
ILLINOIS

REGISTER



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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 preemptory 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 2015

Issue#	Rules Due Date	Date of Issue
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015

20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015
22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Procedures for Issuing Loans From the Water Pollution Control Loan Program
- 2) Code Citation: 35 Ill. Adm. Code 365
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
365.130	Amendment
365.260	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 19.1 through 19.9 of the Illinois Environmental Protection Act [415 ILCS 5/19.1 through 19.9]
- 5) A Complete Description of the Subjects and Issues Involved: The Water Resources Reform and Development Act ("WRRDA") amended the Clean Water Act ("CWA") and became effective June 10, 2014. WRRDA requires states to establish affordability criteria to assist in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under section 1383(c)(1) of the CWA. For purposes of its 2015 capitalization grant, the proposed amendments establish affordability criteria to assist the Agency in identifying municipalities that would experience a significant hardship raising the revenue necessary to finance a project or activity eligible for assistance under section 1383(c)(1) of the CWA. Additionally, the proposed amendments reflect recent amendments to the Illinois Environmental Protection Act [415 ILCS 5/19.1 to 19.4] that became effective on July 23, 2014.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:
- Rex L. Gradeless
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield IL 62794-9276
- 217/782-5544
Email: Rex.Gradeless@Illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Public loan recipients receiving loans from the Agency's Water Pollution Control Loan Program could be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: 38 Ill. Reg. 14476; July 11, 2014

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

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

PART 365
PROCEDURES FOR ISSUING LOANS FROM THE WATER
POLLUTION CONTROL LOAN PROGRAM

SUBPART A: INTRODUCTION

Section	
365.110	Purpose
365.120	Administration
365.130	Definitions
365.140	Incorporations by Reference

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

Section	
365.210	Involvement of USEPA in the Operation of the Fund (Repealed)
365.220	Uses of the Water Pollution Control Loan Program
365.230	Agency Responsibilities under Title VI of the CWA
365.240	Requirements for Loan Recipients under Title VI of the CWA
365.250	Green Project Reserve
365.260	Principal Forgiveness

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

Section	
365.310	Noncompliance with Loan Procedures
365.320	Stop-Work Order
365.330	Termination
365.340	Waiver of Procedures

SUBPART D: PROCEDURES FOR ISSUANCE OF LOANS

Section

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NOTICE OF PROPOSED AMENDMENTS

- 365.410 Project Priority Determination
- 365.420 Pre-Applications for Financial Assistance and Identification of Projects to be Funded
- 365.430 Financial Assistance Application and Approval
- 365.440 Fixed Loan Rate
- 365.450 Refinancing
- 365.460 Limitation on Design Cost
- 365.470 Limitation on Loan Assistance

SUBPART E: PLANNING REQUIREMENTS FOR LOAN PROJECTS

Section

- 365.510 Sewer System Evaluation and Rehabilitation (Repealed)
- 365.520 Loan Applicant's Responsibilities During Facilities Planning
- 365.530 State Environmental Review
- 365.540 Limitations on Awards for Individual Systems
- 365.550 Value Engineering Requirements (Repealed)
- 365.560 Areawide Waste Treatment Management Planning

SUBPART F: REQUIREMENTS APPLICABLE TO SUBAGREEMENTS

Section

- 365.610 Requirements for Subagreements
- 365.620 Construction Contracts
- 365.630 Contracts for Personal and Professional Services
- 365.640 Compliance with Procurement Requirements for Construction Contracts
- 365.650 Disputes
- 365.660 Indemnity
- 365.670 Covenant Against Contingent Fees

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

Section

- 365.710 Construction Initiation
- 365.720 Project Changes
- 365.730 Construction Engineering
- 365.740 Operation and Maintenance of the Project
- 365.750 Final Inspection

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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- 365.760 Project Performance Certification (Repealed)
- 365.770 Project Performance Certification (Renumbered)

SUBPART H: REQUIREMENTS APPLICABLE TO ACCESS, AUDITING, AND RECORDS

Section

- 365.810 Access
- 365.820 Audit and Records
- 365.830 Single Audit Act

SUBPART I: FINANCIAL AND MANAGERIAL CAPABILITY

Section

- 365.910 Sewer Use Ordinance
- 365.920 User Charges
- 365.930 Financial Capability
- 365.940 Dedicated Source of Revenue
- 365.950 Floodplain Insurance

SUBPART J: REQUIREMENTS APPLICABLE TO LOAN DISBURSEMENTS

Section

- 365.1010 Determination of Allowable Costs
- 365.1020 Use of Loan Funds and Payment of Unallowable Costs
- 365.1030 Disbursement of Loan Funds

SUBPART K: PROCEDURES FOR LOAN REPAYMENT
AND DELINQUENT REPAYMENT

Section

- 365.1110 Loan Repayment to the Agency
- 365.1120 Delinquent Loan Repayments

365.APPENDIX A Executive Orders

- 365.EXHIBIT A Executive Order 11625 (Repealed)
- 365.EXHIBIT B Executive Order 12138
- 365.EXHIBIT C Executive Order 12549
- 365.EXHIBIT D Executive Order 11246

365.APPENDIX B Loan Application Documents

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365.EXHIBIT A	Loan Application Form
365.EXHIBIT B	Program Financial Requirements
365.EXHIBIT C	Bid Certifications Form

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

SOURCE: Adopted at 13 Ill. Reg. 7351, effective May 1, 1989; amended at 16 Ill. Reg. 15073, effective September 21, 1992; recodified at 19 Ill. Reg. 11450, effective August 11, 1995; amended at 20 Ill. Reg. 788, effective January 1, 1996; amended at 30 Ill. Reg. 15590, effective September 18, 2006; emergency amendment at 33 Ill. Reg. 8546, effective June 2, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 15450, effective October 28, 2009; emergency amendment at 34 Ill. Reg. 8325, effective June 10, 2010, for a maximum of 150 days; emergency expired November 6, 2010; amended at 34 Ill. Reg. 17582, effective November 8, 2010; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

Section 365.130 Definitions

- a) Unless specified otherwise, all terms ~~shall~~ have the meanings set forth in the Environmental Protection Act (Act) [415 ILCS 5] and the regulations adopted under that Act (35 Ill. Adm. Code: Subtitle C) and the Clean Water Act (CWA), as amended (33 USC 1251 et seq.).
- b) For the purposes of this Part 365, the following definitions apply:

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

~~Agency – Illinois Environmental Protection Agency. [415 ILCS 5/19.2(a)]~~~~Agency—Illinois Environmental Protection Agency.~~

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

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

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

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

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

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

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

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

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

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

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

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

Director – Director of the Illinois Environmental Protection Agency.

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

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

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Facilities – Equipment or operating systems that are constructed, installed or established to serve the particular purpose of mitigating the impacts of sewerage, industrial waste or non-point sources of pollution in a watershed. Facilities may involve stand-alone projects or be involved as component pieces of ~~wastewater~~ treatment works. Facilities in the context of the Green Project Reserve will address green infrastructure, water and energy efficiency improvements and other environmentally innovative activities.

Fixed Loan Rate – ~~The simple annual interest rate on the loan~~
~~loan rate shall be 1.25% for loans issued from funds provided under the~~
~~WPCLP in federal fiscal years 2010 and 2011, extending through and~~
~~including September 30, 2011. Thereafter, the fixed loan rate shall be~~
~~determined on an annual basis by the procedures defined in Section~~
~~365.440 (Fixed Loan Rate) of this Part.~~

~~Fund~~
~~Fund~~ – ~~The Water Revolving Fund~~
~~The Water Revolving Fund~~ as authorized by ~~[415 ILCS 5/19.3],~~ consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program. ~~[415 ILCS 5/19.2(b)]~~
~~consisting of the Water Pollution Control Loan Program, the Public Water Supply Loan Program, and the Loan Support Program.~~

Green Infrastructure – Includes a wide array of practices at multiple scales that manage and treat stormwater and that maintain and restore natural hydrology by infiltrating, evapotranspiring and capturing and using stormwater. On a regional scale, green infrastructure is the preservation and restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduces overall imperviousness in a watershed. On a local scale, green infrastructure consists of site- and neighborhood-specific practices, such as bioretention, trees, green roofs, porous pavements and cisterns.

Green Project Reserve – The particular portion of a Capitalization Grant Agreement that is required to be ~~set aside or reserved, and that shall be~~ used by the State for projects that address green infrastructure, water and energy efficiency improvements, and other environmentally innovative activities as directed by federal law.

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

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

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

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

Intended Use Plan – A plan that includes a description of the short and long term goals and objectives of the Water Pollution Control Loan Program, project categories, discharge requirements, terms of financial assistance and the loan applicants to be served. [415 ILCS 5/19.2(e)]

~~*Intended Use Plan – A plan that includes a description of the short and long term goals and objectives of the Fund, project categories, discharge requirements, terms of financial assistance and the communities to be served.*~~

Interest Rate – Not less than one-half of the Fixed Loan Rate rounded to the nearest 0.01%.

Interstate Agency – An agency of two or more states established by or pursuant to an agreement or compact approved by the US Congress, or any other agency of two or more states, having substantial powers or duties pertaining to the control of pollution as determined and approved by the USEPA.

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Loan – A loan made from the Water Pollution Control Loan Program to an eligible applicant as a result of a contractual agreement between the Agency and the applicant. [415 ILCS 5/19.2(c)]

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

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

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

Loan Procedures – The procedures for issuing loans from the WPCLP as set out in this Part 365.

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

Loan Support Rate – Not more than one-half of the Fixed Loan Rate rounded to the nearest 0.01%.

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

Market Interest Rate – The mean interest rate of the 20 General Obligation Bond Buyer Index, from July 1 through June 30~~October 1 to September 30~~ of the preceding State~~federal~~ fiscal year rounded to the nearest 0.01%.

Median Household Income or MHI – The median household income is the

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American Community Survey 5-year estimate from the US Department of Commerce, Bureau of the Census.

Municipality – A city, town, borough, county, parish, district, association or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under 33 USC 1288.

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

Person – Any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns. [415 ILCS 5/3.315]

Population – The population is the American Community Survey 5-year estimate from the US Department of Commerce, Bureau of the Census.

Principal – All disbursements, including interest and loan support accrued on the disbursements, that will be financed at the time the repayment schedule period begins.

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

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

Public Loan Applicant – A loan applicant that is a municipality, intermunicipal agency, interstate agency or local government unit that has applied for a loan under the WPCLP.

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Public Loan Recipient – A loan recipient that is a municipality, intermunicipal agency, interstate agency or local government unit that has been provided a loan under the WPCLP.

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

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

Source of Revenue – ~~All~~The revenues of the loan applicantssystem, ~~including accounts receivable and the proceeds~~ that are sufficient to repay the principal and interest on the loan.

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

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

Treatment Works – Treatment works, as defined in section 212 of the Federal Water Pollution Control Act (33 USC 1292), including, but not limited to, the following:

~~any~~Any devices and systems owned by a local government unit and used in the storage, treatment, recycling, and reclamation of sewerage or industrial wastes of a liquid nature, including intercepting sewers, outfall sewers, sewage collection systems, pumping power and other equipment, and appurtenances;

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extensions, improvements, remodeling, additions, and alterations thereof;

elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities;~~and~~

any works, including site acquisition of the land that will be an integral part of the treatment process for wastewater facilities; ~~and~~

any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems as those terms are defined in the federal Water Pollution Control Act. [415 ILCS 5/19.2(f)]~~;~~

Unemployment Rate – The annual average unemployment rate calculated by the Illinois Department of Employment Security, Economic Information and Analysis Division.

Useful Life – The estimated period during which a ~~wastewater~~ treatment works is intended to be operable, as approved by the Agency.

USEPA – The United States Environmental Protection Agency.

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

WPCLP – Water Pollution Control Loan Program as authorized by Section 19.2 of the Environmental Protection Act, [415 ILCS 5/19.2]~~;~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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

Section 365.260 Principal Forgiveness

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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a) When the Agency provides assistance to a public loan recipient using funds from its 2015 capitalization grant, the Agency may provide additional subsidization in the form of principal forgiveness to a public loan recipient to finance a project or activity eligible for assistance under 33 USC 1383(c)(1) that meets the affordability criteria of subsection (b).

b) Affordability Criteria

1) In order to qualify for principal forgiveness under subsection (a), a public loan recipient must meet the following requirements:

A) A service population of 15,000 or less; and

B) Score at least 21 points based on the following criteria:

i) Median Household Income

<u>Points</u>	<u>MHI</u>
<u>0</u>	<u>Above 100%</u>
<u>5</u>	<u>95 - 99.99%</u>
<u>10</u>	<u>90 - 94.99%</u>
<u>15</u>	<u>85 - 89.99%</u>
<u>20</u>	<u>80 - 84.99%</u>
<u>25</u>	<u>75 - 79.99%</u>
<u>30</u>	<u>70 - 74.99%</u>
<u>35</u>	<u>65 - 69.99%</u>
<u>40</u>	<u>60 - 64.99%</u>
<u>45</u>	<u>55 - 59.99%</u>
<u>50</u>	<u>50 - 54.99%</u>
<u>55</u>	<u>45 - 49.99%</u>
<u>60</u>	<u>0 - 44.99%</u>

ii) Population

<u>Points</u>	<u>Population</u>
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<u>5</u>	<u>10,000 - 15,000</u>
<u>10</u>	<u>7,500 - 9,999</u>
<u>15</u>	<u>5,000 - 7,499</u>
<u>20</u>	<u>2,500 - 4,999</u>
<u>25</u>	<u>1,000 - 2,499</u>
<u>30</u>	<u>500 - 999</u>
<u>35</u>	<u>0 - 499</u>

iii) Additional Criteria

<u>Points</u>	<u>Additional Criteria</u>
<u>1</u>	<u>Unemployment rate is greater than the State's unemployment rate by one percentage point or more</u>
<u>4</u>	<u>Decrease in population between the 2000 and 2010 Federal Censuses</u>

- 2) The amount of principal forgiveness under subsection (a) will be capped for qualifying public loan recipients and applied only to eligible projects costs as follows:

<u>Points</u>	<u>Percent</u>
<u>0-20</u>	<u>0%</u>
<u>21-40</u>	<u>up to 15%</u>
<u>41-60</u>	<u>up to 30%</u>
<u>61-80</u>	<u>up to 45%</u>
<u>81-100</u>	<u>up to 60%</u>

- c) Notwithstanding the principal forgiveness caps in subsection (b)(2), the Agency may establish a base cap applicable to each public loan recipient within its Intended Use Plan each year. In determining the base cap, the Agency must consider the following factors:

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- 1) the amount of federal appropriation allocated to the Agency for principal forgiveness;
- 2) the number of qualifying public loan recipients;
- 3) the availability of equity in the Fund while ensuring the fund operates in perpetuity; and
- 4) requirements established by USEPA.

~~All financial assistance from the WPCLP shall be in the form of low interest loans, with principal forgiveness terms used and applied as necessary to meet specific requirements of the federal Capitalization Grant Agreement. The availability, amounts, limitations and method of distribution for any principal forgiveness of the loan amount shall be determined by the Director of the Agency based upon USEPA requirements and the terms of the Capitalization Grant Agreement, economic conditions, status of the Fund and other relevant criteria.~~

~~AGENCY NOTE: Loan applicants and other interested parties may obtain additional information on current principal forgiveness terms by accessing the Agency's website at: <http://www.epa.state.il.us/water/financial-assistance> or by telephone at 217/782-2027. This information will be added to this rule.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois State Library Grant Programs
- 2) Code Citation: 23 Ill. Adm. Code 3035
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
3035.115	Amendment
3035.125	Amendment
3035.130	Amendment
3035.400	Amendment
3035.410	Amendment
3035.450	Amendment
3035.460	Amendment
3035.490	Amendment
3035.640	Amendment
3035.730	Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10], the State Library Act [15 ILCS 320], the Illinois Literacy Act [15 ILCS 322], the federal Library Services and Technology Act (20 USC 9141), the Accessible Electronic Information Act [15 ILCS 323] and 36 CFR 701.10, and Section 3 of the Capital Development Bond Act of 1972 [30 ILCS 420/3]
- 5) A Complete Description of the Subjects and Issues Involved: The major changes in the rulemaking deal with capital improvements to public libraries, including the following: in Section 3035.115, public library per capita funds may be used for capital improvements; in Section 3035.400 (c), a clarification is made that public libraries with limited funds may apply for mini-grants for construction projects; in Section 3035.410, the definition of "Intersystem Reciprocal Borrowing" is being deleted and the term "Statewide Reciprocal Borrowing" is being added, to agree with the term used in Section 3035.460 (g) and the Illinois Library System Act (23 Ill. Adm. Code 3030); in Section 3035.450, the requirement for a self-evaluation for compliance with the Americans with Disabilities Act (ADA) since architects are required to certify projects conform with ADA, and public libraries will be allowed to deposit grant funds in interest bearing accounts; in Section 3035.490, the public libraries will no longer be required to submit a list of all applicable bidding ordinances. In addition to the construction related amendments, Section 3035.125 is being clarified so the Library Grants to Veterans' Home are subject to the same application, reporting and appeal process as other state grants covered in Part 3035. Grant reporting requirements were standardized in the Educate & Automation/Technology Grants (Section 3035.130(d)), Talking Book and Braille Service

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(Section 3035.640 (b)(3)(C)) and Library Services and Technology Grants (Section 3035.730 (e)).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain any automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The policy objective of this rulemaking is to address the Secretary of State's and the Illinois State Library's ongoing effort to streamline the application process and use of grant funds by Illinois libraries.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Joseph Natale
Rules Coordinator
Illinois State Library
Gwendolyn Brooks Building
Springfield IL 62701-1796

217/558-4185
Email: jnatale@ilsos.net
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profits corporations affected: Public libraries in the state work toward meeting the public library standards.
 - B) Reporting, bookkeeping or other procedures required for compliance: Grant recipients are to follow the fiscal and reporting requirements of the program they receive a grant under.

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C) Types of professional skills necessary for compliance: Libraries applying for and receiving grant funds from the Illinois State Library should have the administrative capacity to manage a grant program.

14) Regulatory Agenda on which these rules were summarized: July 2015

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE B: CULTURAL RESOURCES
CHAPTER I: SECRETARY OF STATE

PART 3035
ILLINOIS STATE LIBRARY GRANT PROGRAMS

SUBPART A: STATE GRANTS

Section

- 3035.10 Definitions
- 3035.100 System Area and Per Capita Grants
- 3035.105 Library System Technology Grants
- 3035.110 Special Library Services to Persons with a Print Disability
- 3035.115 Public Library Per Capita and Equalization Aid Grants
- 3035.120 School District Library Grant Program
- 3035.125 Library Grants for Veterans' Homes
- 3035.130 Educate & Automate Automation/Technology Grants
- 3035.135 Requirements, Denial and Revocation of Approval
- 3035.140 Grants, Expenditures and Audits
- 3035.150 Appeal Procedure

SUBPART B: LITERACY GRANT PROGRAM

Section

- 3035.200 Purpose
- 3035.210 Definitions
- 3035.220 Application for Grant
- 3035.230 Review of Grant Applications
- 3035.240 Award of Grants, Accountability and Recordkeeping
- 3035.250 Cancellation of Grant
- 3035.260 Fiscal Procedures
- 3035.270 Other Requirements (Repealed)
- 3035.280 Penny Severns' Grant Program (Repealed)
- 3035.290 Invalidity

SUBPART C: SCHOLARSHIP PROGRAM GRANTS

Section

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3035.300	Purpose
3035.310	Definitions
3035.320	Number and Amount of Scholarship Program Grants
3035.330	Illinois Library Schools and Attendance Requirements
3035.340	Eligibility Requirements
3035.350	Application Process
3035.360	Selection of Scholarship Program Grantees
3035.370	Conditions of Scholarship Program Grants

SUBPART D: LIVE AND LEARN CONSTRUCTION GRANTS

Section	
3035.400	Purpose
3035.410	Definitions
3035.420	Duty to Administer
3035.430	Priorities in Library Grant Construction Proposals
3035.435	Grant Funding Limitations
3035.440	Additional Grant Funds
3035.450	Grant Application Procedure
3035.460	Requirements and Conditions of Grant Funds
3035.470	Remodeling for Accessibility
3035.480	Shared Use Facilities
3035.490	Disbursement of Grant Funds

SUBPART E: PUBLIC LIBRARY CONSTRUCTION ACT GRANTS

Section	
3035.500	Purpose
3035.510	Definitions
3035.515	Eligibility Requirements
3035.520	Grant Applications
3035.525	Priority of Public Library Construction Act Projects
3035.530	Grant Amounts and Use
3035.535	Grant Awards
3035.540	Supervision of Public Library Construction Act Projects
3035.550	Carry-over Projects
3035.555	Referendum Requirements
3035.560	Public Library Capital Needs Assessment
3035.565	Public Library Site Selection

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- 3035.570 Eligible Project Costs
- 3035.575 General Standards and Guidelines for the Appropriate Utilization of Bond Proceeds
- 3035.580 Standardized Definitions and Guidelines
- 3035.585 Limitations on Expenditures of Bond Proceeds

SUBPART F: TALKING BOOK AND BRAILLE SERVICE (TBBS)

Section

- 3035.600 Purpose
- 3035.610 Definitions
- 3035.620 Eligibility
- 3035.630 Application for Service
- 3035.640 Application for Grant
- 3035.650 Provision of Information Transmission Services
- 3035.660 Remittance for Information Transmission Services

SUBPART G: LIBRARY SERVICES AND TECHNOLOGY ACT GRANTS (LSTA)

Section

- 3035.700 Purpose
- 3035.710 Definitions
- 3035.720 Duty to Administer
- 3035.730 Grant Application and Awards

- 3035.EXHIBIT A Differences Among the Three Types of Literacy Grant Programs
- 3035.EXHIBIT B Guidelines for Rating Life Safety/Legal Issues

AUTHORITY: Implementing and authorized by the Illinois Library System Act [75 ILCS 10], the State Library Act [15 ILCS 320], the Illinois Literacy Act [15 ILCS 322], the federal Library Services and Technology Act (20 USC 9141), the Accessible Electronic Information Act [15 ILCS 323] and 36 CFR 701.10, and Section 3 of the Capital Development Bond Act of 1972 [30 ILCS 420/3].

SOURCE: Adopted at 31 Ill. Reg. 16310, effective November 20, 2007; amended at 32 Ill. Reg. 9666, effective June 23, 2008; amended at 33 Ill. Reg. 4180, effective February 27, 2009; amended at 35 Ill. Reg. 18366, effective October 18, 2011; amended at 36 Ill. Reg. 12385, effective July 18, 2012; amended at 37 Ill. Reg. 4348, effective March 19, 2013; amended at 37

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Ill. Reg. 18922, effective November 7, 2013; amended at 39 Ill. Reg. 5218, effective March 20, 2015; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: STATE GRANTS

Section 3035.115 Public Library Per Capita and Equalization Aid Grants

- a) To be eligible for a per capita grant, a public library shall show that it will either meet or show progress toward meeting Serving Our Public 3.0: Standards for Illinois Public Libraries (2014) (produced by the Illinois Library Association, 33 West Grand Avenue, Chicago IL 60610-4306). The material incorporated by reference includes no later amendments or editions. A grant applicant must raise or improve its performance levels in relation to the standards, when those levels are below the standards, according to objectives, time frames, and priorities the library shall state in its application for a grant, and that it shall also state are consistent with the terms of the plan of service of the system of which it is a member. (See Section 8.1(1) of the Act.) The applying library must be in good standing and meet the criteria of a "full member library" or a "developmental member library" as defined in 23 Ill. Adm. Code 3030.110.
- b) *Application for annual equalization grants and per capita grants to public libraries shall be made each year.* (Section 8 of the Act) Whenever an applicant library reports any changes in the population count for the eligible service area population, then the applicant library shall submit with the grant application the appropriate supporting legal documentation for the population count change. The Illinois State Library shall validate the eligible service area population of a public library using the latest census of population of Illinois, or a municipality or parts of a municipality, as prepared and submitted to the Secretary of State's Index Department by the federal government and certified by the Secretary of State in accord with the application deadline date established by the Illinois State Library.
- c) For a public library to qualify for a per capita grant, it must be a member of a library system and not under suspension. The application shall show that grant funds will be used to meet or make progress in meeting Illinois library standards cited in subsection (a).
- d) ~~The grant may not be used for the construction of a new library or for capital improvements to the existing library.~~

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- de) A public library that receives a per capita grant and or equalization aid and contracts for service with another public library must, within 30 days after receipt of the grant funds, remit the entire amount to the public library that provides the service.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 3035.125 Library Grants for Veterans' Homes

- a) Pursuant to Section 8.6 of the Act, this Section establishes the application procedures for veterans' home library grants.
- b) The application shall be submitted to the Illinois State Library in a manner prescribed by the State Librarian. The applicant shall provide the information stipulated in Section 3035.135(d). The application shall include:~~The application for annual grants to State-funded veterans' homes shall be made according to a deadline established by the State Librarian. The administrator and librarian or person responsible for library services at the veterans' home shall sign the application.~~
- 1) A statement on the proposed use of the grant for which application is being made that shall show how grant funds will be used for library services to residents. Grant funds are eligible to be used in support of library services and activities, including library staffing, materials and equipment.
 - 2) Other requirements established by the Illinois State Library.
- c) Illinois State Library staff will evaluate the applications, and the State Librarian will make final funding decisions.
- d) The application~~Applications~~ will be funded according to the amount of funding available based on ~~demonstrated need and number of residents being served~~. Criteria will also include whether the plan of operation contains information about the project goals and objectives, the methods used to achieve these goals and objectives, and the involvement of staff in providing library service.
- e) In order for an application to be considered, the veterans' home must be providing library services to the~~its~~ residents at the time of application.

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- f) ~~The applicant shall submit reports on the use of grant funds as required by the Illinois State Library. The application shall consist of:~~
- 1) ~~A statement on the proposed use of the grant for which application is being made that shall show how grant funds will be used to expand library services to residents of the veterans' home. Grant funds are eligible to be used for library staff, materials, equipment and library services.~~
 - 2) ~~A report on the use of the previous year's grant, if a grant was received, that shall show how the grant was used, and an evaluation detailing the impact of the program.~~
 - 3) ~~A certification stating that:~~
 - A) ~~the grant funds will be kept in a separate account;~~
 - B) ~~local funding for library service will not diminish as a result of the program;~~
 - C) ~~the library will submit semiannual financial and programmatic reports to the Illinois State Library, on January 31 and July 31 of each year, covering the use of the funds.~~
 - 4) ~~Other requirements established by the Illinois State Library.~~

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 3035.130 Educate & Automate Automation/Technology Grants

- a) Competitive Grants~~grants~~
- 1) Application for purchases of equipment and services that support library development and technological advancement (Section 8.5 of the Act) in libraries shall be made prior to July 1. Applicants shall use the forms prepared and made available by the State Librarian for this purpose.
 - 2) Criteria will include whether the project plan contains information about the project goals and objectives, the methods used to achieve these goals

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and objectives, the number of people to be served, and whether the proposed budget is reasonable in view of the proposed goals.

- 3) The number of grants to be awarded is at the discretion of the State Librarian.
- 4) Applicants must meet requirements designated by the State Library for public access to electronic information and technology.
- b) Direct expenditures by the State Librarian may be made to support library development and technological advancement in libraries (Section 8.5 of the Act).
- c) Funding awarded under subsections (a) and (b) ~~of this Section~~ may be used for any or all of the following purposes:
 - 1) Telecommunications costs for electronic networks for ILLINET libraries and library systems;
 - 2) Computer hardware and software for ILLINET libraries and library systems;
 - 3) Access to electronic information by the general public through ILLINET libraries;
 - 4) Converting special collections and rare materials in ILLINET libraries into digital format, making them accessible by computer to students, researchers and the general public;
 - 5) Library organizations are eligible for Educate & Automate Automation/Technology Grants for purposes stipulated in this subsection (c). Library organizations must draw their membership from librarians or various types of libraries as defined in ~~Section 23-III-Adm. Code~~ 3035.10. Their headquarters must be within the State of Illinois. Their mission must have the charge for promotion, provision, development and improvement of libraries and library services, and be based in Illinois.
- d) The applicant shall submit reports on the use of grant funds as required by the Illinois State Library. The following reports and records will be completed and transmitted to the Illinois State Library:

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- 1) ~~Quarterly financial reports due December 31, April 15 and July 15 showing expenditures made from grant funds by line item.~~
 - 2) ~~Quarterly narrative reports due December 31, April 15 and July 15 stating the progress of the project; accomplishments to date; problems encountered; objectives met and unmet; changes implemented; and percentage of completion of the project to date.~~
 - 3) ~~Final financial report and final narrative report due September 15 evaluating the degree to which the grantee achieved the goals and objectives of the project.~~
- e) Grants made under this Section are subject to the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705]. If a provision of this Subpart conflicts with a provision of the Illinois Grant Funds Recovery Act, then the provision of the Illinois Grant Funds Recovery Act controls.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART D: LIVE AND LEARN CONSTRUCTION GRANTS

Section 3035.400 Purpose

To establish a program of matching State grants to aid in paying for the construction costs of public libraries and facilities for library systems within Illinois. Local money, except as provided in subsection (c), will be matched by State grants based on the category of grant as follows:

- a) Remodeling for Accessibility. Special projects ~~in which~~ ~~where~~ 70% ~~to~~ 100% of total project funds are to be used specifically for remodeling an existing building as outlined in Section 3035.470. The State's share shall be a maximum of 50% of the project's total cost, subject to the restrictions in Section 3035.435(c).
- b) Projects involving new construction, additions to and/or remodeling of existing buildings, conversion of buildings not currently used for library services, energy conservation projects, security systems, technology wiring and renovation projects, including projects involving shared use of public facilities. The State's share shall be a maximum of 50% of the project's total cost, subject to the

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restrictions in Section 3035.435(c). For shared use public facilities, the costs allocated to the public library portion of the building are the only costs eligible for reimbursement under this grant program, as stipulated in Section 3035.480.

- c) Mini-grants. These projects include, but are not limited to, new carpeting, new furnishings, remodeling, energy conservation, security systems, technology wiring and interior or exterior painting. [Public libraries with limited funds](#)Libraries receiving mini-grants must address legal requirements for making the building accessible to persons with disabilities. There is no local match required for mini-grants.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 3035.410 Definitions

For the purposes of this Subpart:

"Act" means the Illinois Library System Act [75 ILCS 10].

"Application round" means the period in which applications for grants are available to prospective applicants and completed applications are reviewed and grants awarded as indicated in Section 3035.400.

"Appropriation" means the amount of funds actually approved by the General Assembly for a particular fiscal year and allocated to fund the construction grant program under Section 8 of the Illinois Library System Act.

"Audit" means a report of financial compliance of a construction grant project by a certified public accountant.

"Construction" includes, but is not limited to:

The construction of new public library and library systems buildings.

The acquisition, expansion, remodeling and/or alteration of existing buildings.

The purchase of initial equipment for new buildings or existing buildings that are being expanded, remodeled or altered under this grant.

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The demolition of existing structures on the project site and/or preparations and improvements of the site, including excavation.

Architect's fees and the cost of the site if acquired in the last 2 years.

Any combination of these activities.

"Conversion" means converting a building currently not used as a library into a public library facility.

"Equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and all other items necessary for the functioning of a particular facility as a library or as a library system facility. By way of illustration, "equipment" includes fixtures, furnishings and carpeting. Shelving is acceptable in new construction, within new building additions or for accessibility projects. "Equipment" does not include, for example, books, periodicals, films, recordings, computers, computer equipment, projection equipment or wireless Internet components.

"Facility plan" means a narrative report describing the project, with the following components:

Examine the present and future public library facility needs required by present and anticipated public library programming. Library buildings are to be planned for 20 year population projection (for new construction, conversions and additions to buildings).

A site analysis, space needs assessment and project design as specified in Section 3035.450(b)(1)(G).

How the library facility will provide access for persons with disabilities, as required in the Illinois Capital Development Board's Illinois Accessibility Code (71 Ill. Adm. Code 400), and will display the symbol of accessibility.

~~"Intersystem reciprocal borrowing" means reciprocal borrowing transactions involving a lending library and a patron registered as a borrower at a library in another system.~~

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"Library" means a tax-supported public library that is a full member of an Illinois Library System. "Library" also means a main library facility and its branches.

"Library building consultant" refers to an individual, chosen by the applicant library, with a Master's degree in library science from a library school accredited by the American Library Association with prior experience in at least one library construction project. An architect licensed to practice in Illinois or a structural or other type of engineer, depending on the scope of work, licensed to practice in Illinois, with prior experience in at least one library construction project, may also be a library building consultant. The architect or engineer may be retained for other services by the applicant library.

"Library system" means an organization defined at Section 2 of the Library System Act.

"Local matching funds" means general funds, securities, general revenue bonds, tax levies, mortgages and locally generated monies [that are immediately available upon application or award](#). Local matching funds do not include any pledges as defined in this Section; any funds from the State of Illinois or the federal government; ~~any funds from collateralized pledges~~; or a pending referendum to authorize funds for the construction project.

"Mini-grants" means projects to enable public libraries with limited funds, as defined in this Section, to remodel or refurbish the library.

"Pledge" means a non-collateralized offer or guarantee in writing of a specified dollar amount as part of the local matching funds for a construction project [that is not immediately available upon application or award](#).

"Political unit" refers to the local governing authority.

"Public libraries with limited funds" refers to public libraries that would have received an income of less than \$15 per capita in the preceding fiscal year by using a formula in which the library's equalized assessed valuation is multiplied by .13% and divided by the population of the library's service area.

"Security system" means an electronic system designed to protect the library property, facility and contents and individuals on the premises.

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"Shared use facility" means a building occupied by a public library and a school or another entity that is open to the public and complements the concept of public library service.

"State fiscal year" means the period from July 1 through June 30.

"State Librarian" means the Illinois Secretary of State.

"Statewide Reciprocal Borrowing" means the right of a person who holds a valid, in-good-standing library registration card from a full member public library to borrow materials onsite from other participating full member public libraries of any other Illinois library system under the same conditions that the library provides those materials to its patrons, subject to reasonable restrictions approved by the library's governing board in accordance with requirements of the reciprocal borrowing policy of the library system of which the public library is a member.

"Technology wiring" means the installation of wiring to allow for the transmission of electronic data.

"Total project cost" means the combination of the local funds and any State or federal grant funds to be expended on the project.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 3035.450 Grant Application Procedure

The following application procedures shall apply:

- a) The Illinois State Library shall issue application forms for library construction grants under this program.
- b) Applying libraries and library systems shall submit a signed, completed current library construction grant application, together with the following documents or written assurances, to be eligible for library construction grants. To be eligible for a Live and Learn Grant, the applicant shall provide:
 - 1) Application Phase

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- A) ~~The To be eligible for a Live and Learn construction grant,~~ assurances contained in this Section, as listed in the Construction Grant Application Form.
- B) A statement describing the necessity for the proposed project.
- C) A statement of plans to meet existing library standards of service, Serving Our Public 3.0: Standards for Illinois Public Libraries (2014), incorporated by reference in Section 3035.115. This subsection (b)(1)(C) shall not apply to library systems.
- D) A description of the project's potential contribution to the improvement of library services within the library's area of service and in any other portions of the State.
- E) A facility plan. For projects with a total cost of over \$150,000, a library building consultant may work with the library in developing the facility plan. The library board shall select a building consultant in accordance with the Illinois Local Library Act [75 ILCS 5/4-7] and the Illinois Library District Act [75 ILCS 16/30-55.40].
- F) For projects with a total cost equal to or greater than \$75,000, assurance that an architect or engineer licensed to practice in Illinois is being utilized.
- G) Project design, with a site plan, outline of specifications and an estimated cost per square foot.
- H) A letter from the Illinois Historic Preservation Agency evidencing compliance with the Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420].
- I) For new construction, additions and projects involving evacuation of soil:
- i) Documentation stating whether the project site is located in a Special Flood Hazard Area found at the Illinois State Water Survey's Illinois Floodplain Map website

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(<http://www.illinoisfloodmaps.org/>). If the project site is located in a Special Flood Hazard Area, the applicant shall submit an assurance letter from the Division of Water Resources of the Department of Natural Resources stating that the project meets the requirements of Executive Order 2006-5 regarding flood damages.

- ii) A subsurface soil analysis by a soils engineer.
- iii) A site assessment by a licensed environmental/hazardous materials consultant to determine the existence of asbestos, ~~and/or~~ lead paint or any toxic substance. This assurance does not apply to new buildings unless demolition of existing buildings (other than residences) has occurred or is necessary.

J) Assurance that the real estate affected by the proposed construction is available to the library or library system, as is the legal description of the affected real estate. A deed of ownership or proof of long-term occupancy (20-year minimum) shall be provided, except for mini-grants. The applicant shall provided assurance that the building will remain in use as a public library or library system facility for not less than 20 years after its construction unless other use is approved by the Director of the Illinois State Library.

~~K)~~ ~~An Americans With Disabilities Act Self-Evaluation, except for new construction projects.~~

~~KL)~~ Other funds designated for construction that are immediately available to the library upon application. Funds may include a mortgage commitment letter from a financial institution licensed by a state or the federal government. Assurances from the applicant that a referendum is pending or various fundraising activities will be undertaken in the future, with the amount to be raised remaining uncertain, shall not be counted as part of the local matching funds for the purposes of Section 3035.400.

2) Construction Phase

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- A) An assurance that the grantee library will expend 100% of Secretary of State library construction grant funds within 12 months after the execution of the grant agreement. If the grantee fails to submit a final report, or an audit, if applicable, within 24 months after the execution of the contract, the grant shall be forfeited unless an extension is granted by the Director of the Illinois State Library.
- B) An assurance that the construction work will be performed under the lump sum (fixed price) contract method.
- C) An assurance that the library will publicly announce all requirements for architectural, engineering and land surveying services and procure these services on the basis of demonstrated competence and qualifications and negotiate contracts at fair and reasonable prices, in accordance with the Illinois Local Library Act [75 ILCS 5/5-5] and the Illinois Library District Act [75 ILCS 16/40-45].
- D) Architectural, engineering and land surveying contracts made in accordance with the Local Government Professional Services Selection Act [50 ILCS 510].
- E) An assurance that adequate methods of obtaining competitive bidding will be employed prior to awarding the construction contract by public advertising in a newspaper of general circulation in the area, and the award of the contract will be made to the responsible bidder submitting the lowest acceptable bid, in accordance with the Illinois Local Library Act and the Illinois Library District Act. A copy of the advertisement, with verification of the date of publication and name of the newspaper, shall be submitted to the Illinois State Library within 10 days after publication.
- F) An assurance that all laborers and mechanics employed by the contractor or subcontractors on all construction projects will be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Illinois

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Department of Labor in accordance with the Prevailing Wage Act [820 ILCS 130].

- G) An assurance that a copy of the building permit will be supplied to the Illinois State Library prior to the actual construction and that the permit will be posted in a prominent place on the construction site.
- H) An assurance that any change in the Plans and Specifications requiring a work change order will be submitted to the Illinois State Library. All change orders shall be subject to the Illinois Public Works Contract Change Order Act [50 ILCS 525]. The Illinois State Library shall be notified of and approve or deny any change orders of \$20,000 or more and the modification of any public areas of the grantee library from the proposed original plans of the approved grant application. The change order will be accompanied by a letter ~~approved by the library board~~ stating that there is no adverse impact on library services. Change orders do not affect the grant award amount.
- I) An assurance that contractors and subcontractors will comply with all applicable provisions of the Illinois Human Rights Act [775 ILCS 5] and all federal and State laws, rules and regulations that prohibit discrimination because of race, color, religion, sex, marital status, national origin, ancestry, age and physical or mental handicap.
- J) Construction contracts signed by both the library board (or library system board) and contractors that is, or is comparable to, the Standard Form of Agreement Between Owner & Contractor A-101-2007, published by the American Institute of Architecture, 1735 New York Ave., NW, Washington DC 20006-5292. No later amendments to this form are incorporated in this Section. Contracts are to be submitted to the Illinois State Library prior to the start of construction; also, all subcontractors are to perform work in accordance with the conditions and standards contained in the contracts signed by the board and the Illinois State Library. The Illinois State Library shall have the right to disapprove any

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contracts between the library board or library system board and contractors if:

- i) The bidding procedure outlined in subsection (b)(2)(E) was not followed.
 - ii) The conditions and standards specified in the contract between the Illinois State Library and the library board are not incorporated into the contracts between the library board or library system board and the contractors.
- K) An assurance that a sign will be displayed on the construction site stating that State funds administered by the State Librarian are being used for the construction and that a plaque will be placed in the completed building stating that State funds administered by the State Librarian were used for the [projectbuilding's construction](#).
- L) An assurance that construction will not begin until a contract is executed with the State Librarian.
- M) An assurance that construction will commence within 140 days after the effective date of the grant contract, according to Section 3035.435(f).
- N) An assurance that any agent authorized by the Illinois State Library, upon presentation of credentials and in accordance with the constitutional limitation on administrative searches, will have full access to, and the right to examine, any records, books, papers or documents of the grantee involving transactions related to the grant.
- O) An assurance that the following reports and records will be completed and transmitted to the Illinois State Library: quarterly narrative and financial reports; notification within 15 days after completion of the project; a close-out report that is a final financial and narrative report within 24 months after the execution of the contract, unless an extension is granted by the Director of the Illinois State Library; and other reports and documents, such as prevailing wage rates and receipts to verify vouchers, as

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reasonably may be required by the State Library. The final financial report shall be signed by the president of the library's board of directors.

- i) Financial reports shall show: the amount of authorized State and local funds; interest earned on grant funds; expenditures made from grant funds and from interest earned on grant funds; obligated funds, by amount of line item remaining compared to the original budget.
 - ii) Narrative reports shall state: the progress of the project; accomplishments to date; problems encountered; objectives met and unmet; changes implemented; and the percentage of completion of the project to date.
 - iii) The ~~final narrative~~ report shall evaluate the degree to which the grantee achieved the goals and objectives of the project. The ~~final narrative~~ report shall include a project audit according to Section 3035.140(e).
 - iv) For a project that requires an architect or engineer, the architect or engineer shall certify to the Illinois State Library when the project reaches the 50% and 100% stage of completion.
- P) An assurance that, when construction is complete, sufficient funds will be available for effective operation and maintenance of the facilities, in accordance with applicable federal, State and local requirements.
- ~~Q) An assurance that the library will establish a separate account for construction grant funds with a federally or Illinois regulated financial institution that is insured by the Federal Deposit Insurance Corporation.~~
- QR) An assurance that any interest earned on the grant funds will be expended, without limitation or exception, exclusively on the subject construction project.

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- c) Some of the documentation and written assurances may be waived in the application, upon approval of the Illinois State Library, except that subsections (b)(2)(F) and (b)(2)(I) will not be waived.
- d) Applications will be considered in accordance with Section 3035.420(c).
- e) Grant applications are subject to the conditions stipulated in Section 3035.135.
- f) Grant monies awarded are based on the amount specified in the original budget in the grant application; grant awards will not be increased because of subsequent increases in project costs.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 3035.460 Requirements and Conditions of Grant Funds

- a) Building Construction Plans
 - 1) Library buildings are to be planned for 20 year population projection (for new construction, conversions and additions to buildings).
 - 2) A library building consultant may work with the library in developing and implementing the public library facilities plan. The library board shall select a building consultant in accordance with the Illinois Local Library Act [75 ILCS 5/4-7] and the Illinois Library District Act [75 ILCS 16/30-55.40].
 - 3) An architect and/or engineer licensed to practice in Illinois shall be retained by the grantee throughout the design and construction if the total cost of the project is equal to or greater than \$75,000.
 - 4) The library must meet the eligibility criteria to qualify for per capita grants provided in Section 8.1 of the Illinois Library System Act, and must have submitted applications for, and have been awarded, those grants for three previous fiscal years. This subsection (a)(4) shall not apply to library systems.
 - 5) The library or library system facility shall provide access for persons with disabilities as required in the Illinois Capital Development Board's Illinois

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Accessibility Code (71 Ill. Adm. Code 400) and shall display the symbol of accessibility.

- b) No grant shall be awarded to any public library or regional library system unless the building and the property is owned fee simple by the municipality, library district or library system, as applicable, or proof of long term (20 year) occupancy exists. The State Librarian may grant an exception for any property or building owned in fee simple by a non-profit community organization that is incorporated in Illinois, has federal Internal Revenue Service 501(c)(3) status and has a charter specifying that the ownership of the property or building shall revert to the public library upon the dissolution of the organization. No such exception shall be granted for a regional library system.
- c) A letter of certification from the project architect or engineer, stating that the drawings represent the project as presented with the grant application, must be submitted to the Illinois State Library for approval prior to going out to bid.
- d) All contracts for library construction shall be awarded to the lowest qualified bidder on the basis of open competitive bidding; however, if one or more items of construction are covered by an established alternative procedure used by a unit of local government and approved by the Illinois State Library as designed to assure construction in an economical manner consistent with sound business practices, the alternative procedure may be followed, to the extent consistent with State statutes and local ordinances.
- e) The library board shall establish and maintain records and accounts as will permit accurate and expeditious audits at any time before, during and after completion of construction. The records shall be retained for not less than the time provided for by the Local Records Act [50 ILCS 205].
- f) The library board shall comply with all applicable provisions in local bidding ordinances.
- g) The library must permit [statewideintersystem](#) reciprocal borrowing.
- h) Grants made under this Section are subject to the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705]. If a provision of this Subpart conflicts with a provision of the Illinois Grant Funds Recovery Act, then the provision of the Illinois Grant Funds Recovery Act controls.

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(Source: Amended at 39 Ill. Reg. _____, effective _____)

Section 3035.490 Disbursement of Grant Funds

- a) For grants under this Subpart, the State Library shall make a lump sum payment upon the signing of the grant contract with the Secretary of State.
- b) Throughout the course of the project, the grantee shall submit the following:
 - ~~1)~~ ~~A copy of all applicable local bidding ordinances;~~
 - ~~12)~~ A revised project budget after bids have been accepted;
 - ~~23)~~ A revised construction schedule after bids have been accepted;
 - ~~34)~~ A copy of the building permit issued by the appropriate corporate authority;
 - ~~45)~~ Copies of each contract signed, including:
 - A) general contractor;
 - B) prime contractor;
 - C) any contracts for which separate bids were advertised and received (e.g., carpeting, equipment);
 - D) subcontractors (if contracts are to be signed later, copies can be sent as signed but prior to the start of the subcontractor's work);
 - ~~56)~~ Notification of the erection on the construction site of a sign stating that library construction funds administered by the Secretary of State are being used for the ~~project~~construction;
 - ~~67)~~ Quarterly narrative and financial reports to date;
 - ~~78)~~ Letter of notification as to the official date of actual construction start. Construction should begin within 140 days after the effective date of the

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contract with the Illinois State Library, according to Section 3035.435(f);
and

- 89) Submission of any projected project expenditure changes, including identification in detail of how the grant is to be spent.
- c) Upon completion of the project, the grantee shall submit for approval the final narrative and financial~~lose-out~~ reports and audit to the Illinois State Library as specified in Section 3035.450(b)(2)(OP).

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART F: TALKING BOOK AND BRAILLE SERVICE (TBBS)

Section 3035.640 Application for Grant

- a) The geographic boundaries of a TBC, AOC and MSLA shall be those boundaries approved by the State Librarian. In setting TBC, AOC and MSLA boundaries, the State Librarian shall place primary importance on the statewide implication of resource sharing, the efficient use of public funds, the impact on affected eligible patrons, and the impact on services provided by the affected TBC, AOC and MSLA.
- b) To qualify for an annual grant as a TBC, AOC or MSLA, the applicant entity shall be jointly designated by the Illinois State Library and the Library of Congress National Library Service for the Blind and Physically Handicapped to serve as a TBC, AOC or MSLA. An annual contract with the State Library shall be executed that specifies the objectives and budget for the service. The applicants shall provide the information stipulated in Section 3035.135(d). The application shall also contain:
- 1) A statement on the proposed use of the grant for which application is being made that shall show how grant funds will be used to expand TBC, AOC and MSLA services to eligible patrons. Grant funds may be used for staff, materials, equipment and services.
 - 2) A report on the use of the previous year's grant, if a grant was received, that shall show how the grant was used and an evaluation detailing the impact of the program.

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- 3) A certification stating that:
- A) the grant funds will be kept in a separate account;
 - B) local funding for library service will not diminish as a result of the program;
 - C) the library ~~shall submit reports on the use of grant funds as required by the Illinois State Library will submit quarterly financial and programmatic reports to the Illinois State Library on October 30, January 30, April 30 and July 30 of each year covering the use of the funds.~~
- c) Funds allocated for statewide services under this program are awarded in the form of grants to units of government that are exempt from the Illinois Procurement Code.
- d) The State Library will maintain an updated list of TBCs, AOCs and MSLAs on its Web site.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

SUBPART G: LIBRARY SERVICES AND TECHNOLOGY ACT GRANTS (LSTA)

Section 3035.730 Grant Application and Awards

- a) Applications shall be submitted to the Illinois State Library in a manner prescribed by the State Librarian. Applicants shall provide the information stipulated in Section 3035.135(d).
- b) The Illinois State Library shall award grants subject to the conditions stipulated in Sections 3035.135 and 3035.140, 2 CFR 215 (2004) and OMB Circular A-102 (1997).
- c) Awards shall be made on or after July 1 of every year for the fiscal year then commencing.

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- d) The grant period shall be contained within the fiscal year in which the grant is awarded, unless otherwise specified in the grant agreement, but in no event shall the grant period continue for more than 3 years.
- e) [The applicant shall submit reports on the use of grant funds as required by the Illinois State Library.](#)
- f) Obligations of the Illinois State Library to fund this grant program will cease immediately without penalty or further payment being required if the Institute of Museum and Library Services or the United States Congress fails to appropriate or otherwise make available sufficient funds. Award notification will be released upon legislative and gubernatorial approval of an appropriation.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

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- 1) Heading of the Part: State Universities Civil Service System
- 2) Code Citation: 80 Ill. Adm. Code 250
- 3) Section Number: 250.60 Proposed Action:
Amendment
- 4) Statutory Authority: 110 ILCS 70
- 5) A Complete Description of the Subjects and Issues Involved: Sections 250.60(a)(2) is amended for a minor technical change. The primary change to section 250.60(d) is to allow for an expanded pool of candidates for promotional and original entry registers from the top three persons to the top three scores in accordance with PA 99-97.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
250.50	Amendment	February 13, 2015; 39 Ill. Reg. 2267
- 11) Statement of Statewide Policy Objective: This proposed amendment will not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments on this proposed amendment within 45 days after the date of publication to the *Illinois Register*:

Mari Martinelli
Legal Counsel Manager
State Universities Civil Service System
1717 Philo Road, Suite 24

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Urbana IL 61802

217/278-3150, ext. 226

Email: marim@succs.illinois.gov

- 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: The need for this rulemaking was not anticipated when the Agendas were published.

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

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEMPART 250
STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section	
250.5	Definitions
250.10	Purpose, Adoption, and Amendment of Rules
250.20	The State Universities Civil Service System and its Divisions
250.30	The Classification Plan
250.40	Military Service Preference, Veterans Preference
250.50	Examinations
250.60	Eligible Registers
250.70	Nonstatus Appointments
250.80	Status Appointments
250.90	Probationary Period
250.100	Reassignments and Transfers
250.110	Separations and Demotions
250.120	Seniority
250.130	Review Procedures
250.140	Delegation of Authority and Responsibilities
250.150	Training
250.160	Suspension of Rules

AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg. 1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996;

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amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012; amended at 37 Ill. Reg. 419, effective December 26, 2012; amended at 39 Ill. Reg. _____, effective _____.

Section 250.60 Eligible Registers

- a) Establishment of Registers
 - 1) The employer shall establish three kinds of registers in each place of employment in accordance with this Part: reemployment, promotional, and original entry.
 - 2) On a monthly basis, or as designated, the ~~The~~ employer shall file with the office of the Executive Director a list ~~on a quarterly basis~~ containing name, class, date of examination, examination number and score of all candidates, and these records shall constitute the master record of examinations taken by the applicants of the System for that employer.
- b) Composition of Registers
 - 1) Reemployment registers shall contain names of status employees who have been laid off through reduction in force or who, because of reallocation or reclassification of positions or other causes not prejudicial to the service, have failed to gain eligibility in the new class or who have chosen not to qualify in the new class. The registers shall have the appropriate names listed according to class and in the order of seniority as earned up to the date of eligibility for a position on the reemployment register.
 - 2) Each lesser unit shall have its own reemployment register.
 - 3) Promotional registers shall be by class and shall contain names in the following categories and order:
 - A) Listed in order of total service in the class:
 - i) names of employees with status appointments, after having

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- been certified from the promotional register, who have been laid off during the probationary period through reduction in force, with credit for total service as of date of layoff; or
- ii) names of employees with status appointments, after having been certified from the promotional register and who, during the probationary period, have failed to gain eligibility following reallocation or reclassification of positions, with credit for total service as of date of ineligibility; or
 - iii) names of current employees reinstated by total service in accordance with subsection (j)(4).
- B) Listed in order of promotional examination scores: names of successful candidates in accordance with Section 250.50(b).
- 4) Original entry registers shall be by class and shall contain names in the following categories and order:
- A) Listed in order of total service to the employer: names of employees who have been, or who may be, separated from status appointments, after completion of at least six months of service to the employer, resulting from a permanent abolishment of a functional service, provided that not later than 90 days after the abolishment of the service, they have qualified for, and have received a passing score on, an original entry examination for the class.
 - B) Listed in order of total service in the class:
 - i) names of employees with status appointments, after having been certified from the original entry register, who have been laid off during the probationary period through reduction in force, with credit for total service as of date of layoff; or
 - ii) names of employees with status appointments, after having

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been certified from the original entry register and who, during the probationary period, have failed to gain eligibility following reallocation or reclassification of positions, with credit for total service as of date of ineligibility; or

- iii) names of current employees reinstated by total service in accordance with subsection (j)(4).
 - C) Listed in order of total service in the class:
 - i) names of former employees restored by total service in accordance with subsection (j)(5); or
 - ii) names of employees seeking transfer, listed according to total service as of date of request for transfer.
 - D) Listed in order of original entry examination scores: names of successful candidates in accordance with Section 250.50(b) and employees seeking transfer in accordance with Section 250.100(c)(3).
- c) Precedence of Registers. For appointment purposes, registers shall have precedence in the following order: reemployment, promotional, and original entry.
- d) Certification from Registers
- 1) Reemployment in positions shall be made in accordance with the register, with highest seniority taking precedence. From a reemployment register, the employer shall certify only one name for appointment.
 - 2) From the promotional register or original entry register, the employer shall certify the candidates with the three ~~names-standing~~ highest scores on the register at the time the vacancy is declared, or as otherwise provided under subsection (d)(3).
 - 3) When ties in scores exist on an original entry register or promotional register for a class, all candidates with a tie score, and hence of the same

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relative excellence, shall be equally eligible to be considered as one of the available candidates certified from the register. ~~No person on the register shall be eligible or available for certification as one of the three persons standing highest on the register if three or more persons are eligible at a higher score level as a result of tie scores.~~ The employer shall conduct an ~~a personal~~ interview with, and shall consider, all candidates certified from the register in this manner prior to making its recommendation for selection, except that a single selecting official for the employer shall not be required to interview more than once the same candidate, as currently certified from the register, for a position of the same class.

- 4) If a total of three candidates are names is not available from the promotional register and/or original entry register, the employer shall certify those listed, and in addition may refer enough other candidates so that the employing officer has the choice of three candidates for the position. Such additional candidates as are necessary to provide the employing officer with a choice of three must be qualified for the class of the position to which referred and may be employed in accordance with Section 250.70(b)(1) and Section 250.90(b)(6).
- 5) A promotional register and/or an original entry register becomes closed for the purpose of certification of the names of candidates to a particular vacant position at a time established by the employer. Once this time has been established, it must become a matter of record, and it cannot be changed unless, when this time is reached, the employer is unable to provide to the selecting official three candidates from the promotional register and/or original entry register, and the selecting official wishes to interview three candidates prior to filling a position, whereupon a new date must be established in accordance with the aforementioned procedure. The selecting official shall interview from the registers, for any one vacancy, in accordance with the provisions of subsection (d)(3).
- 6) Candidates on an eligible register may be referred concurrently to more than one vacancy in the appropriate class, if, in the judgment of the employer, the procedure is needed to speed up employment transactions. Total referrals to a vacant position are to be limited to the candidates with the top three scores available candidates, or in accordance with the provisions of subsection (d)(3).

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- 7) The name of a candidate on a register, who at the time of induction into military service is an employee of an employer under the University System, shall be placed in suspension until the termination of military service, at which time his/her name shall be reactivated on the appropriate register in the order of his/her score on the original examination, providing the register of the class has not been voided during the period of his/her military leave.
 - 8) In making a selection from among those candidates with the top three scores ~~names~~ certified from standing highest on ~~the~~ register, and in accordance with the provisions of subsection (d)(3), the employer shall not discriminate because of race, color, religious or political affiliation, or because of age or sex, when the reasonable demands of the position do not require such a distinction.
 - 9) The Executive Director may authorize specialized position certification for eligible register candidates or incumbents who possess special and identified qualifications that are previously have been established as ~~are~~ job-related requirements for a specific position, as well as being fully qualified for the class. Upon certification ~~Certification~~ from a register, candidates with shall be made from ~~the top three scores scoring candidates~~ who possess the established specialized requirements shall be referred for interview.
- e) Acceptance of Candidates. The employer shall record the appointment of the candidate selected, and shall return the names passed over to the appropriate eligible register for future certification.
- f) Registers by Places of Employment
- 1) Applicants applying for examinations will be asked to specify places of employment at which they will accept employment, except as provided for in subsection (f)(4), and a statement of that place of employment preference shall constitute a refusal by the candidate of employment at other places of employment. The statement of limited availability shall not constitute a refusal to accept an offer of employment as defined in subsection (g)(5), or employment in the place or places of employment in which the candidate declares himself/herself available for employment. A candidate may amend his/her statements of availability at any time while

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his/her name is on a register.

- 2) Following examination, a candidate may request the transfer of an active passing original entry examination score to a place of employment other than the one at which he/she originally wrote the examination.
 - 3) Following examination, a candidate may request the transfer of an active passing promotional examination score to any place of employment within his/her employing institution or agency.
 - 4) In an institution with multi-campus operations, in which a central administrative unit has been established by the Merit Board as a separate place of employment, promotional registers and original entry registers for that place of employment shall be an amalgamation of all promotional registers and original entry registers, respectively, of all places of employment established for that institution.
- g) Mandatory Removal of Names from Registers. The employer shall remove the names of candidates from the reemployment registers, original entry registers and promotional registers for the reasons set forth in subsections (g)(1) through (9). The reasons are:
- 1) Certification from the register to a status position in a specific class and acceptance of a status appointment in that position and class.
 - 2) Death of the candidate.
 - 3) Receipt of proof or determination by the Merit Board that the candidate lacks any of the required qualifications, or is subject to rejection for any cause specified in Section 250.50(c).
 - 4) Receipt by an employer of a written request from the candidate to remove his/her name from a register.
 - 5) Refusal, without reasonable cause, to accept three offers of status appointment by the candidate.
 - 6) Resignation of the candidate from a status position.

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- 7) Attempt by a candidate to practice any deception or fraud in connection with an examination or application for employment.
 - 8) When a change in class or testing standards or another classification plan change requires removal. In this instance, specific guidelines for the removal of names from registers shall be provided by the University System.
 - 9) From promotional registers at the termination of the leave of absence from a position in his/her former class when a candidate accepts a position in a class outside the promotional line of the applicable registers.
- h) Permissive Removal of Names from Registers. The employer may remove the names of candidates from original entry registers and from promotional registers for the reasons set forth in this subsection (h). Names of candidates may be removed from reemployment registers for the reasons set forth in subsections (h)(1) through (7). The reasons include, but are not limited to, the following:
- 1) Failure of a candidate to report for work without good cause within the time prescribed by the employer, after accepting a status or a temporary appointment.
 - 2) Leaving the service of any employer served by the University System by an employee with a status appointment.
 - 3) Failure to reply to the employer within seven calendar days immediately following an offer of a status or a temporary appointment by an employer.
 - 4) Notice by postal authorities of their inability to locate the candidate at his/her last known address, or verbal notice from the owner or occupant of the premises that the candidate is no longer at his/her last known address and that no forwarding address has been provided.
 - 5) Failure of a candidate, upon request, to furnish written evidence of availability for employment.
 - 6) Failure, without reasonable cause, to reply to the employer or appear for an interview within a reasonable time prescribed by the employer, when the employer has mailed either a notice of a vacancy in a status or

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temporary position or a letter of interest to the candidate's last known address.

- 7) Upon the candidate's acceptance of a promotion.
- 8) Failure of a candidate to be selected for employment after four referrals for a status appointment in the same class.
- 9) When candidates' names have remained on original entry registers for two consecutive years following date of most recent examination, or following date of original entry restoration on the basis of service or seniority in accordance with subsection (j)(3), (4), or (5).
- 10) In classifications identified by the Executive Director and approved by the Merit Board, upon the expiration of the designated timeframe specified in a formal position vacancy posting. Classifications to be included under this provision shall be determined by, but not limited to, an evaluation of the following factors: occupation area, employment and turnover rates, pre-employment screening protocols utilized, operational needs and trends, and/or other special circumstances and justification.
 - i) Notification of Candidates of Removal of Names from Registers. Candidates whose names are removed from reemployment registers, promotional registers, and/or original entry registers in accordance with subsections (g) and (h) shall be notified in writing by the employer and provided the reason for the removal.
 - j) Restoration of Names to Registers. The employer may return to an appropriate register:
 - 1) Within one year after the date of removal, any name removed from a register for the reasons set forth in subsections (g)(3) or (4), or in subsection (h).
 - 2) Any name to a reemployment register as provided for in Section 250.110(b)(3)(G)(i).
 - 3) Any name of an employee to an original entry register or to a promotional register who has qualified by examination and who has been laid off during his/her probationary period, in the order of length of service in the

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class determined in accordance with Section 250.90(b)(4) and (5).

- 4) The name of a current employee who has been previously employed in a class for which restoral is being requested by service and/or seniority in that former class.
- 5) The name of a former status employee who resigned or otherwise has been separated from employment in good standing and who, within one year after resignation or separation from employment, requests restoration to a register shall, upon approval of the employer, be restored on the original entry register in accordance with seniority earned as of the date of resignation or separation as determined in accordance with Sections 250.90(b)(5) and 250.120(e). The former employee may be required to pass physical tests or other tests required by this Part to determine fitness at the time of restoral. Seniority earned prior to resignation shall be restored.

(Source: Amended at 39 Ill. Reg. _____, effective _____)

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF AGENCY RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

- 1) Heading of the Part: General Procedures
- 2) Code Citation: 80 Ill. Adm. Code 1200
- 3) Section Number: 1200.50 Emergency Action: Amendment
- 4) Date Notice of Emergency Rule Published in the *Illinois Reporter*: July 31, 2015, 39 Ill. Reg. 10641
- 5) Date JCAR Statement of Objection was published in the *Illinois Register*: August 28, 2015, 39 Ill. Reg. 12032
- 6) Summary of Action Taken by the Agency: At its meeting on August 11, 2015, the Joint Committee on Administrative Rules objected to the rulemaking because the Department has not shown the existence of any situation warranting the use of emergency rulemaking. Specifically, JCAR noted that "[s]ince ILRB has not yet received its FY16 appropriation for court reporting services, it cannot, at this time, know that those appropriations will be inadequate to fund court reporting services."

Agency Response to Specific Joint Committee Objections: In both the Governor's proposed budget and the budget passed by the General Assembly, the proposed appropriation for the Board's court reporting services was \$18,000. Regardless of a budget impasse, an appropriation of \$18,000 would have required a shift in court reporting costs from the Board to the parties. From FY2003 through FY2015, the Board's court reporting cost averaged \$46,594.40 per year, though the Board has spent more than \$50,000 for each FY2014 and FY2015. The proposed amount of \$18,000 has historically been expended long before the end of the fiscal year. On only two occasions since FY2003 has the Board failed to reach the \$18,000 mark before January of the given fiscal year. With the danger of using the entire proposed appropriation before the conclusion of the first half of the fiscal year, the Board took numerous steps to address this concern, in addition to filing the rule change. The Board stepped up its mediation efforts, encouraged ALJs to offer parties to stipulate a factual record on which to render a decision, and explored seeking bids for a contract for court reporting services at a rate lower than that negotiated in the State's Master Contract. Ultimately, none of these efforts could work to lower the Board's costs to within the proposed appropriation while still meeting our statutory obligation to hear the various matters arising under the Illinois Public Labor Relations Act, 5 ILCS 315/1-1 et seq.

ILLINOIS LABOR RELATIONS BOARD

NOTICE OF AGENCY RESPONSE TO AN OBJECTION OF THE JOINT COMMITTEE ON
ADMINISTRATIVE RULES

The Board understands the Committee's concern regarding the appropriate use of emergency rulemaking and will continue to be judicious in our use of emergency rules in the future.

The Board presently has no plan for the filing of a revised version of this emergency rule.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of September 9, 2015 through September 14, 2015. Rulemakings are scheduled for review at the Committee's October 13, 2015 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>
10/23/15	<u>Department of Public Health</u> , Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245)	12/12/15 39 Ill. Reg. 23298	10/13/15
10/23/15	<u>Department of Financial and Professional Regulation</u> , Bank Branches and Subsidiaries (38 Ill. Adm. Code 305)	7/24/15 38 Ill. Reg. 10336	10/13/15
10/25/15	<u>Department of Transportation</u> , Procedures for Transportation Workplace Drug and Alcohol Testing Programs (92 Ill. Adm. Code 340)	7/10/15 39 Ill. Reg. 9213	10/13/15
10/25/15	<u>Department of Transportation</u> , Special Training Requirements (92 Ill. Adm. Code 380)	7/10/15 39 Ill. Reg. 9217	10/13/15
10/25/15	<u>Department of Transportation</u> , Controlled Substance and Alcohol Use and Testing (92 Ill. Adm. Code 382)	7/10/15 39 Ill. Reg. 9221	10/13/15
10/25/15	<u>Department of Transportation</u> , Commercial Driver's License Standards; Requirements and Penalties (92 Ill. Adm. Code 383)	7/10/15 39 Ill. Reg. 9226	10/13/15
10/25/15	<u>Department of Transportation</u> , Procedures and Enforcement (92 Ill. Adm. Code 386)	7/10/15 39 Ill. Reg. 9231	10/13/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

10/25/15	<u>Department of Transportation</u> , Minimum Levels of Financial Responsibility for Motor Carriers (92 Ill. Adm. Code 387)	7/10/15 39 Ill. Reg. 9238	10/13/15
10/25/15	<u>Department of Transportation</u> , Motor Carrier Safety Regulations: General (92 Ill. Adm. Code 390)	7/10/15 39 Ill. Reg. 9242	10/13/15
10/25/15	<u>Department of Transportation</u> , Qualification of Drivers (92 Ill. Adm. Code 391)	7/10/15 39 Ill. Reg. 9276	10/13/15
10/25/15	<u>Department of Transportation</u> , Driving of Commercial Motor Vehicles (92 Ill. Adm. Code 392)	7/10/15 39 Ill. Reg. 9283	10/13/15
10/25/15	<u>Department of Transportation</u> , Parts and Accessories Necessary for Safe Operation (92 Ill. Adm. Code 393)	7/10/15 39 Ill. Reg. 9287	10/13/15
10/25/15	<u>Department of Transportation</u> , Hours-of-Service of Drivers (92 Ill. Adm. Code 395)	7/10/15 39 Ill. Reg. 9291	10/13/15
10/25/15	<u>Department of Transportation</u> , Inspection, Repair and Maintenance (92 Ill. Adm. Code 396)	7/10/15 39 Ill. Reg. 9298	10/13/15
10/25/15	<u>Department of Transportation</u> , Transportation of Hazardous Materials; Driving and Parking (92 Ill. Adm. Code 397)	7/10/15 39 Ill. Reg. 9302	10/13/15
10/25/15	<u>Department of Transportation</u> , Illinois Cycle Rider Safety Training Program (92 Ill. Adm. Code 455)	7/10/15 39 Ill. Reg. 9306	10/13/15
10/25/15	<u>Department of Transportation</u> , School Bus	7/10/15	10/13/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Driver's Pretrip Inspection Requirements (92 Ill.
Adm. Code 458)

39 Ill. Reg.
9317

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 39, Issue 39 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.

PROPOSED RULES

35 - 365	13131
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**OTHER INFORMATION REQUIRED BY
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80 - 1200	13187
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