation Tax on its gross receipts from the sale of the food and beverages, including the charges for the rental of the room.

EXAMPLE 3: A person contracts with a hotel for the rental of a banquet room for a wedding reception. As part of the contract, the hotel charges that person a specific amount for each individual who attends the reception in exchange for providing beverages and a buffet meal to those individuals. The true object of this transaction is deemed to be the sale of food and beverages and not the rental of the room. The hotel incurs Retailers' Occupation Tax on its gross receipts from the sale of the food and beverages, which includes the specific charge for each individual who attends the reception, along with any charges for the rental of the room.

EXAMPLE 4: A person contracts with a hotel for a room for a cocktail reception. The hotel's rental contract requires that all alcoholic beverages and food be provided by a restaurant located on the hotel premises. The restaurant is a separate legal entity from the hotel. Because the hotel's rental contract requires the restaurant to provide the food and beverages, the hotel is considered to be the provider of the food and beverages, for purposes of determining taxation of the room charge. The true object of the transaction is the provision of food and beverages, since alcoholic beverages and food are provided. As a result, the hotel's charge for the room rental is subject to Retailers' Occupation Tax. The restaurant is subject to Retailers' Occupation Tax on the sale of the alcoholic beverages and food. If the hotel's rental contract had not required a specific third party to provide food and beverages, the charges for the room rental would not be subject to tax.

h) Other Charges

Charges that are related to the provision of food or beverages are always part of the gross receipts from the sale of the food or beverages. The reason the charges are part of the gross receipts subject to tax is because those charges are part of a seller's costs of doing business and are not deductible from a seller's gross receipts. See Section 130.410 of this Part. Examples of charges that are related to the provision of food and beverages include, but are not limited to, fees for food serving or carving and corkage, and charges for linens, chairs, tables, dishes, glassware, flowers and centerpieces. Examples of charges that are not related to the provision of food or beverages include, but are not limited to, charges for

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[security, valet, coat check, entertainment, audiovisual and telecommunications services, and cancellation fees.](#)

(Source: Amended at 33 Ill. Reg. 3999, effective February 23, 2009)

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- 1) Heading of the Part: Early Childhood Block Grant
- 2) Code Citation: 23 Ill. Adm. Code 235
- 3) Section Number: 235.100                      Adopted Action:  
Amendment
- 4) Statutory Authority: 105 ILCS 5/1C-2 and 2-3.71
- 5) Effective Date of Amendment: February 23, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted amendment, 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: September 22, 2008; 32 Ill. Reg. 16236
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The final version of the rulemaking is identical to the proposal.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? JCAR did not issue any agreements for this rulemaking.
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Public Act 95-724, effective June 30, 2008, extended the Preschool for All (PFA) program authorized under Section 2-3.71 of the School Code for two additional fiscal years (from June 30, 2008 to June 30, 2010). Established in 2006, the PFA program seeks to serve all 3- and 4-year-olds in the State whose parents wish to participate, with an emphasis on funding programs that primarily serve children who are at risk of academic failure and those who are from low-income families. During the time that it is in effect, the PFA program essentially replaces the



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Prekindergarten Program for Children at Risk of Academic Failure for the purposes of funding any new preschool programs.

Subpart B of the Early Childhood Block Grant rules governs the use of funds for PFA, while Subpart A sets forth requirements for the prekindergarten at-risk program. In order to have a seamless transition back to the prekindergarten at-risk program once the PFA program "sunset", a repealer date for Subpart B is included in the rules at Section 235.100(c). That date must be changed for the requirements of Subpart B to remain in effect for Fiscal Years 2009 and 2010.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Kay Henderson  
Early Childhood Education Division  
Illinois State Board of Education  
100 North First Street, E-225  
Springfield, Illinois 62777-0001

217/524-4835

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

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 235  
EARLY CHILDHOOD BLOCK GRANT

SUBPART A: PRESCHOOL EDUCATION AND  
PREVENTION INITIATIVE PROGRAMS

## Section

235.10	Purpose; Eligible Applicants
235.20	Application Procedure and Content for New or Expanding Programs
235.30	Additional Program Components for Preschool Education Proposals
235.40	Additional Program Components for Prevention Initiative Proposals
235.50	Proposal Review and Approval for New or Expanding Programs
235.60	Application Content and Approval for Continuation Programs
235.70	Terms of the Grant

## SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

## Section

235.100	Purpose; Eligible Applicants
235.110	Application Procedure and Content for New or Expanding Programs
235.120	Proposal Review and Approval for New or Expanding Programs
235.130	Application Content and Approval for Continuation Programs
235.140	Terms of the Grant

## SUBPART C: SOCIAL AND EMOTIONAL CONSULTATION SERVICES

## Section

235.200	Implementation and Purpose; Eligible Applicants
235.210	Application Procedure and Content
235.220	Proposal Review and Approval of Proposals

235.APPENDIX A	Illinois Early Learning Standards
235.APPENDIX B	Illinois Birth to Three Program Standards

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENT

**AUTHORITY:** Authorized by Section 1C-2 of the School Code [105 ILCS 5/1C-2] and implementing Sections 2-3.71, 2-3.71a and 2-3.89 of the School Code [105 ILCS 5/2-3.71, 2-3.71a and 2-3.89].

**SOURCE:** Adopted at 16 Ill. Reg. 10181, effective June 10, 1992; expedited correction at 16 Ill. Reg. 15186, effective June 10, 1992; amended at 26 Ill. Reg. 903, effective January 15, 2002; old Part repealed at 30 Ill. Reg. 4618 and new Part adopted at 30 Ill. Reg. 4620, effective February 28, 2006; emergency amendment adopted at 30 Ill. Reg. 11793, effective June 26, 2006, for a maximum of 150 days; emergency expired November 22, 2006; amended at 30 Ill. Reg. 19383, effective November 28, 2006; amended at 32 Ill. Reg. 13357, effective July 25, 2008; amended at 33 Ill. Reg. 4027, effective February 23, 2009.

## SUBPART B: PRESCHOOL FOR ALL CHILDREN PROGRAM

**Section 235.100 Purpose; Eligible Applicants**

- a) This Subpart B establishes the procedures and criteria for the approval of proposals submitted to the State Board of Education by eligible applicants for grants to assist in establishing Preschool for All Children programs authorized by Section 2-3.71(a)(4.5) of the School Code [105 ILCS 5/2-3.71(a)(4.5)].
- b) Applicants eligible to apply for the Preschool for All Children program are those listed in Section 235.10(b) and (c) of this Part.
- c) This Subpart is repealed as of June 30, ~~2010~~2008 (see Section 2-3.71(a)(4.5) of the School Code).

(Source: Amended at 33 Ill. Reg. 4027, effective February 23, 2009)

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Reading Improvement Program
- 2) Code Citation: 23 Ill. Adm. Code 260
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
260.100	New Section
260.110	New Section
260.120	New Section
260.130	New Section
260.140	New Section
- 4) Statutory Authority: 105 ILCS 5/ 2-3.51
- 5) Effective Date of Amendments: February 23, 2009
- 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: November 7, 2008; 32 Ill. Reg. 17408
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 260.120(g), the phrase "containing the materials submitted under subsections (c), (d) and (f) of this Section" was added in order to specify the contents of an approved proposal.
- 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 amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Section 2-3.51 of the School Code establishes the Reading Improvement Block Grant (RIBG) Program, a formula-based grant that is

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

provided to school districts with schools serving kindergarten through grade 6 and is designed to help improve reading achievement and instruction. Under the law, the State Board of Education is authorized to reserve up to 2 percent of the money allocated for the RIBG program for "teacher training and re-training in the teaching of reading". Part 260 currently sets forth only the requirements for the formula-based programs.

Subpart B identifies the applicants eligible to apply for professional development grants on a competitive basis, establishes the procedures and requirements for both initial and continuation applications, and provides the criteria for review and awarding of grants. The amendments contemplate two pools of applicants: school districts, charter schools and approved public university laboratory schools, which would apply on behalf of their teachers who would participate in the professional development activities, and these applicants and other entities, which would apply to establish the training programs.

Additionally, the amendments allow sufficient flexibility for the State Superintendent to identify in each RFP the training approaches that would best meet the needs of school staff or support statewide priorities for improvement of teaching and learning. This flexibility will enable the agency to target limited resources toward programs with the greatest likelihood of success, without first having to conduct a lengthy process to amend the rules.

Each RFP also would communicate the amount of the 2 percent set-aside to be awarded and the length that grants will be in effect (i.e., one, two or three years). The decision to renew a grant in any subsequent year of a funding cycle would be made based on the amount of the RIBG appropriation, the activities the grantee proposes for the grant period, and the grantee's adherence to the terms and conditions of the grant received in the immediately preceding grant period.

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

Marica Cullen  
Curriculum and Instruction Division  
Illinois State Board of Education  
100 North First Street, E-215  
Springfield, Illinois 62777-0001

217/557-7323

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

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER g: SPECIAL COURSES OF STUDY

## PART 260

## READING IMPROVEMENT PROGRAM

[SUBPART A: READING IMPROVEMENT BLOCK GRANT](#)

## Section

260.10	Definitions (Repealed)
260.20	Purpose
260.30	Eligible Applicants
260.40	Allowable Expenditures
260.50	Procedure and Criteria for Approval of Applications
260.55	Eligibility for Continued Funding
260.60	Allocation of Funds (Repealed)
260.70	Distribution of Grant Awards
260.80	Year-End Reporting

[SUBPART B: READING IMPROVEMENT  
PROFESSIONAL DEVELOPMENT GRANTS](#)[Section](#)

<u><a href="#">260.100</a></u>	<u><a href="#">Purpose and Implementation</a></u>
<u><a href="#">260.110</a></u>	<u><a href="#">Eligible Applicants</a></u>
<u><a href="#">260.120</a></u>	<u><a href="#">Application Procedures and Content</a></u>
<u><a href="#">260.130</a></u>	<u><a href="#">Proposal Review, Approval and Grant Award</a></u>
<u><a href="#">260.140</a></u>	<u><a href="#">Application Content and Approval for Continuation Programs</a></u>

AUTHORITY: Implementing and authorized by Section 2-3.51 of the School Code [105 ILCS 5/2-3.51].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15967, effective October 2, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 7757, effective April 29, 1986; amended at 14 Ill. Reg. 20714, effective December 14, 1990; amended at 16 Ill. Reg. 14196, effective September 8, 1992; amended at 22 Ill. Reg. 19763, effective October 30, 1998; amended at 23 Ill. Reg. 7083, effective June 2, 1999; amended at 26 Ill. Reg. 8104, effective May 20, 2002; emergency

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

amendment at 29 Ill. Reg. 9508, effective June 20, 2005, for a maximum of 150 days; emergency expired November 16, 2005; amended at 29 Ill. Reg. 20417, effective November 29, 2005; amended at 33 Ill. Reg. 4031, effective February 23, 2009.

SUBPART B: READING IMPROVEMENT  
PROFESSIONAL DEVELOPMENT GRANTS

**Section 260.100 Purpose and Implementation**

- a) This Subpart B establishes the application procedure and criteria for selection by the State Board of Education of eligible applicants to receive funding for *teacher training and re-training in the teaching of reading* pursuant to Section 2-3.51(a) of the School Code [105 ILCS 5/2-3.51(a)]. For the purposes of this Subpart B, "professional development" shall be understood to mean any combination of training, re-training or other professional development activities.
- b) The State Superintendent of Education annually may allocate up to 2 percent of funds appropriated to the Reading Improvement Block Grant Program for professional development grants, as defined in subsection (a) of this Section.

(Source: Added at 33 Ill. Reg. 4031, effective February 23, 2009)

**Section 260.110 Eligible Applicants**

- a) An applicant's eligibility for a grant shall be determined by the purpose of the program being funded, i.e., receipt of professional development by the applicant's staff, as defined in Section 2-3.51(a-5)(6) of the School Code [105 ILCS 5/2-3.51(a-5)(6)], and employed in any of kindergarten through grade 6, or provision of professional development by the applicant.
  - 1) A public school district, charter school, or public university laboratory school approved by the Illinois State Board of Education providing instruction in kindergarten through grade 6 may apply for funding to pay the costs associated with its staff's receipt of professional development services and activities.
  - 2) In addition to the eligible applicants identified in subsection (a)(1) of this Section, a regional office of education, postsecondary institution, and other not-for-profit entity may apply for funding to conduct specific

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

professional development programs, as may be identified in a given Request for Proposals (RFP) issued in accordance with Section 260.120 of this Part, designed to improve reading instruction and student achievement in reading (e.g., Reading Recovery, response to intervention).

- b) Each RFP shall state whether joint applications for funds may be submitted by any combination of eligible applicants, as described in subsection (a) of this Section, subject to the conditions stated in subsections (b)(1), (b)(2) and (b)(3) of this Section.
- 1) If a joint application is submitted, then an administrative agent shall be designated.
  - 2) The superintendent from each of the participating school districts and the official authorized to submit a proposal on behalf of any other eligible entity as defined in subsection (a) of this Section shall sign the joint application.
  - 3) An eligible applicant shall only participate in one proposal for a specific program.

(Source: Added at 33 Ill. Reg. 4031, effective February 23, 2009)

**Section 260.120 Application Procedures and Content**

- a) When an allocation for professional development grants is made available pursuant to Section 260.100(a) of this Part, the State Superintendent of Education shall issue a Request for Proposals (RFP) specifying the information that applicants shall include in their 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) It is the intention of the State Board of Education to approve Reading Improvement Professional Development Grants for no more than a three-year period. Each RFP will indicate whether the grant will be funded for one, two or three years. Funding in each subsequent year is subject to a sufficient appropriation for the program and satisfactory progress of the grantee in the previous grant period. (See Section 260.140 of this Part.)



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- c) Each RFP shall indicate the descriptive information that initial applicants will be required to provide about their proposed programs. For the purposes of this Subpart B, initial applicants are those that did not receive funding under this Subpart in the year previous to an application or that are completing the last year in a funding cycle. The proposal description shall include:
- 1) evidence of the applicant's need for the professional development (e.g., reading achievement data, rationale for targeting specific grade levels or schools, current availability of and access to other professional development opportunities);
  - 2) the criteria for identifying participants to receive the professional development;
  - 3) a list of the activities and services to be provided and how those will improve reading instruction;
  - 4) evidence of commitment of the school staff in implementing or continuing the reading program that was the focus of the professional development;
  - 5) a description of the strategies to be employed for participating staff to share their knowledge with other staff in the school; and
  - 6) the data to be collected and methods to be used to determine the success of the professional development program on improving reading instruction and student achievement in reading.
- d) The RFP shall require completion of a budget summary and payment schedule as well as a budget breakdown, i.e., a detailed explanation of each line item of expenditure.
- e) Each RFP shall identify any area or areas of high priority for the funding cycle.
- f) Each RFP shall include certifications, assurances and program-specific terms of the grant, as the State Board of Education may require, to be signed by the applicant that is a party to the application and submitted with the proposal.

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- g) Applicants may be requested to clarify various aspects of their proposals. The contents of the approved proposal, containing the materials submitted under subsections (c), (d) and (f) of this Section, shall be incorporated into a grant agreement to be signed by the State Superintendent or designee and the superintendent of the school district or, in the case of other eligible applicants, by the authorized official.

(Source: Added at 33 Ill. Reg. 4031, effective February 23, 2009)

**Section 260.130 Proposal Review, Approval and Grant Award**

- a) Proposals submitted for funding to establish a professional development program shall be evaluated in accordance with the following criteria.
- 1) The proposal presents a convincing rationale about the need for the professional development based on the students' reading progress and the school's continuing need for improvements, as indicated by testing data or other relevant information. The number of staff estimated to participate in the professional development and the grade levels to be served are appropriate based on this need and will strengthen the ability of the school to improve reading achievement in measurable ways. (25 points)
  - 2) The proposal sets forth a clear understanding of why current reading instruction is not successful with all students and knowledgeably articulates how intensive, ongoing professional development will lead to improvements in reading achievement for those students. (25 points)
  - 3) The content, sequence and duration of the initial and any follow-up professional development appears to be of sufficient quality and length to have a positive effect on instructional practices. (15 points)
  - 4) Sufficient evidence is presented of the commitment of the school's administrators and teachers to implement or continue the targeted reading improvement strategies and methods after the conclusion of the professional development. Identified sources of funding for the planning and implementation are sufficient to successfully sustain the approach to reading instruction that was the focus of the professional development. (15 points)

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## NOTICE OF ADOPTED AMENDMENTS

- 5) Appropriate strategies are proposed for participants to share the knowledge gained and lessons learned in the professional development with others in the school, and these strategies will allow for successful implementation of the reading program throughout the school. (10 points)
- 6) The proposed budget is cost-effective based on the number of teachers to be trained and the activities proposed. (10 points)
- b) The selection of proposals for funding may be based in part on geographic distribution and/or the need to provide resources to school districts and communities with varying demographic characteristics.
- c) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Superintendent of Education in a particular RFP.
- d) 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 Reading Improvement Professional Development Grants; and
  - 2) the resources requested in the top-ranked proposals, as identified pursuant to subsections (a), (b) and (c) of this Section.

(Source: Added at 33 Ill. Reg. 4031, effective February 23, 2009)

**Section 260.140 Application Content and Approval for Continuation Programs**

The requirements of this Section shall apply to those applicants seeking funding to continue professional development programs beyond the initial grant period.

- a) In order to continue to operate a Reading Improvement Professional Development program, a grantee each year shall submit an application for continuation. The application shall include at least the following:
  - 1) an overview of the program to date (e.g., training provided, number of participants, topics addressed);

## STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED AMENDMENTS

- 2) a description of the activities and services proposed for the renewal period;
  - 3) budget information for the year in which the application is being made; and
  - 4) the certifications, assurances and program-specific terms of the grant referred to in Section 260.120(f) of this Part that are applicable to the renewal period.
- b) A professional development program shall be approved for continuation provided that:
- 1) a need continues to exist for the program, as evidenced by reading achievement data and the proposed numbers of teachers to be served;
  - 2) the activities and services proposed will be effective in improving instruction and student achievement in reading;
  - 3) the proposed budget is cost-effective, as evidenced by the cost of proposed services in relation to the numbers to be served and the services to be provided; and
  - 4) in the year previous to the continuation application, the applicant complied with the terms and conditions of any grant it received pursuant to this Subpart B.

(Source: Added at 33 Ill. Reg. 4031, effective February 23, 2009)

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Narrative and Planning Policies
- 2) Code Citation: 77 Ill. Adm. Code 1100
- 3) Section Number: 1100.220
- 4) Date Proposal published in Illinois Register: January 25, 2008; 32 Ill. Reg. 1039
- 5) Date Adoption published in Illinois Register: August 1, 2008; 32 Ill. Reg. 12321
- 6) Date Request for Expedited Correction published in Illinois Register: October 31, 2008; 32 Ill. Reg. 17276
- 7) Adoption Effective Date: July 18, 2008
- 8) Correction Effective Date: July 18, 2008
- 9) Reason for Approval of Expedited Correction: The purpose of the expedited correction is to include in the background text of Section 1100.220 amendments to this Section that were adopted on March 18, 2008 (32 Ill. Reg. 4743; April 4, 2008). The amendments that were adopted on March 18, 2008, included definitions for the terms "Base Year", "Fertility Rate", "HFPB", "Independent Travel Time Studies", "Normal Travel Time", "Patient Migration", "Population Estimates", and "Population Projections". Definitions for "Use Rate" and "Utilization" were amended, and definitions for "Occupancy Target", "Population or Population Projections", "Use Rate or Utilization Maximum", "Use Rate or Utilization Minimum", and "Variance" were stricken.

The full text of the Corrected Amendment begins on the following page.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF EXPEDITED CORRECTION

TITLE 77: PUBLIC HEALTH  
CHAPTER II: HEALTH FACILITIES PLANNING BOARD  
SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

PART 1100  
NARRATIVE AND PLANNING POLICIES

SUBPART A: GENERAL NARRATIVE

Section	
1100.10	Introduction
1100.20	Authority
1100.30	Purpose
1100.40	Health Maintenance Organizations (Repealed)
1100.50	Subchapter Organization
1100.60	Mandatory Reporting of Data
1100.70	Data Appendices
1100.75	Annual Bed Report
1100.80	Institutional Master Plan Hospitals (Repealed)
1100.90	Public Hearings

SUBPART B: ~~GENERAL~~ DEFINITIONS

Section	
1100.210	Introduction
1100.220	Definitions

SUBPART C: PLANNING POLICIES

Section	
1100.310	Need Assessment
1100.320	Staffing
1100.330	Professional Education
1100.340	Public Testimony
1100.350	Multi-Institutional Systems
1100.360	Modern Facilities
1100.370	Occupancy/Utilization Standards
1100.380	Systems Planning
1100.390	Quality

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

1100.400	Location
1100.410	Needed Facilities
1100.420	Discontinuation
1100.430	Coordination with Other State Agencies
1100.440	Requirements for Authorized Hospital Beds

SUBPART D: NEED [ASSESSMENT FORMULAS/UTILIZATION TARGETS](#)

## Section

1100.510	Introduction, Formula Components, <del>and</del> Planning Area Development Policies, <a href="#">and Normal Travel Time Determinations</a>
1100.520	Medical-Surgical/Pediatric Categories of Service
1100.530	Obstetric <a href="#">Care</a> Category of Service
1100.540	Intensive Care Category of Service
1100.550	Comprehensive Physical Rehabilitation Category of Service
1100.560	Acute Mental Illness <a href="#">Treatment</a> Category of Service
1100.570	Substance Abuse/Addiction Treatment Category of Service (Repealed)
1100.580	Neonatal Intensive Care Category of Service
1100.590	Burn Treatment Category of Service (Repealed)
1100.600	Therapeutic Radiology Equipment (Repealed)
1100.610	Open Heart Surgery Category of Service
1100.620	Cardiac Catheterization Services
1100.630	<a href="#">In-Center Hemodialysis</a> <del>Chronic Renal Dialysis</del> Category of Service
1100.640	Non-Hospital Based Ambulatory Surgery
1100.650	Computer Systems (Repealed)
1100.660	General Long-Term <del>Care</del> -Nursing Care Category of Service
1100.661	General Long-Term Care-Sheltered Care Category of Service (Repealed)
1100.670	Specialized Long-Term Care Categories of Service
1100.680	Intraoperative Magnetic Resonance Imaging Category of Service (Repealed)
1100.690	High Linear Energy Transfer (L.E.T.) (Repealed)
1100.700	Positron Emission Tomographic Scanning (P.E.T.) (Repealed)
1100.710	Extracorporeal Shock Wave Lithotripsy (Repealed)
1100.720	Selected Organ Transplantation
1100.730	Kidney Transplantation
1100.740	Subacute Care Hospital Model
1100.750	Postsurgical Recovery Care Center Alternative Health Care Model
1100.760	Children's Respite Care Center Alternative Health Care Model
1100.770	Community-Based Residential Rehabilitation Center Alternative Health Care Model

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

1100.800 Freestanding Emergency Center Medical Services Category of Service

1100.APPENDIX A Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a

**AUTHORITY:** Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

**SOURCE:** Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30, 1995; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2594; amended at 20 Ill. Reg. 14778, effective November 15, 1996; amended at 21 Ill. Reg. 6220, effective May 30, 1997; expedited correction at 21 Ill. Reg. 17201, effective May 30, 1997; amended at 23 Ill. Reg. 2960, effective March 15, 1999; amended at 24 Ill. Reg. 6070, effective April 7, 2000; amended at 25 Ill. Reg. 10796, effective August 24, 2001; amended at 27 Ill. Reg. 2904, effective February 21, 2003; amended at 31 Ill. Reg. 15255, effective November 1, 2007; amended at 32 Ill. Reg. 4743, effective March 18, 2008; amended at 32 Ill. Reg. 12321, effective July 18, 2008; expedited correction at 33 Ill. Reg. 4040, effective July 18, 2008.

SUBPART B: ~~GENERAL~~ DEFINITIONS**Section 1100.220 Definitions**

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Admissions" means the number of patients accepted for inpatient service during a 12-month period; the newborn are not included.



## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

"Applicable Codes" and/or "Current Recognized Standards" means the current official codes of governmental bodies applicable under law or regulation to Illinois health facilities and/or standards of health facility design, construction and equipment promulgated on a regular or permanent basis by an authority, public or private. A listing of the applicable codes utilized in the application review process may be found in Appendix A of this Part.

"Authorized Hospital Bed Capacity" means the number of beds recognized for planning purposes at a hospital facility, as determined by HFPB. The operational status of authorized hospital beds is identified as physically available, reserve, or transitional, as follows:

"Physically Available Beds" means beds that are physically set up, meet hospital licensure requirements, and are available for use. These are beds maintained in the hospital for the use of inpatients and that furnish accommodations with supporting services (such as food, laundry, and housekeeping). These beds may or may not be staffed, but are physically available.

"Reserve Beds" means beds that are not set up for inpatients, but could be made physically available for inpatient use within 72 hours.

"Transitional Beds" means beds for which a Certificate of Need (CON) has been issued, but that are not yet physically available, and beds that are temporarily unavailable due to modernization projects that do not require a CON.

"Authorized Long-Term Care Bed Capacity" means the number of beds by category of service, recognized and licensed by IDPH for long-term care.

"Average Daily Census" or "ADC" means over a 12-month period the average number of inpatients receiving service on any given day.

"Average Length of Stay" or "ALOS" means over a 12-month period the average duration of inpatient stay expressed in days as determined by dividing total inpatient days by total admissions.

"Base Year" means the calendar year, as determined by IDPH, that serves as the

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

[starting point or benchmark for the historical utilization and population projections.](#)

"Category of Service" means a grouping by generic class of various types or levels of support functions, equipment, care or treatment provided to patient/residents. Examples include but are not limited to medical-surgical, pediatrics, cardiac catheterization, etc. A category of service may include subcategories or levels of care that identify a particular degree or type of care within the category of service.

"Emergency Medical Services System" or "EMS System" means *an organization of hospitals, vehicle service providers and personnel approved by IDPH in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS, and/or ALS level pursuant to a System program plan submitted to and approved by IDPH, and pursuant to the EMS Region Plan adopted for the EMS Region in which the System is located.* [210 ILCS 50/3.20]

"Emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or freestanding emergency center who have traumatic conditions or illnesses with an acuity level that is classified as level one or level two based upon the Emergency Severity Index (ESI) as defined in the "Emergency Severity Index Version 4: Implementation Handbook" published by the Agency for Healthcare Research and Quality, Rockville MD (Gilboy N, Tanabe P, Travers DA, Rosenau AM, Eitel DR; AHRQ Publication No. 05-0046-2; May 2005, no later amendments or editions included).

"Executive Secretary or Secretary" means the chief executive officer of the State Board, responsible to the Chairman and, through the Chairman, responsible to the State Board for the execution of its policies and procedures.

["Fertility Rate" means determinations by IDPH of population fertility that is based upon resident birth data for an area.](#)

"Freestanding Emergency Center" or "FEC" means a facility subject to licensure under Section 32.5 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50/32.5] that provides emergency medical and related services.

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

"Freestanding Emergency Center Medical Services" or "FECMS" means a category of service pertaining to the provision of emergency medical and related services provided in a freestanding emergency center.

["HFPB" means the Health Facilities Planning Board.](#)

"Health Service Area" or "HSA" means the following geographic areas:

HSA I – Illinois Counties of Boone, Carroll, DeKalb, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago

HSA II – Illinois Counties of Bureau, Fulton, Henderson, Knox, LaSalle, Marshall, McDonough, Peoria, Putnam, Stark, Tazewell, Warren, and Woodford

HSA III – Illinois Counties of Adams, Brown, Calhoun, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, and Scott

HSA IV – Illinois Counties of Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Iroquois, Livingston, Macon, McLean, Moultrie, Piatt, Shelby, and Vermilion

HSA V – Illinois Counties of Alexander, Bond, Clay, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Richland, Saline, Union, Wabash, Washington, Wayne, White, and Williamson

HSA VI – City of Chicago

HSA VII – DuPage County and Suburban Cook County

HSA VIII – Illinois Counties of Kane, Lake, and McHenry

HSA IX – Illinois Counties of Grundy, Kankakee, Kendall, and Will

HSA X – Illinois Counties of Henry, Mercer, and Rock Island

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

HSA XI – Illinois Counties of Clinton, Madison, Monroe, and St. Clair

"Hospital" means a facility, institution, place or building licensed pursuant to or operated in accordance with the Hospital Licensing Act [210 ILCS 45] or a State-operated facility that is utilized for the prevention, diagnosis and treatment of physical and mental ills. For purposes of this Subchapter, two basic types of hospitals are recognized:

General Hospital – a facility that offers an integrated variety of categories of service and that offers and performs scheduled surgical procedures on an inpatient basis.

Special or Specialized Hospital – a facility that offers, primarily, a special or particular category of service.

*"Illinois Department of Public Health" or "Agency" or "IDPH" means the Department of Public Health of the State of Illinois. [20 ILCS 3960/3]*

"Independent Travel Time Studies" means studies developed and submitted to refine or supplement the determination of Normal Travel Time. Independent Travel Time studies will be considered by HFPB only if conducted utilizing the criteria specified in this Part.

"Modernization" means modification of an existing health care facility by means of building, alteration, reconstruction, remodeling, replacement, the erection of new buildings, or the acquisition, alteration or replacement of equipment. Modification does not include a substantial change in either the bed count or scope of the facility.

"Non-emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or freestanding emergency center who have conditions or illnesses that are not classified as level one or level two based upon the Emergency Severity Index.

"Normal Travel Time" means the time necessary to traverse a route by an individual vehicle driving at posted speed limits between any two points of interest. Normal Travel Time is to be considered by HFPB only as calculated utilizing methodologies specified in this Part. Normal Travel Time for proposed projects shall be established by using the facility's location as the base point and

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

utilizing time factors specified in the applicable rules.

STATE BOARD NOTE: Normal Travel Time as used in this Part is a conceptual model approximating a reasonable time of travel between two points. It is intended to exclude a "worst" or "best" case situation such as travel during rush hours, midnight hours, or by emergency vehicle.

"Observation Days" means the number of days of service provided to outpatients for the purpose of determining whether a patient requires admission as an inpatient or other treatment. The observation period shall not exceed 48 hours.

"Occupancy Rate" means a measure of inpatient health facility use, determined by dividing average daily census by the ~~facility's bed~~ calculated capacity. It measures the average percentage of a facility's beds occupied and may be institution-wide or specific for one department or service.

~~"Occupancy Target" means a minimum utilization level established by IDPH for a facility or service, reflecting adequate access as well as operational efficiency.~~

"Patient Days" means the total number of days of service provided to inpatients of a facility over a 12-month period. This figure includes observation days if the observation patient occupies a bed that is included in the State Agency's Inventory of Health Care Facilities and Services and Need Determinations ~~as described in Section 1100.70.~~

"Patient Migration" means the total number of patients who reside in a given planning area but receive services at health care facilities located in another planning area for a given year. Patient migration is determined by utilizing the latest available patient origin data concerning admissions to health care facilities by various categories of service for a given year. The term in-migration refers to the number of patients who are not residents of a planning area that enter the area to receive services, while the term out-migration refers to the number of planning area residents who leave the planning area to obtain services elsewhere.

"Planning Area" means a defined geographic area within the State established by the State Board as a basis for the collection, organization, and analysis of information to determine health care resources and needs and to serve as a basis for planning.

~~"Population" or "Population Projections" means the latest estimates available as~~

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

~~determined by IDPH.~~

"Population Estimates" means the latest available numbers of residents of a geographic area based upon birth and death records and other inputs, as determined by IDPH. These numbers may be further broken down by age and sex cohorts.

"Population Projections" means the numbers of residents of a geographic area projected for one or more future time periods, as determined by IDPH and based upon State of Illinois population projections, as available. These numbers are for defined geographic areas and may be further broken down by age and sex cohorts.

"Resource Hospital" means the hospital that is responsible for an Emergency Medical Services (EMS) System in a specific geographic region. Responsibilities include education for EMS personnel and recommendations for their re-licensure, and development of standard medical protocols for the EMS system for which it takes the lead. Resource hospitals deal with pre-hospital and Emergency Department issues only, unlike the Trauma Center. The Resource Hospital functions with the Associate and Participating Hospitals within the specific EMS system. There are 62 EMS systems within 11 EMS Regions in Illinois.

"Site" means the location of an existing or proposed facility. An existing facility site is determined by street address. In a proposed facility the legal property description or the street address can be used to identify the site.

*"State Board" means the Health Facilities Planning Board established by the Act. [20 ILCS 3960/3]*

"Unit" means the grouping of beds to provide a category of service. Units are physically identifiable areas that are staffed to provide all care required for particular service.

"Use Rate" means the ratio of inpatient days per 1,000 population over a 12-month period (Inpatient Days/Population in Thousands = Use Rate). For need assessment purposes, HFPB may establish minimum or maximum use rates in order to promote the development of additional resources or to limit unnecessary duplication of services and beds in a planning area.

~~"Use Rate or Utilization Maximum" means a ceiling placed on an area's use or~~

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

~~utilization rate in order to reduce the projected need for beds or services. Use rate maximums are designed to prevent the overestimation of needed beds in formulas which utilize historical demand. Maximums are used in planning areas where historical demand is inflated due to an immigration of patients from other planning areas.~~

~~"Use Rate or Utilization Minimum" means a lower limit placed on an area's use or utilization rate in order to inflate the projected need for beds or services. Use rate minimums are designed to promote the development of beds in areas where historical utilization is too low to create a formula bed need. Low utilization is caused by a lack of services in the area or by an out migration of area residents to other areas for care.~~

~~"Utilization" means patterns or rates of use of a single service or type of service or piece of equipment, within a given facility or also in combinations of facilities. Utilization may be expressed by various ratios such as facility or bed service occupancy rates or hours of use for types of equipment, operating rooms, dialysis stations, etc. Use is expressed in rates per unit of population at risk for a given period.~~

~~"Variance" means an exception to computed need based upon criteria or conditions for particular categories of service.~~

(Source: Expedited correction at 33 Ill. Reg. 4040, effective July 18, 2008)

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 February 17, 2009 through February 23, 2009 and have been scheduled for review by the Committee at its March 17, 2009 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
4/3/09	<u>Department of Public Health</u> , Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)	9/12/08 32 Ill. Reg. 14644	3/17/09
4/3/09	<u>Department of Public Health</u> , Sheltered Care Facilities Code (77 Ill. Adm. Code 330)	9/12/08 32 Ill. Reg. 14658	3/17/09
4/3/09	<u>Department of Public Health</u> , Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)	9/12/08 32 Ill. Reg. 14670	3/17/09
4/3/09	<u>Department of Public Health</u> , Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350)	9/12/08 32 Ill. Reg. 14678	3/17/09
4/3/09	<u>Department of Public Health</u> , Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)	9/12/08 32 Ill. Reg. 14691	3/17/09
4/3/09	<u>Department of Public Health</u> , Health Care Worker Background Check Code (77 Ill. Adm. Code 955)	4/4/08 32 Ill. Reg. 4529	3/17/09



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

4/3/09	<u>Department of Financial and Professional Regulation</u> , Managed Care Dental Plans (50 Ill. Adm. Code 5425)	12/1/08 32 Ill. Reg. 18117	3/17/09
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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO EMERGENCY RULEMAKING

STATE BOARD OF ELECTIONS

Heading of the Part: Campaign Financing

Code Citation: 26 Ill. Adm. Code 100

Section Numbers: 100.180 100.EXHIBIT A

Date Originally Published in the Illinois Register: 1/9/09  
33 Ill. Reg. 332

At its meeting on February 18, 2009, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that SBEL encourage the Governor to approve legislation providing for the temporary registration and certification of business entities by e-mail or on paper until the Board establishes the required electronic system.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

## PROCLAMATIONS

**2009-20****Gubernatorial Proclamation**

A severe winter storm resulting in heavy accumulations of ice on trees and power lines moved through southern Illinois on January 26, 2009 through January 28, 2009. The ice storm caused widespread power outages due to downed power lines. Debris from trees covered roads throughout the area. Local governments are faced with a debris removal effort that will take weeks.

In the interest of aiding the local governments responsible for ensuring public health and safety, I hereby declare that a disaster emergency exists in the State of Illinois, pursuant to the provisions of the Illinois Emergency Agency Act, 20 ILCS 3305/7. I specifically declare the following counties as disaster areas: Gallatin and Saline.

This gubernatorial proclamation of disaster will assist the Illinois Emergency Management Agency in coordinating State resources to support the local governments in their disaster response and recovery efforts.

Issued by the Governor: February 13, 2009.

Filed with the Secretary of State: February 17, 2009.

**2009-21****FFA Week**

WHEREAS, agriculture is Illinois' largest and most productive industry, and is vital to the economic success and future prosperity of the State; and

WHEREAS, agricultural education helps to prepare over 27,000 students each year for careers in every aspect of agriculture in order to ensure the continued success of this important industry; and

WHEREAS, FFA is the largest career and technical student organization in the Illinois, preparing more than 17,000 students for premier leadership, personal growth and, career success. Each member in Illinois' 306 FFA chapters has demonstrated their interest in the field of agriculture and developed hands-on training in science, business and technology through agricultural education; and

WHEREAS, the Illinois Association FFA has positively influenced the lives of rural and urban FFA members, parents, educators, and business and community leaders; and

## PROCLAMATIONS

WHEREAS, eighty years of positive FFA influence have benefited over one million Illinois students; and

WHEREAS, the 2008-2009 state theme is "Performance Plus," to signify agriculture students' performance in the classroom as well as the community, plus their success in agriculture careers; and

WHEREAS, a week in February has been designated as National FFA Week throughout the United States, Puerto Rico and the Virgin Islands, and Illinois is proud to join in this spirited observance:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim the week of February 21-28, 2009 as **FFA WEEK** in Illinois, and encourage citizens to recognize and encourage agricultural education programs and students in Illinois, and support the ideals of the Illinois Association FFA.

Issued by the Governor February 9, 2009

Filed by the Secretary of State February 20, 2009.

**2009-22****Alderman Victory Bell**

WHEREAS, Alderman Victory Bell of Rockford's 5<sup>th</sup> Ward has served the Rockford City Council with great distinction for nearly four decades since first taking office in 1971; and

WHEREAS, when Alderman Bell was elected to the City Council in that year he became the first African-American elected as an Alderman in Rockford. Today he is the longest-serving member of Rockford's City Council and has served under six mayors; and

WHEREAS, Alderman Bell is a graduate of West High School and a retired employee of Ameritech. He now serves as a manager at the Illinois Secretary of State facility in Rockford; and

WHEREAS, Alderman Bell is also active in the community as a member of Pilgrim Baptist Church and the NAACP; and

WHEREAS, over his long and distinguished career of public service, Alderman Bell has earned numerous awards and recognitions, such as being included in Who's Who

## PROCLAMATIONS

Among African American Leaders and being selected as one of the most influential leaders in the Rockford Area by the Rockford Register-Star; and

WHEREAS, this past December, Alderman Bell announced that he would be retiring from the City Council when his term ends in April. Over the course of his career, Alderman Bell has made the State of Illinois a better place to live and work, and he will leave behind a legacy that will continue to resonate in the state for many years to come; and

WHEREAS, on February 14, 2009, the Northwest Illinois Political Black Caucus will honor past and present elected officials for Black History Month, including Alderman Bell:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby recognize and commend Alderman Victory Bell for his years of service to our state.

Issued by the Governor February 13, 2009

Filed by the Secretary of State February 20, 2009.

**2009-23****Staff Sgt. Jason E. Burkholder**

WHEREAS, on Sunday, February 8, Staff Sergeant Jason E. Burkholder from Marshall died at age 27 of injuries sustained when an improvised explosive device detonated in Kabul, Afghanistan, where Staff Sergeant Burkholder was serving in support of Operation Enduring Freedom; and

WHEREAS, Staff Sergeant Burkholder was remembered by his platoon leader and company commander as an outstanding soldier who could be counted to deliver under pressure or to help lighten the mood; and

WHEREAS, Staff Sergeant Burkholder was assigned to Headquarters and Headquarters Company, 2<sup>nd</sup> Battalion, 130<sup>th</sup> Infantry Regiment, Army National Guard, based in Urbana, Illinois; and

WHEREAS, a funeral will be held on Wednesday, February 18 for Staff Sergeant Burkholder, who is survived by his parents and his wife:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on February 17, 2009 until sunset on February 18,

## PROCLAMATIONS

2009 in honor and remembrance of Staff Sergeant Burkholder, whose selfless service and sacrifice is an inspiration.

Issued by the Governor February 17, 2009

Filed by the Secretary of State of Illinois February 20, 2009.

**2009-24****Entrepreneurship Week**

WHEREAS, entrepreneurship is vital to Illinois' growth and prosperity; and

WHEREAS, most of the new jobs created throughout the United States in the past decade have come from the creative efforts of entrepreneurs and small businesses; and

WHEREAS, many young Americans envision starting a business or doing something entrepreneurial as adults; and

WHEREAS, over the last several years, the State of Illinois has redoubled its commitment to nurturing our entrepreneurs, by opening up a network of entrepreneurship centers throughout Illinois to turn promising ideas into promising companies and new jobs; and

WHEREAS, our investments in the Illinois Entrepreneurship Network have helped small companies generate more than \$3 billion in government contracts and international sales and secure almost \$700 million in financing; and

WHEREAS, a broad coalition of partner organizations in Illinois and throughout the United States is actively engaged in enhancing entrepreneurial opportunities through collaboration and cooperation with the national Consortium for Entrepreneurship Education; and

WHEREAS, encouraging youth to be excited about entrepreneurship and working to expand the knowledge, skills and attitudes of Illinois' youth and adults to be successful entrepreneurs are crucial to the long-term growth of local communities, Illinois and the United States; and

WHEREAS, Illinois' Career and Technical Student Organizations offer an array of programs, activities and competitive events focused on entrepreneurship; and

## PROCLAMATIONS

WHEREAS, in 1988 the Illinois General Assembly created the Illinois Institute for Entrepreneurship Education to promote entrepreneurship as a viable career option, and to educate and aid the public in economic development; and

WHEREAS, in 2006 the United States House of Representatives established National Entrepreneurship Week to support the goals and ideals of entrepreneurship in America; and

WHEREAS, National Entrepreneurship Week provides an opportunity to focus on the innovative ways in which entrepreneurship education can bring together the core academic, technical and problem solving skills essential for future entrepreneurs and successful workers in future workplaces:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 21-28, 2009 as **ENTREPRENEURSHIP WEEK** in Illinois.

Issued by the Governor February 17, 2009

Filed by the Secretary of State of Illinois February 20, 2009.

**2009-25****Grow Your Own Teachers Day**

WHEREAS, in 2004, the Illinois General Assembly passed an innovative initiative called the Grow Your Own Teacher Education Act, which aims to recruit and train 1,000 new teachers for Illinois schools with low-income students by 2016; and

WHEREAS, what sets the Grow Your Own Teachers initiative apart from other initiatives is its focus on attracting candidates from local communities and its educational investments and support mechanisms; and

WHEREAS, the intention of the Grow Your Own Teachers initiative is to counter the high rates of teacher turnover in low-income schools; and

WHEREAS, in addition to high turnover, the total number of African-American and Latino teacher graduates is declining; and

WHEREAS, to date, the Grow Your Own Teachers initiative is responsible for recruiting more than 500 new teacher candidates statewide, 85 percent of whom are minorities – people who will make excellent teachers but who had previously been unable to afford college; and

## PROCLAMATIONS

WHEREAS, the Grow Your Own statewide initiative is supported by Grow Your Own Illinois, in partnership with 16 community organizations, 8 public universities, 4 private colleges or universities, 12 community colleges, 23 school districts, and 2 unions; and

WHEREAS, on February 18, a rally will be held at the Illinois State Capitol to celebrate the amazing progress made since the Grow Your Own Teacher Education Act became law:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 18, 2009 as **GROW YOUR OWN TEACHERS DAY** in Illinois in honor and recognition of this important and bold initiative, and I express my continued support for meaningful educational programs like this one that greatly benefit our schools, teachers and communities.

Issued by the Governor February 17, 2009

Filed by the Secretary of State of Illinois February 20, 2009.

**2009-26****Rare Disease Day**

WHEREAS, there are nearly 7,000 diseases and conditions considered rare (each affecting fewer than 200,000 Americans) in the United States; and

WHEREAS, while each of these disease may affect small numbers of people, rare diseases as a group affect almost 30 million Americans; and

WHEREAS, many rare diseases are serious and debilitating conditions that have a significant impact on the lives of those affected; and

WHEREAS, while nearly 330 orphan drugs and biologics have been approved for the treatment of rare diseases affecting between 11 and 14 million people according to the Food and Drug Administration, that still leaves well over 15 million American with rare diseases who have no treatment specific to their disease; and

WHEREAS, individuals and families affected by rare diseases often experience problems such as a sense of isolation, difficulty in obtaining an accurate and timely diagnosis, few treatment options, and problems related to accessing or being reimbursed for treatment; and

WHEREAS, while some rare diseases, such as “Lou Gehrig’s disease” and Huntington’s disease are relatively well known, many others are not known at all by the public,



## PROCLAMATIONS

which means that a large share of the burden of raising awareness of these diseases and raising funds for research is borne by patients and their families; and

WHEREAS, thousands of residents of Illinois are among those affected by rare diseases, since statistically nearly 1 in 10 Americans is affected; and

WHEREAS, the National Organization for Rare Diseases (NORD) is organizing a nationwide observance of Rare Disease Day on February 28, 2009, and patients, medical professionals, researchers, government officials, and companies developing treatments for rare diseases are joining together to focus attention on rare diseases as a public health issue on that day:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim February 28, 2009 as **RARE DISEASE DAY** in Illinois, in support of this important public awareness campaign.

Issued by the Governor February 17, 2009

Filed by the Secretary of State of Illinois February 20, 2009.

**2009-27****Medical Assistants Week**

WHEREAS, today, doctors in Illinois are under mounting pressure. Due to increasing medical liability insurance rates, many doctors have been forced to leave our state; and

WHEREAS, in 2005, the Illinois General Assembly passed legislation that amends medical liability insurance rates and regulation, which will hopefully keep and attract more doctors here; and

WHEREAS, in the meantime, medical assistants are helping doctors in Illinois cover the vacuum of medical services left behind by the departure of their colleagues; and

WHEREAS, doctors are seeing three to four times the number of patients they would normally see because of the loss of their peers, and medical assistants provide the necessary support needed to keep their offices functioning and running smoothly; and

WHEREAS, patients are also receiving better care and treatment thanks to medical assistants, who improve their knowledge and skills through educational programs offered by professional organizations such as the Illinois Society of Medical Assistants:

## PROCLAMATIONS

THEREFORE, I, Pat Quinn, Governor of the State of Illinois do hereby proclaim October 19-23, 2009 as **MEDICAL ASSISTANTS WEEK** in Illinois in recognition of medical assistants for their commitment and dedication to the medical profession and to the well-being of patients, especially during this trying time for them and doctors.

Issued by the Governor February 17, 2009

Filed by the Secretary of State of Illinois February 20, 2009.

**2009-28****First Lt. Jared W. Southworth**

WHEREAS, on Sunday, February 8, First Lieutenant Jared W. Southworth from Oakland died at age 26 of injuries sustained when an improvised explosive device detonated in Kabul, Afghanistan, where First Lieutenant Southworth was serving in support of Operation Enduring Freedom; and

WHEREAS, First Lieutenant Southworth graduated from Oakland High School in 2000. He continued his education at Lakeland College and received an Associate's degree in Criminal Justice. He earned a Bachelor of Arts degree in General Studies at Eastern Illinois University in 2006 and served as a member of the Oakland Police force; and

WHEREAS, First Lieutenant Southworth was assigned to Headquarters and Headquarters Company, 2<sup>nd</sup> Battalion, 130<sup>th</sup> Infantry Regiment, Army National Guard, based in Urbana, Illinois; and

WHEREAS, a funeral will be held on Sunday, February 22 for First Lieutenant Southworth, who is survived by his mother and father Robert and Kimberly Southworth, his wife Chrissy, and four children:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all State facilities to fly their flags at half-staff from sunrise on February 20, 2009 until sunset on February 22, 2009 in honor and remembrance of First Lieutenant Southworth, whose selfless service and sacrifice is an inspiration.

Issued by the Governor February 18, 2009

Filed by the Secretary of State of Illinois February 20, 2009.

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 33, Issue 10 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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