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Editor’s Note 2: Submit all rulemaking documentation to the following address:

Secretary of State
Department of Index
Administrative Code Division
111 East Monroe Street
Springfield, Illinois 62756

Editor’s Note 3: It has become necessary to add file pages to the documents in the electronic copy that is being forwarded to the Code Division. This is effective immediately. This can also be found in the Style Manual;


Section 4-5: FORMAT FOR FILING RULES (1 Ill. Adm. Code 100.500 and Appendix B, Illustration D)

All rules, amendments or repealers shall be submitted in 8 ½ x 11 inch, three-hole punched, suitable for being placed in a standard loose-leaf binder for paper that size. In accordance with 1 Ill. Adm. Code 100. Appendix B. Illustration D. (Also see the Rulemaking Template 2003)

i. A complete table of Contents will be provided in accordance with 1 Ill. Adm. Code 100/310. One original and two copies. The page(s) for the Part’s table of contents shall begin with the major divisions of the Code appropriate for the
Part, Each of these shall have the appropriate division word and the heading for that division in all capital letters. Each line shall be centered on the page and these shall all be listed single-spaced. A colon shall follow each division label followed by two spaces and then the heading.

ii. Also required are one original and two copies of agency certification. In accordance with 1 Ill. Adm. Code 100.Appendix B. Illustration C (Also see the Rulemaking Template 2003)

iii. Also required are one original and two copies of code/file pages. In accordance with 1 Ill. Adm. Code 100.Appendix B. Illustration D (Also see the Rulemaking Template 2003)

iv. Adopted rules filed with the Code Division (file pages) shall not contain either strike-outs or underscoring.

An electronic copy is also required of the Table of Contents, Authority Notes, and Main Source Notes, and the text of the adopted rules with all changes applied. Each section will begin on its own page in order to establish correct headers for each page. All electronic copy must be in a compatible format in order to avoid excessive manipulation and any possible errors associated with manipulating the agencies original document. Therefore all electronic copy must be

i. In Microsoft Word format

ii. With margins set at 1 inch on each side, top, bottom, headers, and footers.

iii. Font must be in Times New Roman 12.

iv. Section Breaks may be inserted into the document.
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. The Register will also contain the Cumulative Index and Sections Affected Indices will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

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

The Register is a weekly update 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 accounti ng of State agencies' The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5ILCS 100/1-1 et seq.].

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Printed by authority of the State of Illinois

July 2001 - 675 - GA -82
NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities

2) **Code Citation:** 83 Ill. Adm. Code 590

3) **Section Numbers:**

   590.10 Amendment

4) **Statutory Authority:** Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].

5) **A Complete Description of the Subjects and Issues Involved:** 83 Ill. Adm. Code 590, "Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities," contains the Commission's adoption of Federal pipeline safety standards pursuant to Section 3 of the Illinois Gas Pipeline Safety Act ("Act"). Section 3 of the Act requires the Commission's rules to be as inclusive and as stringent as the Federal safety standards and compatible with the Federal safety standards.

The United States Department of Transportation has completed rulemaking activity since the last amendment of Part 590 in 2001 that requires the Commission to update its rules so that the Commission's rules are in conformance with Section 3 of the Act. It is appropriate to initiate rulemaking to amend Part 590. The proposed amendment will update the Commission's rules to incorporate the Federal rules as of January 1, 2003, to account for all USDOT rulemaking action that became effective since the last Commission amendment of Part 590 in 2001.

6) **Will these proposed amendments replace emergency amendments currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** Yes

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

10) **Statement of Statewide Policy Objectives:** These proposed amendments neither create nor expand any State mandate on units of local government, school districts, or community college districts.
11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:**

Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 03-0106, with:

Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL  62701  
(217)782-7434

12) **Initial Regulatory Flexibility Analysis:**

A) **Types of small businesses, small municipalities and not for profit corporations affected:** These amendments will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations.

B) **Reporting, bookkeeping or other procedures required for compliance:** Record keeping

C) **Types of professional skills necessary for compliance:** Engineering skills

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

The full text of the Proposed Amendments begins on the next page:
Section 590.10 Standards

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].


Section 590.10 Standards


b) No later amendment or editions are incorporated by this Part.

(Source: Amended at 27 Ill. Reg. _______, effective ____________________)
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part:  Procedures for Collection of Air Pollution Site Fees

2) Code Citation:  35 Ill. Adm Code 251

3) Section Numbers: Proposed Action:

251.202 Amended


5) A Complete Description of the Subjects and Issues Involved: This amendment corrects an existing problem wherein owners and operators of affected sites were unnecessarily paying site fees when they had withdrawn the underlying permit. Previously, a site operator or owner had to withdraw the permit request prior to the issuance of the site fee bill. This amendment prevents liability for a fee from attaching when the permittee withdraws the request prior to the date the bill actually becomes due. It does not increase a state mandated fee.

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

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

8) Does this proposed rule (amendment, repealer) contain incorporations by reference? No.

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

10) Statement of Statewide Policy Objective: This proposed amendment is intended to ease the filing burdens of site operators and owners. It does not increase state mandates.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Environmental Protection Agency will accept written public comments on this proposal for a period of forty-five (45) days after the date of publication in the Illinois Register. Comments should reference the Procedures for Collection of Air Pollution Site Fees and be addressed to:

Charles E. Matoesian
Assistant Counsel
Illinois Environmental Protection Agency
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS

Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19726
Springfield, Illinois 62794-9276
217/782-5544
217/782-9143 (TDD)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will have a positive effect on the above entities. Small businesses will benefit from this amendment. The amendment will prevent liability for site fees from attaching when the underlying operating permit giving rise to the fees has been withdrawn.

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

C) Types of professional skills necessary for compliance: None.

13) Regulatory Agenda on which this rulemaking was summarized: July 2002

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER V: ENVIRONMENTAL PROTECTION AGENCY

PART 251

PROCEDURES FOR COLLECTION OF AIR POLLUTION SITE FEES

SUBPART A: INTRODUCTION

Section
251.101 Purpose
251.103 Definitions

SUBPART B: PROCEDURES FOR BILLING AND COLLECTION OF
AIR POLLUTION SITE FEES

Section
251.201 Amount of Air Pollution Site Fee
251.202 Withdrawal of Permits
251.203 Agency Billing Procedures
251.208 Time and Method of Payment
251.210 Form of Payment
251.212 Return of Site Fee (Repealed)
251.215 Prohibition Against Refund

SUBPART C: RESOLUTION OF DISPUTES

Section
251.301 Request for Reconsideration
251.305 Effect of Request for Reconsideration
251.308 Agency Response
251.310 Appeal of Final Agency Action

AUTHORITY: Implementing Section 5 and authorized by Section 9.6 of the Environmental Protection Act (Ill. Rev. Stat. 1987, Ch. 111 1/2, pars. 1005 and 1009.6 as added by P.A. 85-1343, effective January 1, 1989)
ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENTS


SUBPART B: PROCEDURES FOR BILLING AND COLLECTION OF AIR POLLUTION SITE FEES

Section 251.202 Withdrawal of Permits

The owner or operator of a site remains liable for the annual site fee unless a request for withdrawal of all operating permits is made in writing to the Agency's Division of Air Pollution Control, Permit Section, prior to the date the site fee becomes due, issuance of the annual site fee billing.

(Source: Amended at amended at 27 Ill. Reg __________, effective ________________).
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Public Museum Grants Program

2) **Code Citation:** 23 Ill. Adm. Code 3200

3) **Section Numbers:**

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4) **Statutory Authority:** Implementing and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].

5) **A Complete Description of the Subjects and Issues Involved:** These proposed amendments incorporate legislation amending the authorizing statute for the Public Museum Grants Program. The match requirement is modified and based on the museum's annual attendance, a procedure to obtain a certification by a unit of local government for museums not located on public property is added, and performing arts is added to the definition of public museums. Other amendments are being proposed as a result of experience in administering the program. The definition of capital expenditure is expanded significantly because many museums have submitted applications for projects that do not meet capital bondability requirements. In addition, at the recommendation of the peer review panel for the program, land acquisition was eliminated as an eligible capital expenditure. No land acquisition projects have been funded through this program to date, and land acquisition does not meet the overall intent of the program.

6) **Will this rulemaking replace an emergency rulemaking currently in effect?** No
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

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

8) Do these proposed amendments contain incorporations by reference? No

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

10) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

   Stanley Yonkauski, Jr.
   Department of Natural Resources
   One Natural Resources Way
   Springfield IL  62702-1271
   217/782-1809

12) Initial Regulatory Flexibility Analysis:

   A) Types of small businesses, small municipalities and not for profit corporations affected: Entities qualifying for grants under this rule include not-for-profit organizations such as aerospace museums, agricultural museums, aquariums, arboreta, architectural museums, art galleries, art museums, botanical gardens, children's museums, ecology and environmental museums, health museums, historical museums, natural history museums, nature centers, performing arts organizations, planetariums, and science centers; and municipalities such as cities, towns, counties, park districts, forest preserve districts, and museum districts.

   B) Reporting, bookkeeping or other procedures required for compliance: Entities awarded grants must agree to comply with the requirements set forth in the Department's Project Agreement. Implementation and billing requirements include documentation such as semi-annual project status reports; compliance with local statutory laws governing public procurements; completing project billing forms to request reimbursement; final project performance reports; and following project completion, record retention and specific financial audit requirements.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

C) **Types of professional skills necessary for compliance:** Entities awarded grants must have at least one paid employee who commands an appropriate body of special knowledge and the ability to reach museological, zoological, aquarium, or botanical (whichever shall be applicable) decisions consonant with the experience of his or her peers, and who has access to and acquaintance with the literature of the field, and that such employee works sufficient hours to meet adequately the current demands of administration and care.

13) **Regulatory Agenda on which this rulemaking was summarized:** Due to an oversight, this rulemaking was not listed on either of the two most recent Regulatory Agendas.

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE B: CULTURAL RESOURCES
CHAPTER II: DEPARTMENT OF NATURAL RESOURCES

PART 3200
PUBLIC MUSEUM GRANTS PROGRAM

SUBPART A: CAPITAL GRANTS PROGRAM

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3200.10 Definitions
3200.15 Purpose
3200.20 Eligibility Criteria
3200.30 Funding Determination (Repealed)
3203.35 Certification by a Unit of Local Government
3200.40 Application Procedure
3200.50 Application Schedule
3200.60 Review Criteria and Selection Procedure
3200.65 Awards
3200.70 Eligible Expenses
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3200.90 Program Information/Contact

SUBPART B: PUBLIC MUSEUM OPERATING GRANT RULES

Section
3200.100 Definitions
3200.110 Purpose
3200.120 Eligibility Criteria for Applicant Facilities
3200.130 Application Procedure
3200.140 Application Schedule
3200.150 Review Procedure
3200.160 Method for Awarding Grants
3200.165 Process for Payment
3200.170 Program Information/Contact
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by Section 1-25(22) of the Department of Natural Resources Act [20 ILCS 801/1-25(22)].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 18, effective March 1, 1979, for a maximum of 150 days; emergency expired July 28, 1979; adopted at 4 Ill. Reg. 18, p. 113, effective April 22, 1980; amended at 5 Ill. Reg. 5649, effective May 18, 1981, codified at 8 Ill. Reg. 1448; amended at 10 Ill. Reg. 4536, effective February 28, 1986; recodified from the Department of Energy and Natural Resources to the Department of Natural Resources at 22 Ill. Reg. 11230; emergency amendment at 22 Ill Reg. 17381, effective September 17, 1998, for a maximum of 150 days; emergency expired February 13, 1999; emergency amendment at 22 Ill. Reg. 22097, effective December 3, 1998, for a maximum of 150 days; emergency expired May 1, 1999; amended at 23 Ill. Reg. 11926, effective September 15, 1999; emergency amendments at 26 Ill. Reg. 13706, effective August 29, 2002, for a maximum of 150 days; emergency expired January 26, 2003; amended at 27 Ill. Reg. ______________, effective ______________.

Section 3200.10   Definitions

"Attendance" means the documented number of visitors at the public museum's facility or facilities for the preceding calendar year.

"Capital Expenditure" means an outlay of capital that results in the acquisition of property or permanently improves its value or usefulness. For purposes of this program, capital expenditures include, but are not limited to, one or more of the following: land and building acquisition; demolition (in preparation for additional work); site preparation and improvement; utility work; new construction, rehabilitation, major renovations, or expansion of buildings and structures; original furnishings and equipment; replacement of currently utilized assets, by a better asset including permanent exhibits; and any other work that significantly increases the service potential of a building, structure, or exhibit as well as necessary project management fees and associated architectural planning and engineering design services. Acquisition of museum collections, objects, or specimens are not considered capital expenditures.

"Capital Expenditure" means an outlay of capital and confers long-term benefits that permanently improve the property's value or usefulness. Capital expenditures generally include, but are not limited to, one or more of the following purposes: architectural planning and engineering design; demolition (in preparation for additional work); site preparation and improvement; utility work; new construction of buildings and structures; reconstruction or improvement of
existing buildings or structures; initial furniture and equipment integral to the project; and replacement of currently utilized assets by a better asset; expansion of existing buildings or facilities.

Work that constitutes repairs, maintenance or remodeling of a limited nature or scope, which is not done as part of a larger bondable project, shall not be considered bondable capital expenditures. A non-bondable project is generally one that maintains or preserves the existing conditions, use or size of a capital asset and which is neither in the nature of a betterment nor a change to the capital asset's condition, use or size. Generally, such work does not significantly add to the value of the capital asset nor appreciably prolong the life of the capital asset.

The following are operating or other types of expenditures that are not considered capital expenditures:

- projects with a total cost of less than $25,000;
- acquisition of museum collections, objects, or specimens;
- feasibility studies, long-range development plans, master plans, and historical or archaeological research;
- development of temporary or traveling exhibits; repair to current exhibits;
- costs of repairs or maintenance that are normally anticipated to occur;
- remodeling of a limited nature or scope, which is not done as part of a larger bondable project;
- costs of staff or resident labor and material;
- operational and administrative expenses;
- installation of fire alarms, smoke detectors, or connections of building monitoring systems to a central or off-site central monitor, unless included in a larger bondable project; and
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

purchase of vehicles or construction equipment.

"Care" means the keeping of adequate records pertaining to the provenance, identification and location of the museum's holdings, and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

"Certification" means an attestation by a unit of local government that a museum that is not operated by or located on land owned by a unit of local government meets the eligibility criteria established in State law.

"Community" means the population base normally served by the public museum.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.

"Fiscal Agent" means an affiliated entity that may expend and receive funds on behalf of the public museum. If grant funds are to be distributed to a fiscal agent on behalf of the public museum, the chief executive officer or the public museum must sign a statement certifying that there is an ongoing relationship between the public museum and the fiscal agent; that the fiscal agent may incur expenses for the public museum’s project; and that grant funds will be used specifically for the public museum's project.

"Matching Funds" means local government and/or private funds committed to the proposed project. State and federal funds are not eligible as matching funds equal to at least two-thirds of the incurred capital expenditures considered integral to the overall approved grant project scope. Matching funds cannot include federal or other State funds.
"Nonprofit" means that the public museum has documentary evidence of its tax-exempt status under the regulations of the U.S. Internal Revenue Service.

"Organized" means that the public museum is a duly constituted body with expressed responsibilities.

"Permanent" means that the public museum has been open to the public, for its instruction and enjoyment, existed for at least 2 years and is expected to continue in perpetuity.

"Professional Staff" means that the public museum has at least one paid employee, who commands an appropriate body of special knowledge and the ability to reach museological, zoological, aquarium, or botanical (whichever shall be applicable) decisions consonant with the experience of his or her peers, and who has access to and acquaintance with the literature of the field, and that such employee works sufficient hours to meet adequately the current demands of administration and care.

"Public Museum" means a facility that has been open to the public, for its instruction and enjoyment for at least two years and that is operating for the purposes of promoting cultural development through special activities or programs or performing arts and acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting (subject to temporary interruption due to construction or catastrophe) specimens, artifacts, articles, documents and other things of historical, anthropological, archaeological, industrial, scientific or artistic import.

"Schedule" means regular and predictable hours which constitute substantially more than a token opening, so that access is reasonably convenient to the public.

"Tangible Objects" means specimens, artifacts, articles, documents; non-domesticated plants or animals, including fish; and other things of historical, anthropological, archeological, industrial, scientific or artistic import that form the public museum collections and have intrinsic value to history, science, art or culture.

"Unit of Local Government" means counties, municipalities, townships, special districts and units, designated as units of local government by Illinois law, which
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

exercise limited governmental power or powers in respect to limited governmental subjects, but does not include school districts.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 3200.15 Purpose

The Public Museum Capital Grants Program is designed to help public museums in Illinois expand and upgrade facilities and create new exhibits and other physical facilities to enhance the public museums’ abilities to meet their educational mission. The program provides up to 33 1/3% funding assistance on a reimbursement basis to eligible applicants for approved capital expenditures on public museum facilities.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 3200.20 Eligibility Criteria

a) Any public museum located in Illinois shall be eligible to submit one application per grant cycle for grants for a capital project purposes if it establishes to the reasonable satisfaction of the Director that:

1) It is a public museum that has been open to the public, for its instruction and enjoyment, for at least two years; in existence for two years and that is operated by or located upon land owned by a unit of local government.

2) It is operated by or located upon land owned by a unit of local government or has been certified as a public museum in accordance with Section 3200.35;

3) It is an organized, permanent institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;

4) It meets generally accepted professional standards as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums, and other appropriate organizations.

5) It has a professional staff;
6) It cares for and owns or utilizes tangible objects;

7) It is open to the public on a regular schedule and regularly collects attendance data and maintains sufficient records such that the attendance numbers can be audited;

8) It presents regularly scheduled programs and exhibits that use and interpret objects for the public according to accepted standards;

9) It devotes the majority of its floor space or grounds and professional staff effort to museological purposes;

10) It can match a State grant with $2 of local or private support for each $1 of State money; and

9) It has filed timely reports and complied with requirements for previous grant awards; and.

A) $2 matching funds for each $1 of State money for a public museum with an attendance of 600,000 or more during the preceding calendar year; or

B) $1 of matching funds for each $1 of State money for a public museum with an attendance of over 300,000 but less than 600,000 during the preceding calendar year; or

C) No matching funds are required for a public museum with an attendance of 300,000 or less during the preceding calendar year.

b) The capital project for which the museum is applying must be clearly defined and must meet all of the following criteria:

1) Project costs must be eligible "Capital Expenditures" as defined in Section 3200.10;

2) Project expenses will not be recurring;
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3) The project is of a durable nature and not consumed in use;

4) The project is not subject to inherent risk of failure, rapid technological obsolescence, or primarily intended to fulfill temporary requirements or needs; and

5) The project appreciably increases, improves or enhances the property, land, building or asset to be developed, constructed or improved.

c) Grants to public museums not located on public property may be prohibited if the appropriation funding source is limited to bond funds that cannot be expended on private property.

(Source: Amended at 27 Ill. Reg. ___________, effective _________________)

Section 3200.35 Certification by a Unit of Local Government

a) Museums with an annual indoor attendance of 150,000 or more, which are not operated by or located on land owned by a unit of local government, must provide a certification by a unit of local government to show eligibility for grant funding. The certification is an attestation by the unit of local government that a museum that is not operated by or located on land owned by a unit of local government meets eligibility criteria established in State law. The certification must be in accordance with the following procedures:

1) Museums located within the boundaries of a municipality must submit a certification approved by the municipality's elected governing body. Museums located outside municipal boundaries must submit a certification approved by the county's elected governing body.

2) The approved certification must be submitted at the time of application. The certification may be subject to audit.

3) The certification must be in the form and approved using the process normally used by the unit of local government for similar resolutions or actions. The certification must attest that the museum:

A) is operating for the purposes of promoting cultural development through special activities or programs or performing arts, and acquiring, conserving, preserving, studying, interpreting,
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enhancing, and in particular, organizing and continuously exhibiting specimens, artifacts, articles, documents and other things of historical, anthropological, archaeological, industrial, scientific or artistic import, to the public for its instructions and enjoyment; and

B) has an annual indoor attendance of at least 150,000 and offers educational programs to school groups during school hours.

b) Public museums operated by or located on land owned by a unit of local government are not required to provide this certification.

c) Museums eligible for Certification as a public museum must provide sufficient evidence of long-term ownership or long-term lease agreement of the property.

(Source: Added at 27 Ill. Reg. ______________, effective ______________)

Section 3200.40 Application Procedure

a) Any public museum seeking a grant for capital purposes in the current year shall submit the required number of copies of a completed application, as specified supplied by the Department, and one copy of each attachment, that includes:

1) Application Form.

2) Statement by the chief executive officer of the public museum attesting Certification Statement executed by the chief executive officer of the public museum that states that the museum is in compliance with the eligibility criteria of this program.

A) that the public museum is in compliance with the eligibility criteria of this program;

B) that adequate records are kept to document the annual attendance number at the public museum’s facility during the preceding calendar year; and
C) that, if grant funds are to be distributed to a fiscal agent on behalf of the public museum, there is an ongoing relationship between the public museum and the fiscal agent; that the fiscal agent may incur expenses for the public museum's project; and that grant funds will be used specifically for that project.

3) Project Narrative Statement.

4) Development Data Form including costs, a conceptual plan, and construction schedule.

5) Land Acquisition Data, if applicable.

5)(6) The annual report of the public museum for the year preceding its application.

6)(7) Cultural Resources, Endangered Species and Wetlands Review Report (CERP), including a county map that identifies the museum's and, if different, the project's location.

8) If funds are to be distributed by the Department to a fiscal agent on behalf of the public museum, a certification statement must be signed by the chief executive officer of the public museum. The certification will state:

A) that there is an ongoing relationship between the museum and the fiscal agent;

B) that the fiscal agent may incur expenses for the museum’s project; and

C) that grant funds will be used specifically for that project.

b) If a museum is not operated by or located on land owned by a unit of local government, it must submit a Certification in accordance with Section 3200.35. Public museums may submit only one application during an application period.

(Source: Amended at 27 Ill. Reg. __________, effective _________________)
Department of Natural Resources

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Section 3200.60 Review Criteria and Selection Procedure

a) Technical and Program Review

Department staff will review the project application for:

1) Completeness of application.

2) Evidence that the public museum meets all eligibility criteria, as defined in Section 3200.20.

3) Evidence that the capital project meets the eligibility criteria as defined in Section 3200.20.

4) Evidence that the public museum has long term future occupancy rights for the property.

5) Evidence that the project is part of a capital planning process.

6) Project’s feasibility with regard to operational capacities of the public museum.

7) Adequacy of cost estimates and construction schedule estimates.

8) Evidence of community support and meeting community needs.

9) Effectively enhancing the public museum’s ability to meet its educational mission.

10) Expanding audiences, including reaching underserved groups.

11) Compliance with requirements of previous grant awards.

b) Peer Review Panel

1) The Director will appoint a panel of 5 citizens with backgrounds and experience relevant to the activities of public museums and their educational contributions who will review proposals and then make recommendations for funding. Such citizens shall not be current
employees of any museums in the State of Illinois that are eligible to apply for this grant program. The Director shall have the authority to call upon the expertise of non-residents of the State for additional advice on the program and its administration.

2) Names of candidates for the peer review panel will be solicited from museums throughout Illinois.

c) Staff Recommendation

Department staff will evaluate proposals based on criteria outlined above, consider recommendations from the peer review panel, and recommend to the Director priorities for funding. _Priority may be given to projects where public museums demonstrate community support through matching funds in excess of what is required._ Consideration may be _given to the scale of the project in relation to the public museum's operating budget, annual attendance, and the size and capacity of the staff._

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 3200.65 Awards

a) Award Limit. The Department shall establish on an annual basis the maximum grant award a public museum may receive; however, the maximum grant award shall be no more than 10% of the annual appropriation, excluding funds that may be reappropriated from a preceding year. The Department shall announce the maximum grant award in conjunction with announcing the annual grant application schedule.

b) Reappropriation of Funds. _The Department will seek reappropriation of funds for approved grant projects which are not completed by the end of the State Fiscal Year. Obligations of the State will cease immediately without penalty or further payment being required if in any fiscal year the Illinois General Assembly fails to appropriate or otherwise make sufficient funds available for approved grant projects._ Reappropriation of funds will be sought for projects approved for funding that have not been completed and reimbursement sought in the fiscal year that the project was approved.

(Source: Amended at 27 Ill. Reg. __________ effective ________________)

DEPARTMENT OF NATURAL RESOURCES
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Section 3200.70 Eligible Expenses

Eligible Expenses are defined as:

a) Expenses that meet the definition of Capital Expenditures as defined in Section 3200.10.

b) Expenses that are pursuant to the scope of work as agreed upon and approved by the Department. Grant funds The State’s one-third match can only be used for capital expenditure costs incurred after the Project Agreement is executed in July 1 of the fiscal year in which the grant award is made. Expenditures incurred back to July 1, 1998, may be eligible for reimbursement if the public museum received a capital grant in FY99 and if the proposed project is an integral component of the FY99 project and was not reimbursed in the FY99 grant award.

c) Expenses incurred directly by the public museum, or expenses incurred specifically for the public museum’s project by the public museum’s fiscal agent.

(Source: Amended at 27 Ill. Reg. __________, effective _________________)

Section 3200.80 Process for Payment

a) The public museum or fiscal agent representing the public museum enters into a Project Agreement with the Department.

b) Public museums that have been awarded capital grants must submit project billing documentation requests (expenditure statements), certified by the public museum’s chief executive officer or chief financial officer, listing and verifying all funds expended on the project for which grant reimbursement is sought; as well as required billing documentation as follows:

1) Acquisition of Property: Proof of good-faith negotiations or fair-market value offer to land seller, copy of warranty deed (Judgment Order in case of condemnation and title insurance for any deed less than warranty) showing ownership transferred to the local project sponsor, and copies of documents showing proof of payment to seller.

1) Development of Permanent Improvements: Public Museum Capital Grant expenditure statement certified by the chief executive officer or chief
financial officer. Copy of receipts/invoices for project costs, and copy of documents showing proof of payment.

2) Project Billing Request: Reimbursement of project expenditures will be made with the Department's instructions which will be specified in the Implementation and Billing Requirements provided to public museums at the time Project Agreements are negotiated.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 3200.90 Program Information/Contact

Illinois State Museum, Museum Grant's Program Office
502 S. Spring Street Spring and Edwards Streets
Springfield, IL 62706-5000
Phone: 217.782.5992
email: museumgrants@museum.state.il.us

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

SUBPART B: PUBLIC MUSEUM OPERATING GRANT RULES

Section 3200.100 Definitions

"Attendance" means the documented number of visitors at the public museum's facility or facilities for the preceding calendar year.

"Care" means the keeping of adequate records pertaining to the provenance, identification and location of the museum's holdings, and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

"Community" means the population base normally served by the museum.

"Department" means the Illinois Department of Natural Resources.

"Director" means the Director of the Department.
"Fiscal Agent" means an affiliated entity that may expend and receive funds on behalf of the public museum. **If grant funds are to be distributed to a fiscal agent on behalf of the public museum, the chief executive officer of the public museum must sign a statement certifying:** A certification statement must be signed by the chief executive officer of the public museum if grant funds are to be distributed to a fiscal agent on behalf of the public museum. The certification shall state:

- that there is an ongoing relationship between the public museum and the fiscal agent;
- that the fiscal agent may incur expenses for the public museum’s project; and
- that grant funds will be used specifically for the public museum's project.

"Museum Education Program" means utilizing the resources of the museum for formal or informal learning opportunities for school children, teachers, or other citizens through face to face interactions or through educational technology, including educational technology partnerships. The public museum shall have at least one employee who devotes the preponderance of his/her time to offer "Museum Education Programs". This person is expected to command an appropriate body of special knowledge in museum education consonant with the experience of his or her peers, to have access to and acquaintance with the literature of the field, and to work sufficient hours to meet adequately the current demands for museum educational services.

"Nonprofit" means that the public museum has documentary evidence of its tax-exempt status under the regulations of the U.S. Internal Revenue Service.

"Operating Expenditures" means funds actually expended by a public museum or its fiscal agent for the recurring day-to-day expenses that are ordinary and necessary to maintain and operate the facility for its principal purpose as a public museum. These expenditures shall include:

- the total amount of program and supporting services expenses (management and general) and fundraising expense that is reported on the entity’s audited financial statements;
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depreciation expense for the buildings, movable equipment, and other types of personal property; and

interest expenses on funds borrowed to finance operating expenditures.

"Organized" means that the public museum is a duly constituted body with expressed responsibilities.

"Permanent" means that the public museum has been open to the public, for its instruction and enjoyment, existed for at least 2 years and is expected to continue in perpetuity.

"Professional Staff" means that the public museum has at least one paid employee who commands an appropriate body of special knowledge and the ability to reach museological, zoological, aquarium, or botanical (whichever shall be applicable) decisions consonant with the experience of his or her peers, and who has access to and acquaintance with the literature of the field, and who works sufficient hours to meet adequately the current demands of administration and care.

"Public Museum" means a facility that has been open to the public, for its instruction and enjoyment, for at least two years and that is operating for the purpose of promoting cultural development through special activities or programs or performing arts, and acquiring, conserving, preserving, studying, interpreting, enhancing, and, in particular, organizing and continuously exhibiting (subject to temporary interruption due to construction or catastrophe) specimens, artifacts, articles, documents and other things of historical anthropological archaeological, industrial, scientific or artistic import.

"Schedule" means regular and predictable hours that constitute substantially more than a token opening, so that access is reasonably convenient to the public (subject to temporary interruption due to construction or catastrophe).

"Tangible Objects" means specimens, artifacts, articles, documents; non-domesticated plants or animals, including fish; and other things of historical, anthropological, archeological, industrial, scientific or artistic import that form the public museum's collections and have intrinsic value to history, science, art or culture.
"Unit of Local Government" means counties, municipalities, townships, special districts and units, designated as units of local government by Illinois law, that exercise limited governmental power or powers in respect to limited governmental subjects, but does not include school districts.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 3200.120 Eligibility Criteria for Applicant Facilities

A public museum located in Illinois shall be eligible to submit one application per grant cycle for operating purposes if it establishes to the reasonable satisfaction of the Director that:

a) It is a public museum that is operated by or located upon land owned by a unit of local government or has an annual indoor attendance of at least 150,000 and offers educational programs to school groups during school hours;

b) It has been open to the public, for its instruction and enjoyment, for at least two years;

c) It is an organized, permanent institution that is tax exempt under the regulations of the U.S. Internal Revenue Service;

d) It meets generally accepted professional standards as in the accreditation programs of the American Association of Museums, American Zoo and Aquarium Association, American Association of Botanical Gardens and Arboretums and other appropriate organizations;

e) It has a professional staff;

f) It cares for and owns or utilizes tangible objects;

g) It is open to the public on a regular schedule, and regularly collects attendance data and maintains sufficient records such that the attendance numbers can be audited;
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g) It devotes the majority of its floor space or grounds and professional staff effort to museological purposes;

h) It presents regularly scheduled programs and exhibits that use and interpret objects for the public according to accepted standards;

i) It has an established Museum Education Program; and

j) It has filed timely reports and complied with requirements for previous grant awards.

(Source: Amended at 27 Ill. Reg. __________, effective ______________________)

Section 3200.130 Application Procedure

a) A public museum seeking a grant for operating purposes in the current year shall submit the required number of copies of a completed application, as specified by the Department, which includes: Any public museum seeking a grant for operating purposes under this Part shall submit 3 copies of the completed application forms supplied by the Department, and one copy of each attachment, that includes:

a) An Application Form;

b) A narrative statement describing the public museum’s education program and how the financial assistance will enhance the public museum’s education program;

c) A statement describing the qualifications of the educator in charge of the program (including the curriculum vitae);

d) A brochure describing educational offerings or school services (if available);

e) The annual report of the public museum for the year preceding its application;

f) A certification statement executed by the public museum’s chief executive officer that certifies that the public museum is in compliance with the eligibility criteria of this program;
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A certification statement executed by the public museum’s chief financial officer that certifies that the amount of operating expenditures claimed in accordance with Section 3200.160 of this Part is accurate and complies with this Part;

The audited financial statements of the public museum prepared by a certified public accountant for the 2 years preceding the public museum's application and the written reconciliation statement as required by Section 3200.160(c)(3) of this Part. Grants to museums without audited financial statements will be limited to the minimum award;

An audit statement from an affiliated entity, or a letter of certification listing expenditures and signed by the chief executive officer of the affiliated entity if expenditures have been made by the affiliate on behalf of the public museum and claimed by the public museum as operating expenditures;

If funds are to be distributed by the Department to a fiscal agent on behalf of the public museum, a certification statement must be signed by the chief executive officer. The certification shall reflect:

A) that there is an ongoing relationship between the museum and the fiscal agent;

B) that the fiscal agent may incur expenses for the museum’s project; and

C) that grant funds will be used specifically for the museum project.

Public museums may submit only one grant application during an application period.

Statement by the chief executive officer of the public museum attesting:

1) that the public museum is in compliance with the eligibility criteria of this program;

2) that adequate records are kept to document the annual attendance number at the public museum's facility during the preceding calendar year; and
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3) that, if grant funds are to be distributed to a fiscal agent on behalf of the public museum, there is an ongoing relationship between the public museum and the fiscal agent; that the fiscal agent may incur expenses for the public museum's project; and that grant funds will be used specifically for that project.

(Source: Amended at 27 Ill. Reg. ___________, effective _________________)

Section 3200.160 Method for Awarding Grants

a) Contribution Amount - Each eligible public museum applying for financial assistance pursuant to this Part may receive financial assistance in an amount determined by the following formula:

1) A proportionate amount equal to the fraction obtained by dividing the applicant's average operating expenditures by the aggregate operating expenditures of all eligible applicants, except that:

A) The administrative costs to operate the program, not to exceed 5% of the total appropriation, will be deducted from the appropriation before calculating the awards to determine the amount remaining for financial assistance.

B) No qualifying public museum may receive more than 10% of the amount remaining for financial assistance after administrative costs are deducted.

C) Except as provided in subsection (a)(3) below, no qualifying museum may receive less than 0.2% of the amount remaining for financial assistance after administrative costs are deducted.

D) No qualifying museum may receive more than 50% of its total operating budget.

2) In the event there is a balance left after the awards have been computed, the surplus will be allocated to museums on a prorational basis. The surplus balance shall be allocated proportionately to those museums not receiving the minimum or maximum awards from the initial computations. No museum may receive more than 10% of the amount remaining for
financial assistance, after administrative costs have been deducted, and no museum may receive more than 50% of its total operating budget.

3) In the event there is a deficit after the awards have been computed, the amount of the deficit will be prorated against all awards. The amount of deficit prorated to each award will be calculated by taking the initial award allocations as calculated above, including the adjustments for minimums and maximums divided by the aggregate awards to determine the allocation fraction and applying it to the deficit. The result will be subtracted from the initial award amount.

b) Allocation Procedure - A contribution amount shall be determined by the following sequence of procedures:

1) The total operating expenditures of each public museum during its 2 fiscal years preceding its application shall be divided by 2 in order to determine the amount of average operating expenditures of each public museum;

2) The average operating expenditures of all eligible public museums shall be added together in order to determine the amount of aggregate operating expenditures of all public museums;

3) The average operating expenditures of each public museum shall be divided by the aggregate operating expenditures of all public museums in order to determine the allocation fraction of each public museum:

A) If the allocation fraction is more than 10% of the amount remaining for financial assistance, the award will be adjusted as required in subsection (a)(1)(B).

B) If the allocation fraction is less than 0.2% of the amount remaining for financial assistance, the award will be adjusted as defined in subsection (a)(1)(C).

c) Operating Expenditures - For purposes of this Part, the amount of operating expenditures, as defined in Section 3200.100, shall be derived by the public museum from the total amount of program and supporting services expense that is reported on its audited financial statement. However, to accommodate variations among applicants in accounting methods and expense descriptions on the
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financial statements, each public museum shall examine its financial statements in conformity with subsections (c)(1) and (2).

1) Operating expenditures may specifically include the following or similar types of expenses:

A) Expenditures from restricted and unrestricted accounts that are ordinary and necessary for the public museum’s routine day-to-day operations, including salaries and benefits, products and services, and routine maintenance and repairs. Restricted funds are those whose use is restricted by outside agencies or persons as contrasted with funds over which the organization has complete control and discretion. Unrestricted funds are those that have no external restriction on their use or purpose, that is, funds that can be used for any purpose designated by the governing board as distinguished from funds restricted externally for specific purposes (for example, operations, plant, and endowment).

B) The depreciation expense for capital assets may be included.

C) All expenditures from current restricted accounts that qualify as operating expenditures as defined under this subsection (c). Excluded from operating expenses are the capital expenditures listed in subsection (c)(2)(E) below. For example, expenditures related to the development of museum exhibitions and displays may be included even if made from a fund that is limited for this purpose. Expenditures from restricted accounts for preliminary planning or schematic design work are also allowable, including architectural, engineering, design, and consultant fees related to routine maintenance or rehabilitation.

D) Direct expenditures made on behalf of the public museum by an affiliated entity, provided that they are ordinary and necessary for the day-to-day operations of the public museum and are separately itemized and verified in writing by the chief executive officer or chief financial officer affiliated entity. As used in subsection (c)(1)(D), “direct expenditures” means expenditures that are identified specifically with the public museum and are incurred by the affiliated entity only for the museum’s project;
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E) The depreciation expense for movable equipment and other types of personal property may be included.

F) Interest expenses on funds borrowed by the public museum to finance expenditures that are otherwise allowable under this Part.

G) Expenses incurred by the public museum for the cost of educational, food service and gift shop activities may be included in the operating expenditure total. The receipts from these activities should not be deducted from the expenditure total.

2) Operating expenditures shall not include any of the following or similar type of expenses:

A) Transfers made to or between the public museum's accounts or funds;

B) Losses or other costs associated with loans and/or investments made by the public museum;

C) Expenses for the direct and indirect costs of programs operated by the public museum that are unrelated to museological purposes. For example, the costs of salaries, equipment, facilities and other direct and indirect costs of a school with a regular curriculum that is run by the public museum are not allowable;

D) Capital expenditures from restricted accounts, including but not limited to:

   i) real property;

   ii) buildings, additions and/or structures (including site development and associated fixed equipment);

   iii) extensive remodeling and/or rehabilitation work or site improvement; and

   iv) utilities — lines fees, tapping fees, meter fees and other expenses not related to normal daily consumption.
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E) Expenditures for repayment of principal on funds borrowed by the public museum.

3) If the amount of operating expenditures claimed by the public museum under this Part is not the same as a reported expense amount on the audited financial statement, the public museum shall prepare a reconciliation statement. This explanation shall describe in detail for the reviewer to understand the amount and purpose of each expense added to or subtracted from the amount of expense reported in the audited financial statements in arriving at operating expense.

e) The Director shall determine and approve the amount that each eligible public museum receives as contribution under this Part.

(Source: Amended at 27 Ill. Reg. ____________, effective ________________)

Section 3200.170 Program Information/Contact

For additional information on the public museum operating grant rules contact:

Illinois State Museum, Museum Grants Officer
502 S. Spring Street Spring and Edwards Street
Springfield IL 62706-5000
Phone: 217.782.5992; Fax 217.782.1254
e-mail: museumgrants@museum.state.il.us

(Source: Amended at 27 Ill. Reg. ____________, effective ________________)


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1) **Heading of the Part:** Medical Payment

2) **Code Citation:** 89 Ill. Adm. Code 140

3) **Section Numbers:**

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4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) **Complete Description of the Subjects and Issues Involved:** These proposed amendments provide clarifications on coverage under the Department’s dental program, and updating regarding Current Dental Terminology (CDT) as approved by the American Dental Association (ADA). The proposed amendments will not result in any budgetary changes.

6) **Will these proposed amendments replace emergency amendments currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** Yes

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10) **Statement of Statewide Policy Objectives:** These proposed amendments do not affect units of local government.

11) **Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking:** Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:
The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Providers of dental services

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because:

This rulemaking was inadvertently omitted when the most recent regulatory agenda was published.

The full text of the proposed amendments begins on the next page:
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NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
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140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
140.20 Submittal of Claims
140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients
140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.420 Dental Services

a) Payment for dental services shall be made only to enrolled licensed dentists. Payment for comprehensive orthodontic care shall be made only to a dentist licensed for provision of such services.

b) Except for the "services not covered" specified in subsection (c) of this Section below, payment shall be made for dental services that are:
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1) Necessary to relieve pain or infection, preserve teeth, or restore adequate dental function;

2) Diagnostic, preventive, or restorative services, endodontics, prosthodontics, orthodontics or oral surgery included in the Department's Schedule of Dental Procedures (see Table D at the end of this Part); and

3) Performed by the dentist or under the direct supervision of the dentist.

c) Services for which payment shall not be made include:

1) Routine or periodic examinations other than clinical oral examinations (see Table D(a)(1)):
   A) Initial examinations;
   B) Required school examinations;
   C) Periodic examinations for children with minimum of 12 months having elapsed since initial or previous periodic examination;

2) Experimental dental care;

3) Procedures performed only for cosmetic reasons;

4) Dental prophylaxis for individuals 21 years and older;

5) Topical fluoride treatment and sealants for individuals age 21 years and older;

6) Space maintainers for individuals age 21 years and older;

7) Acrylic crown;

8) Prefabricated stainless steel crown for primary tooth for individuals age 21 years and older;

9) Therapeutic pulpotomy for individuals age 21 years and older;

10) Bicuspid and molar root canals, apexification, and apicoectomy procedures for anterior teeth, bicusps, and permanent first molars for individuals age 21 years and older;

11) Periodontics for individuals age 21 years and older;

12) Partial dentures for adults age 21 years and older;

13) All dentures placed prior to five year expiration (see Section 140.421(c));

14) Bridgework for individuals age 21 years and older;

15) Surgical Exposure to aid eruption for individuals age 21 years and older;

16) Alveoloplasty for individuals age 21 years and older;

17) Frenulectomy for individuals age 21 years and older; and

18) Orthodontics for individuals age 21 years and older.

(Source: Amended at 27 Ill. Reg. __________, effective __________)
Section 140.421 Limitations on Dental Services

a) Prior approval is required for:
   1) Space maintainers;
   2) Crowns;
   3) Endodontic services with the exception of therapeutic pulpotomy
   Endodonties;
   4) Periodontal services Periodonties;
   5) Dentures, partial dentures and denture relines;
   6) Maxillofacial prosthetics;
   7) Bridgework;
   8) Removal Extraction of impacted teeth;
   9) Surgical removal of residual roots;
   10) Surgical exposure to aid eruption Cyst excisions;
   11) Alveoloplasty;
   12) Incision and drainage abscess;
   13) Frenulectomy;
   14) Orthodontics. Medically necessary orthodontic treatment is approved for children. The Department's consultant shall make the initial decision whether or not to approve orthodontic treatment. Medically necessary orthodontic treatment is defined as:
      A) treatment necessary to correct a condition which scores 42 points or more on the Salzmann Index, or
      B) treatment necessary to correct a condition that constitutes a handicapping malocclusion. (A malocclusion is handicapping if there is an impairment of or a hazard to the ability to eat, chew, speak or breathe that is related to the malocclusion.);
   15) Analgesia (nitrous oxide);
   16) Therapeutic drug injection;
   17) Other drugs and medicaments;
   18) Unspecified miscellaneous adjunctive general services procedure or service;
   19) Dental services not included in the Department's Schedule of Dental Procedures (See Table D at the end of this Part).

b) The dentist may request post-approval when a dental procedure requiring prior approval is provided on an emergency basis. Approval of the procedures shall be given if, in the judgment of a consulting dentist of the Department or a consulting dental service, the procedure is necessary to prevent dental disease or to restore
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and maintain adequate dental function to assure good bodily health and the well-being of the patient.

c) Payment for complete and partial dentures is limited to one set every five years if necessary to replace lost, broken or unusable dentures; payment for a bridge is limited to once in five years. Bridgework will be reimbursed only if there has not been placement of a partial denture within the prior five years.

d) Root canals, apexification, and apicoectomy procedures are covered for children for anterior teeth, bicuspids, and permanent first molars. Root canals are covered for adults only for anterior teeth.

e) Panoramic Full mouth series of x-rays are covered only once every three years.

(Source: Amended at 27 Ill. Reg. _______, effective ___________)

Section 140.TABLE D Schedule of Dental Procedures

a) Diagnostic Services

1) Clinical Oral Examinations
   A) Periodic oral evaluation, ages 0-20 years, once every 12 months
   B) Limited oral examination-problem focused in conjunction with an emergency visit
   C) Comprehensive oral examination, once per patient, per lifetime, per dentist or group

2) Radiographs
   A) Intraoral, complete series (including bitewings), once per 36 months, complete series every 36 months
   B) Intraoral – periapical – first film, maximum of one per day, per provider or group
   C) Intraoral – periapical – additional film, maximum of five per day
   D) Bitewing – single film
   E) Bitewings – two films
   F) Bitewings – four films
   G) Vertical bitewings – 7-8 films
   H) Panoramic film, one per 36 months

b) Preventive Services

1) Prophylaxis, ages 2-20 years, once every 6 months
2) Topical application of fluoride, ages 2-20 years, once every 12 months
3) Sealant – per tooth, ages 5-17 years, occlusal surfaces of the permanent first and second molars once per lifetime
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4) Space maintainer – fixed unilateral, ages 2-20 years
5) Space maintainer – fixed bilateral, ages 2-20 years
6) Space maintainer – removable bilateral type, ages 2-20 years
7) Recementation of space maintainer, ages 2-20 years

c) Restorative Services

1) Amalgam Restorations
A) Amalgam – 1 surface, primary
B) Amalgam – 2 surfaces, primary
C) Amalgam – 3 surfaces, primary
D) Amalgam – 4 plus surfaces, primary
E) Amalgam – 1 surface, permanent
F) Amalgam – 2 surfaces, permanent
G) Amalgam – 3 surfaces, permanent
H) Amalgam – 4 plus surfaces, permanent

2) Composite Restorations
A) Resin – based composite – 1 surface, anterior
B) Resin – based composite – 2 surfaces, anterior
C) Resin – based composite – 3 surfaces, anterior
D) Resin – based composite – 4 or more surfaces, or including the incisal edge
E) Resin – based composite – 1 surface, posterior, primary
F) Resin – based composite – 2 surfaces, posterior, primary
G) Resin – based composite 3 or more surfaces, posterior, primary
H) Resin – based composite – 1 surface, posterior, permanent
I) Resin – based composite – 2 surfaces, posterior, permanent
J) Resin- based composite – 3 surfaces, posterior, permanent
K) Resin – based composite – 4 or more surfaces, posterior, permanent

3) Other Restorative
A) Crown – porcelain/base metal
B) Crown – full cast base metal
C) Prefabricated stainless steel crown, primary tooth, ages 2-20 years
D) Prefabricated stainless steel crown, permanent tooth, ages 2 years and over
E) Prefabricated resin crown, ages 2 years and over
F) Sedative fillings
G) Pin retention – per tooth
H) Prefabricated post and core
I) Recement inlays
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J) Recement crown

d) Endodontic Services
1) Therapeutic pulpotomy, primary teeth only, ages 2-20 years
2) Root canal therapy (including exam, clinical procedure, necessary radiographs and follow up)
   A) Anterior root canal (excluding final restoration), ages 2 years and over
   B) Bicuspid root canal (excluding final restoration), ages 2-20 years
   C) Molar root canal (excluding final restoration), ages 2-20 years
   D) Apexification/recalcification, initial visit, ages 2-20 years
   E) Apexification/recalcification, interim visit, ages 2-20 years
   F) Apexification/recalcification final visit, ages 2-20 years
   G) Apicoectomy/periradicular surgery – per tooth, first root, ages 2-20 years

e) Periodontic Services
Periodontal Treatment
1) Gingivectomy or gingivoplasty – per quadrant, ages 0-20 years
2) Gingivectomy or gingivoplasty – per tooth, ages 0-20 years
3) Gingival flap procedure, including root planing – per quadrant, ages 0-20 years
4) Osseous surgery – per quadrant, ages 0-20 years
5) Bone replacement graft – first site in quadrant, ages 0-20 years
6) Bone replacement graft – each additional site in quadrant, ages 0-20 years
7) Pedicle soft tissue graft, ages 0-20 years
8) Free soft tissue graft, ages 0-20 years
9) Subepithelial connective tissue graft procedure, ages 0-20 years
10) Distal or proximal wedge procedure, ages 0-20 years
11) Provisional splinting, intracoronar, ages 0-20 years
12) Provisional splinting, extracoronar, ages 0-20 years
13) Periodontal scaling and root planing – per quadrant, ages 0-20 years
14) Periodontal maintenance procedure, ages 0-20 years

f) Removable Prosthodontic Services (every five years based on age of prior placement)
1) Complete Dentures – including six months’ post delivery care
   A) Complete denture – maxillary
   B) Complete denture – mandibular
   C) Immediate denture – maxillary
   D) Immediate denture – mandibular

2) Partial Dentures – including six months’ post delivery care
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A) Maxillary partial denture – resin base, ages 2-20 years
B) Mandibular partial denture – resin base, ages 2-20 years
C) Maxillary partial denture – cast mental framework, ages 2-20 years
D) Mandibular partial denture – cast metal framework, ages 2-20 years

3) Repairs to Dentures
   A) Repair complete denture
   B) Replace missing or broken teeth, complete denture (each tooth)
   C) Repair partial denture base
   D) Repair cast framework
   E) Repair or replace broken clasp
   F) Replace broken teeth, per tooth
   G) Add tooth to existing partial

4) Denture Reline Procedures (covered once every 24 months)
   A) Reline complete maxillary denture, chairside
   B) Reline complete mandibular denture, chairside
   C) Reline maxillary partial denture, chairside
   D) Reline mandibular partial denture, chairside
   E) Reline complete maxillary denture, laboratory
   F) Reline complete mandibular denture, laboratory
   G) Reline maxillary partial denture, laboratory
   H) Reline mandibular partial denture, laboratory

5) Maxillofacial Prosthetics
   A) Facial moulage – sectional
   B) Facial moulage – complete
   C) Nasal prosthesis
   D) Auricular prosthesis
   E) Orbital prosthesis
   F) Ocular prosthesis
   G) Facial prosthesis
   H) Nasal septal prosthesis
   I) Ocular prosthesis, interim
   J) Cranial prosthesis
   K) Facial augmentation implant prosthesis
   L) Nasal prosthesis, replacement
   M) Auricular prosthesis replacement
   N) Orbital prosthesis, replacement
   O) Facial prosthesis, replacement
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P) Obturator prosthesis, surgical
Q) Obturator prosthesis, definitive
R) Obturator prosthesis, modification
S) Mandibular resection, prosthesis with guide flange
T) Mandibular resection prosthesis without guide flanges
U) Obturator prosthesis, interim
V) Trismus appliance
W) Feeding aid
X) Speech aid prosthesis
Y) Palatal augmentation prosthesis
Z) Palatal lift prosthesis, definitive
AA) Palatal lift prosthesis, interim
BB) Palatal lift prosthesis, modification
CC) Speech aid prosthesis, modification
DD) Surgical stent
EE) Radiation carrier
FF) Radiation shield
GG) Radiation cone locator
HH) Fluoride gel carrier
II) Commissure splint
JJ) Surgical splint
KK) Unspecified maxillofacial prosthesis

Fixed Prosthetic Services

1) Bridge Pontics
   A) Pontic – porcelain fused to predominantly base metal, ages 2-20 years
   B) Pontic – resin with predominantly base metal, ages 2-20 years

2) Bridge Retainer Crowns
   A) Crown – resin with predominantly base metal, ages 2-20 years
   B) Crown-porcelain with predominantly base metal, ages 2-20 years

3) Other Prosthetic Services
   A) Recement fixed partial denture
   B) Prefabricated post and core in addition to fixed partial denture retainer, ages 2-20 years

Oral and Maxillofacial Services

1) Simple Extractions
   A) Single tooth extraction
   B) Each additional extraction
   C) Root removal, exposed roots
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2) Surgical Extractions
   A) Surgical removal of erupted tooth
   B) Removal of impacted tooth – soft tissues
   C) Removal of impacted tooth – partially bony
   D) Removal of impacted tooth – completely bony
   E) Surgical removal of residual roots

3) Other Surgical Procedures
   Surgical exposure to aid eruption, ages 2-20 years

4) Alveoloplasty
   A) Alveoloplasty in conjunction with extractions, ages 2-20 years
   B) Alveoloplasty not in conjunction with extractions, ages 2-20 years

5) Removal of Cysts and Neoplasms
   A) Removal of odontogenic cyst or tumor, up to 1.25 cm
   B) Removal of odontogenic cyst or tumor, over 1.25 cm
   C) Removal of non-odontogenic cyst or tumor, up to 1.25 cm
   D) Removal of non-odontogenic cyst or tumor, over 1.25 cm
   E) Incision and drainage abscess

6) Treatment of Fractures – Simple
   A) Maxilla – open reduction, teeth immobilized
   B) Maxilla – closed reduction, teeth immobilized
   C) Mandible – open reduction, teeth immobilized
   D) Mandible – closed reduction, teeth immobilized

7) Treatment of Fractures – Compound
   A) Maxilla – open reduction
   B) Maxilla – closed reduction
   C) Mandible – open reduction
   D) Mandible – closed reduction

8) Reduction of Dislocation
   A) Open reduction of dislocation
   B) Closed reduction of dislocation

9) Other Oral Surgery
   Frenulectomy – separate procedure (frenectomy or frenotomy), ages 2-20 years
   i) Orthodontic Services – for ages 2-20 years
      1) Initial examination, records, study models, radiographs, and facial photographs, ages 2-20 years
      2) Initial orthodontic appliance placement, ages 2-20 years
      3) Monthly adjustments, ages 2-20 years
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4) Initial orthodontic evaluation/study models, ages 2-20 years (for cases that fail to reach 42 points on the Modified Salzmann Index.

i) Adjunctive General Services

1) Unclassified Treatment
   A) Palliative (emergency) treatment of dental pain – minor procedures
   B) General anesthesia
   C) Analgesia, anxiolysis, inhalation of nitrous oxide
   D) Intravenous sedation

2) Professional Consultation
   Consultation (narrative; diagnostic services provided by dentist other than practitioner providing treatment)

3) Drugs
   A) Therapeutic drug injection
   B) Other drugs and medicaments

4) Miscellaneous Services
   Unspecified procedure by report to be described by statement of attending dentist

a) Diagnostic

1) Clinical Oral Examinations
   A) Initial oral examination
   B) Periodic oral examination for individuals through age 20 (minimum of 12 months required since most recent dental examination)
   C) School examination as required by Illinois School Code (Section 111 et seq. of The School Code, Ill. Rev. Stat. 1989, ch. 122, par. 111 et seq.)

2) Radiographs
   A) Intraoral – complete series (including bitewings)
   B) Intraoral periapical – single, first film
   C) Intraoral periapical – one additional film
   D) Intraoral periapical – two additional films
   E) Intraoral periapical – three additional films
   F) Intraoral periapical – four additional films
   G) Intraoral periapical – five additional films
   H) Intraoral periapical – six additional films
   I) Intraoral periapical – seven additional films
   J) Intraoral periapical – eight or more additional films
   K) Bitewing – single film
   L) Bitewings – two films
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M) Bitewings—three films
N) Bitewings—four films
O) Panoramic—maxilla and mandible, film
P) Panoramic—one tooth treated
Q) Panoramic—two teeth treated
R) Panoramic—three teeth treated
S) Panoramic—four teeth treated
T) Panoramic—five teeth treated
U) Panoramic with bitewings (and anterior periapicals as needed)

b) Preventive
1) Dental Prophylaxis
   Children (beginning at age 2 through age 20) Adults (applicable only to those adults who reside in ICF/DD facilities)
2) Fluoride Treatments
   Topical application of acid fluoride phosphate—one treatment (excluding prophylaxis) (beginning at age 2 through age 20)
3) Space Management Therapy (use of appliances to maintain space for tooth eruption)
   A) Fixed—unilateral type
   B) Fixed—bilateral type
   C) Removable—bilateral type
   D) Recementation of space maintainer

c) Restorative
1) Amalgam Restorations (including polishing)
   A) Amalgam—one surface, deciduous
   B) Amalgam—two surfaces (separate fillings), deciduous
   C) Amalgam—three surfaces (separate fillings), deciduous
   D) Amalgam—four surfaces (separate fillings), deciduous
   E) Amalgam—five surfaces (separate fillings), deciduous
   F) Amalgam—one two-surface filling, deciduous
   G) Amalgam—one two-surface fillings, deciduous
   H) Amalgam—one three-surface filling, deciduous
   I) Amalgam—one four-surface filling, deciduous
   J) Amalgam—one surface, permanent
   K) Amalgam—two surfaces (separate fillings), permanent
   L) Amalgam—three surfaces (separate fillings), permanent
   M) Amalgam—four surfaces (separate fillings), permanent
   N) Amalgam—five surfaces (separate fillings), permanent
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Q) Amalgam—one two surface filling, permanent
P) Amalgam—two two surface fillings, permanent
Q) Amalgam—one three surface filling, permanent
R) Amalgam—one four or more surface filling, permanent
S) Pin retention—exclusive of amalgam

2) Acrylic or Plastic Restorations
   A) Composite resin—one surface
   B) Composite resin—two surfaces (separate fillings)
   C) Composite resin—three surfaces (separate fillings)
   D) Composite resin—four surfaces (separate fillings)
   E) Composite resin—five surfaces (separate fillings)
   F) Composite resin—one two surface filling
   G) Composite resin—two two surface fillings
   H) Composite resin—one three or more surface filling
   I) Composite resin (involving incisal angle)
   J) Pin retention—exclusive of composite resin

3) Crowns—Single Restorations Only
   A) Plastic—prefabricated
   B) Prefabricated stainless steel—primary
   C) Prefabricated stainless steel—permanent
   D) Prefabricated post and core in addition to crown

4) Other Restorative Services
   A) Recement inlays
   B) Recement crowns
   C) Fillings (sedative)
   d) Endodontics
      1) Pulpotomy (excluding final restoration) Vital pulpotomy (including bases and x-rays)
      2) Root Canal Therapy (includes treatment plan, treatment, x-rays, clinical procedures and follow-up care; excludes final restoration)
         A) One Canal—traditional technique
         B) One Canal—Sargenti technique
         C) Two Canals—traditional technique
         D) Two Canals—Sargenti technique
         E) Three Canals—First Permanent Molar—traditional technique
         F) Three Canals—First Permanent Molar—Sargenti technique
         G) Apexification

3) Periapical Services
   Apicoectomy—performed as separate surgical procedure (per root)
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e) Periodontics

Periodontal Treatment (applicable only to children; requires submission of prescribed course of treatment and usual and customary charge)

f) Prosthodontics, Removable

1) Complete Dentures—including six months' post-delivery care
   A) Complete upper
   B) Complete lower

2) Partial Dentures—including six months' post-delivery care
   A) Upper—without clasps, acrylic base
   B) Lower—without clasps, acrylic base
   C) Upper—with two chrome clasps with rests, acrylic base
   D) Lower—with chrome clasps with rests, acrylic base
   E) Lower—with chrome lingual bar & two clasps, acrylic base
   F) Upper—with chrome palatal bar & two clasps, acrylic base

3) Non-Delivered Dentures
   A) Non-delivery, Full Denture
   B) Non-delivery, Claspless Partial Denture
   C) Non-delivery, Partial Denture, Two Clasps
   D) Non-delivery, Partial Denture, Two Clasps and Lingual or Palatal Bar

4) Repairs to Dentures
   A) Repair broken complete or partial denture—no teeth damaged
   B) Repair broken complete or partial denture—replace one broken tooth
   C) Replace additional teeth—each tooth
   D) Replace broken tooth on denture—no other repairs
   E) Adding tooth to partial denture to replace extracted tooth—each tooth (not involving clasp or abutment tooth)

5) Denture Relining
   A) Relining upper complete denture (laboratory)
   B) Relining lower complete denture (laboratory)
   C) Relining upper partial denture (laboratory)
   D) Relining lower partial denture (laboratory)

g) Prosthodontics, Fixed

1) Bridge Pontics
   A) Porcelain fused to nonprecious metal
   B) Plastic processed to nonprecious metal

2) Crowns
   A) Resin with predominantly base metal
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B) Porcelain fused to metal

3) Other Prosthetic Services
   A) Recement bridge
   B) Dowel pin—metal

h) Oral Surgery
   1) Extractions
      A) Single tooth
      B) Each additional tooth
   2) Surgical Extractions
      A) Surgical removal of erupted tooth, requires elevation of mucoperiosteal flap and removal of bone and/or section of tooth
      B) Extraction, soft tissue impaction
      C) Extraction, partial bone impaction
      D) Extraction, complete bone impaction
      E) Root recovery (surgical removal of residual root)

4) Other Surgical Procedures
   Surgical exposure of impacted or unerupted tooth to aid eruption

4) Alveoloplasty (surgical preparation of ridge for dentures)
   A) One quadrant
   B) Two quadrants
   C) Three quadrants
   D) Four quadrants

5) Removal of Cysts and Neoplasms
   A) Removal of odontogenic cyst or tumor—up to 1.25 cm in diameter
   B) Removal of odontogenic cyst or tumor—over 1.25 cm in diameter
   C) Removal of nonodontogenic cyst or tumor—up to 1.25 cm in diameter
   D) Removal of nonodontogenic cyst or tumor—over 1.25 cm in diameter

6) Treatment of Fractures—simple
   A) Maxilla—open reduction, teeth immobilized (if present)
   B) Maxilla—closed reduction, teeth immobilized (if present)
   C) Mandible—open reduction, teeth immobilized (if present)
   D) Mandible—closed reduction, teeth immobilized (if present)

7) Treatment of Fractures—compound
   A) Maxilla—open reduction
   B) Maxilla—closed reduction
   C) Mandible—open reduction
   D) Mandible—closed reduction
NOTICE OF PROPOSED AMENDMENTS

8) Reduction of Dislocation
   A) Open reduction of dislocation
   B) Closed reduction of dislocation
9) Other Oral Surgery
   - Frenulectomy—separate procedure (frenectomy or frenotomy)

i) Orthodontics
   Comprehensive Orthodontic Treatment
   1) Initial examination, records, radiographs, study models and facial photographs
   2) Initial orthodontic appliance
   3) Each month of treatment
   4) Initial orthodontic evaluation (describe extent of evaluation)

j) Adjunctive General Services
   1) Unclassified Treatment
      Palliative (emergency) treatment of dental pain, minor procedures
   2) Anesthesia
      A) General
      B) Analgesia
      C) Intravenous sedation
   3) Professional Consultation—(diagnostic service provided by dentist other than practitioner providing treatment)
      Consultation
   4) Drugs
      A) Therapeutic drug injection
      B) Other drugs and/or medicaments
   5) Miscellaneous Services
      Unspecified (by report to be described by statement of attending dentist)

(Source: Amended at 27 Ill. Reg. , effective )
DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Firearm Owner’s Identification Card Act

2) Code Citation: 20 Ill. Adm. Code 1230

3) Section Numbers: Proposed Action:
   1230.10   Amendment
   1230.20   Amendment
   1230.50   Amendment
   1230.60   Amendment
   1230.70   Amendment
   1230.100  Amendment

4) Statutory Authority: Implementing and authorized by Firearm Owner’s Identification Card Act [430 ILCS 65] and authorized by Section 2605-120 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-120].

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will revise and update procedures associated with granting, denying, and revoking Firearm Owner’s Identification Cards and related activities. In addition, the definition of antique firearms will be clarified.

6) Will these proposed amendments replace any emergency rulemaking currently in effect? No

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

8) Do these proposed amendments contain incorporations by reference? No

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

10) Statement of Statewide Policy Objectives: These rules will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed amendments. The submissions must be in writing and directed to:
DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENTS

Mr. James W. Redlich
Chief Legal Counsel
Illinois State Police
124 East Adams Street, Room 102
Post Office Box 19461
Springfield, Illinois  62794-9461

12) Initial Regulatory Flexibility Analysis:

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

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

   C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: January 2003

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1230
FIREARM OWNER’S IDENTIFICATION CARD ACT

Section
1230.10 Definitions
1230.20 Application Procedures
1230.30 Duration and Renewal of Identification Card
1230.40 Sponsorship of a Minor
1230.50 Denial of Application or Revocation and Seizure of Identification Card
1230.60 Notification of Grounds for Denial of Application and Revocation and Seizure of Identification Card
1230.70 Appeal
1230.80 Judicial Review
1230.90 Certification
1230.100 Reduction of Remittance
1230.110 Retention of Remittance

EXHIBIT A Application of Firearm Owner’s Identification Card (Form FOID-1.2) (Repealed)
EXHIBIT B Certification (Repealed)

AUTHORITY: Implementing and authorized by the Firearm Owner’s Identification Card Act [430 ILCS 65] and authorized by Section 2605-120 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-120].


Section 1230.10 Definitions

As used in this Part, the following definitions apply unless the context clearly requires a different meaning:

“Act” means Firearm Owner’s Identification Card Act [430 ILCS 65].
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“Antique firearm” means, for the purpose of 430 ILCS 65/1.1(4), any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, provided it is not likely to be used as a weapon.

“Applicant” means an applicant for a Firearm Owner’s Identification Card.

“Department” means the Department of State Police.

“Director” means the Director of State Police or designee.

“Firearm” and “firearm ammunition” mean the terms as defined in Section 1.1 of the Act.

“Firearm Owner’s Identification Card” means the term as defined in Section 6 of the Act.

“Law enforcement official” means any peace officer, warden, superintendent, or keeper of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of a criminal offense, and employees of police laboratories having a department or section of forensic firearm identification.

“Mental institution” means any medical facility or part of any medical facility used primarily for the care or treatment of persons for mental illness.

“Mentally retarded” means a person who has significantly subaverage general intellectual functioning which exists concurrently with impairment in adaptive behavior and which originates before the age of 18 years.

“Narcotics” means any substance controlled by the Controlled Substances Act.

(Source: Amended at 27 Ill. Reg. __________ , effective ________________)

Section 1230.20 Application Procedures

Application for a Firearm Owner’s Identification Card will be made by completing an application form provided by the Department. These forms will be made available through the Firearms Services Bureau, P.O. Box 3677, Springfield, Illinois 62708-3677. All forms must be properly completed, accompanied by the correct fee and a photograph, and mailed to the address indicated on the application form. Other than in regard to an applicant who is employed as an armed security officer at a nuclear energy, storage, weapons, or development facility regulated by the Nuclear Regulatory Commission and who is not an Illinois resident, any requirement for a
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driver’s license and any requirement for a driver’s license number shall mean an Illinois driver’s license and an Illinois driver’s license number. In regard to an applicant who is employed as an armed security officer at a nuclear energy, storage, weapons, or development facility regulated by the Nuclear Regulatory Commission and who is not an Illinois resident, any requirement for a driver’s license and any requirement for a driver’s license number shall mean his or her driver’s license number or state identification card number from his or her state of residence. All Firearm Owner’s Identification Cards issued shall remain the property of the Department.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 1230.50 Denial of Application or Revocation and Seizure of Identification Card

The Department will deny an application for or revoke and seize a Firearm Owner’s Identification Card if the Department finds that the applicant or the person to whom such a Firearm Owner’s Identification Card was issued is or was at the time of issuance prohibited from acquiring or possessing firearms or firearm ammunition by any Illinois state statute or by federal law or does not otherwise qualify under Illinois statute to possess a Firearm Owner’s Identification Card. Any card seized, revoked, or otherwise inappropriately possessed shall be returned to the Department of State Police, Firearms Services Bureau.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 1230.60 Notification of Grounds for Denial of Application and Revocation and Seizure of Identification Card

The Department shall notify, in writing to the last known address, every person whose application for a Firearm Owner’s Identification Card is denied and every person whose Firearm Owner’s Identification Card is revoked of the specific grounds upon which the application has been denied or the Firearm Owner’s Identification Card has been revoked. In those situations for which written notification to the last known address is ineffective or unnecessarily delays revocation, additional alternative means may be used to communicate notification and effectuate revocation. Individuals whose cards have been revoked shall immediately return the revoked card to the Department of State Police, Firearms Services Bureau.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

Section 1230.70 Appeal
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a) An individual whose application for a Firearm Owner’s Identification Card is denied or whose Firearm Owner’s Identification Card is revoked may petition the Department for relief unless the denial or revocation was based upon a forcible felony, stalking, aggravated stalking, domestic battery, any violation of either the Illinois Controlled Substances Act or the Cannabis Control Act that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961, in which case the aggrieved party may petition the circuit court in writing in the county of his or her residence for a hearing upon such denial or revocation, for relief from such action by providing written notice of this intention to the Department.

b) Individuals who wish to request relief from the Department shall initiate such a request by providing written notice of this intention to the Department.

c) Upon receiving written notice, a petition for relief, the Department shall investigate the circumstances surrounding the denial or revocation action; and if the Director is satisfied that substantial justice has not been done, the Director may grant relief. In the event the Director desires additional information concerning the circumstances surrounding the denial or revocation action, the Director may schedule a fact finding conference with the petitioner.

d) At a fact finding conference, the petitioner may be represented by counsel or any other person and may present any evidence or information relating to the Department’s action.

e) The Director may provide relief as a result of the fact finding conference.

f) If the Director does not provide relief as a result of the investigation or a fact finding conference, the petitioner may petition for a hearing.

g) The administrative law judge for contested hearings shall be the Director or an attorney licensed to practice law in Illinois appointed by the Director. The administrative law judge may be disqualified for bias or conflict of interest.

h) The procedures for the hearing shall be as described in Article 10 of the Administrative Procedure Act [5 ILCS 100/Art. 10] and as ordered by the administrative law judge.

i) In the event relief is denied, a new application from the petitioner will not be accepted until two years have passed since the date of the last denial.

(Source: Amended at 27 Ill. Reg. __________ , effective ________________)

Section 1230.100 Reduction of Remittance

a) The Department may reduce by interlineations the amount of the check.

b) The drawer of the check shall be notified in writing of such reduction.
c) Any check reduced pursuant to the above shall be endorsed **in a manner that shall reflect the reduction**, by the Department as follows: The amount of this check is **warranted to be $5.00**.

d) All applications upon reprinting shall contain the following authorization statement: “My signature authorizes the Department to reduce the amount of my personal check if the amount submitted is not correct. I understand this will be done only if the amount submitted is greater than the required fee.

(Source: Amended at 27 Ill. Reg. __________, effective _________________ )
DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Sex Offender Registration Act

2) **Code Citation:** 20 Ill. Adm. Code 1280

3) **Section Numbers:**

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4) **Statutory Authority:** Implementing and authorized by Section 4 of the Sex Offender Registration Act [730 ILCS 150/4] and authorized by Section 2605-35 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-35(a)(8)].

5) **A Complete Description of the Subjects and Issues Involved:** This amendment will update procedures and policies relating to the implementation of the Sex Offender Registration Act.

6) **Will these proposed amendments replace any emergency rulemaking currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** No

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

10) **Statement of Statewide Policy Objectives:** These rules will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed amendments. The submissions must be in writing and directed to:

    Mr. James W. Redlich
    Chief Legal Counsel
    Illinois State Police
12) **Initial Regulatory Flexibility Analysis:**

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

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

   C) Types of professional skills necessary for compliance: None

13) **Regulatory Agenda which this rulemaking was summarized:** January 2003

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF STATE POLICE

NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1280

SEX OFFENDER REGISTRATION ACT

SUBPART A: PROMULGATION

Section 1280.10 Purpose
Section 1280.20 Definitions
Section 1280.25 Adjudicated Juvenile Delinquent Sex Offender

SUBPART B: OPERATIONS

Section 1280.30 Procedures
Section 1280.40 Requirements

AUTHORITY: Implementing and authorized by Section 4 of the Sex Offender Registration Act [730 ILCS 150/4] and authorized by Section 2605-35 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-35(a)(8)].


SUBPART A: PROMULGATION

Section 1280.20 Definitions

Unless specified otherwise, all terms shall have the meanings set forth in the Sex Offender Registration Act. For purposes of this Part, the following definitions apply:

“Act” means the Sex Offender Registration Act [730 ILCS 150].
“Adjudicated juvenile delinquent sex offender” means a juvenile that has been adjudicated a juvenile delinquent as the result of committing or attempting to commit any of the sex offenses described in Section 2(B) of the Act.

“Agency of jurisdiction” means the law enforcement agency having jurisdiction as defined in the Act.

“Conviction” means one or more convictions which result from or are connected with the same act, or result from offenses committed at the same time; such convictions shall be counted as one conviction.

“Department” means the Illinois Department of State Police and any of its subdivisions.

“Institution of higher education” means an Illinois institution legally constituted to offer degree and instruction post secondary education.

“Out-of-state employee” means any sex offender or sexual predator who is employed in Illinois, regardless of whether the individual receives payment for services performed, volunteers, or performs services for government or education benefit for a period of time of 10 or more days exceeding 14 consecutive days— or for an aggregate period of time of more than 30 exceeding 30— days during any calendar year. Persons who are employed to operate motor vehicles in or through Illinois or whose employment involves periods of less than a full day in Illinois accrue one day of employment for any portion of a day spent in Illinois.

“Out-of-state student” means any sex offender or sexual predator who is enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including, but not limited to, any secondary school, trade or professional institution, or institution of higher education.

“Place of confinement” means any prison, jail, hospital or other institution or facility where a sex offender may be confined due to conviction or a finding other than acquittal for a sex offense; due to a person’s status as a sexually violent person under the Sexually Violent Persons Act; or due to a person’s status as a sexually dangerous person under the Sexually Dangerous Persons Act.

“Registry” means data maintained by the Department for the purpose of complying with and implementing the Sex Offender Registration Act and the Sex Offender and Child
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Murderer Community Notification Law. This data includes information forwarded to the Department by jurisdictions and information obtained by the Department itself.

“Resides” means to maintain a residence or to be temporarily domiciled for a period of time of 10 or more days.

“Sex Offender” means the same as the definition found in Section 2(A) of the Sex Offender Registration Act [730 ILCS 150/2(A)].

“Sex Offender Notification Form” means the form designed by the Department to be used to notify the sex offender of the responsibility to register.

“Sex Offender Registration Form” means the form designed by the Department to be used to satisfy the registration requirements of the Act.

“Sexual predator” means the same as the definition found in Section 2(E) of the Sex Offender Registration Act [730 ILCS 150/2(E)]. An adjudicated juvenile delinquent sex offender is not a predator.

(Source: Amended at 27 Ill. Reg. __________, effective _________________ )

Section 1280.25  Adjudicated Juvenile Delinquent Sex Offender

An adjudicated juvenile delinquent sex offender as described or defined at Section 2(A)(5)(A-5) of the Act is a sex offender as defined at Section 2(A) of the Act and is required to comply with all statutory and administrative obligations of a sex offender. However, to qualify as an adjudicated juvenile delinquent juvenile sex offender, the adjudication referenced in Section 2(A)(5)(A-5) must have occurred on or after July 1, 1999 (the effective date of Public Act 91-48).

(Source: Amended at 27 Ill. Reg. __________, effective _________________ )

SUBPART B: OPERATIONS

Section 1280.30  Procedures

a) Place of Confinement

1) A sex offender, prior to the release from a place of confinement, shall be notified by the place of confinement of the duty to register under the Act.
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The offender shall also be required to read and sign a completed Sex Offender Notification Form.

2) The place of confinement shall give one copy of the completed Sex Offender Notification Form to the offender, keep the original for their record and send a photograph of the offender to the Department.

3) The Illinois Department of Corrections (IDOC) will share with the Department, within 24 hours, electronic data files, including photographs, containing all sex offenders being released from IDOC facilities.

4) The hospital, other treatment facility, or place of confinement other than IDOC, shall give one copy of the completed Sex Offender Notification Form to the offender, keep the original one copy for their record, and forward one copy to the Department within three days of the sex offender’s release.

b) Court

1) The court will ensure a sex offender, released on probation or discharged upon payment of a fine as a result of a conviction for a sex offense or an attempted sex offense, shall be informed of the duty to register under the Act. The offender shall also be required to read and sign a completed Sex Offender Notification Form.

2) The court will ensure one copy of the completed Sex Offender Notification Form is given to the offender and the original is maintained in the court file.

3) The court will ensure the record of notification is entered into LEADS and a photograph is forwarded to the Illinois State Police Department within three days after conviction.

c) Agency of Jurisdiction

1) The agency of jurisdiction will complete the Sex Offender Registration Form; ensure the offender reads and signs the form, provide one copy of the form to the offender, keep the original signed copy until the requirement to register has expired, and, within three days, enter registration information in the Law Enforcement Agencies Data System (LEADS); and forward a copy of the offender’s photograph to the Department. Fingerprints will be obtained from the sex offender, using the standard arrest card, and forwarded to the Illinois State Police Bureau of Identification during initial registration. The card shall indicate that the purpose of the fingerprints is for sex offender registration.

2) The agency of jurisdiction shall review the current criminal history record of the offender. The agency shall confirm the offender’s duty to register
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and the offender’s registration information and determine if the offender qualifies as a Sex Offender. If the disposition is missing or the criminal history is incomplete, the agency shall inform the Illinois State Police. The Bureau of identification shall provide any information it has that would assist in completing the record.

3) The agency of jurisdiction shall record contacts with convicted sex offenders into LEADS as an add-on record.

4) Agencies of jurisdiction can establish agreements with other agencies of jurisdiction to facilitate the discharge of their responsibilities under the Act and this Part. These agreements may delegate to another agency tasks necessary to accomplish an agency’s mandatory duties. The agreements shall be in writing and shall be submitted to the Department prior to implementation. Regardless of any agreement, each agency shall be responsible to ensure its individual compliance with the Act and this Part.

5) Agencies of jurisdiction shall verify the address of sex offenders required to register with their agency at least once a year. A record of the results of this verification shall be documented with a LEADS add-on.

6) The agency of jurisdiction where the sex offender or sexual predator resides shall register employment and school information within 10 days of beginning employment or school.

7) The Department shall provide employment information to the agency of jurisdiction for the location of the employment. The Department shall provide school information to the agency of jurisdiction for the location of the school.

8) Providing school and employment information to the agency of jurisdiction where the sex offender or sexual predator resides shall constitute registration by the sex offender or sexual predator with the agency of jurisdiction of the location of the employment or school.

d) Change of Address

A sex offender, who changes residence address, shall within ten days after the change so inform, in writing, the last law enforcement agency with whom registered. Within three days after receiving notification, the law enforcement agency shall enter the notice of address change into LEADS.

1) A sex offender shall report any changes of employment or school status in writing or in person to the law enforcement jurisdiction of the sex offender’s residence within 10 days of change.

2) A sex offender attending an institution of higher education shall, in addition to the above, report any changes of employment or school status
in person to the law enforcement jurisdiction of the institution of higher education within 10 days of change if the institution of higher education is not located in the law enforcement jurisdiction of the sex offender’s residence.

e) Registration Fees
The agency of jurisdiction shall collect a $10 initial registration fee and a $5 annual renewal fee from sex offenders. The agency can waive the fee if the sex offender is indigent or otherwise unable to pay the registration fee. All registration fees shall be retained by the registering agency and used for official purposes only. Appropriate records of receipts and expenditures should be maintained by the registering agency. Fees shall not be collected for reported employment, school, or institution of higher education changes other than as may be required for annual registration.

f) Notification of Sex Offenders Moving to Illinois from Other States or Countries; Sex Offenders Who Were Convicted or Adjudicated in Illinois and Were Released from Confinement Prior to January 1, 1996 or Who Were Convicted and Sentenced to Probation Prior to January 1, 1996
Any law enforcement agency can notify a sex offender to register. Documentation of this notification may include, but shall not be limited to, a LEADS add-on, Notification Form, local field or investigative report, etc.

g) Registration of Juveniles
The parent, legal guardian, probation or parole supervisor, or other court-appointed custodian shall accompany juveniles to the agency having jurisdiction for the purpose of registering as a sex offender.

(Source: Amended at 27 Ill. Reg. __________, effective ________________ )

Section 1280.40 Requirements

a) Registration Period
A sex offender required to register under the Act shall be required to register for a period of ten years after the conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, for a period of ten years after parole discharge or release from any such facility. Liability for registration terminates at the expiration of ten years from the date of conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility, and if confined, at the expiration of ten years from the date of parole, discharge or release from any such facility, providing such person does not, during that period, again become liable to register under the provisions of the Act.
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Reconfinement (due to violation of parole or other circumstances) which relates to the original conviction or adjudication shall extend the period of registration to ten years after final parole, discharge or release. Failure to comply with any provision of the Act shall extend the period of registration by ten years beyond the period otherwise required. A sexual predator, sexually dangerous person, or sexually violent person shall be required to register in person no later than 90 days after the date of his or her last registration for the period of his or her natural life. A sexual predator shall register in person annually within one year of his or her last registration for the period of his or her natural life.

b) Confidentiality
The secondary dissemination of sex offender information is not prohibited.

c) Sex Offender Registration Form
The Sex Offender Registration Form shall contain all the information necessary to comply with the requirements of these rules and shall also provide descriptive information necessary to identify the person registering.

d) Sex Offender Notification Form
The Sex Offender Notification Form shall be used to notify the offender regarding responsibilities under the Act. The form shall at a minimum include the sex offender’s name, date of birth, sex, race, SID (State identification number), county of conviction, date of conviction and intended address. The form must be initialed and signed by the sex offender. The form is not required for sex offenders who were convicted and sentenced to probation or who were released from confinement prior to January 1, 1996.

e) Out-of-State Student
Out-of-state students must register with the law enforcement agency having jurisdiction where they attend school in Illinois. Out of state students are required to register no later than the day on which the instruction begins.

f) Out-of-State Employee
Out-of-state employees must register with the law enforcement agency having jurisdiction where they are employed in Illinois. Out-of-state employees whose employment involves work in more than one location shall register in the location in which the greatest time of employment is spent. Out-of-state employees are required to register no later than the day on which they qualify as an out-of-state employee as defined in Section 1280.20.

(Source: Amended at 27 Ill. Reg. __________, effective ___________________ )
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1) **Heading of the Part:** Sex Offender and Child Murderer Community Notification Law

2) **Code Citation:** 20 Ill. Adm. Code 1282

3) **Section Numbers:**
   - 1282.20 Amendment
   - 1282.30 Amendment

4) **Statutory Authority:** Implementing the Sex Offender and Child Murderer Community Notification Law [730 ILCS 152] and authorized by Section 2605-35 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-35(a)(8)].

5) **A Complete Description of the Subjects and Issues Involved:** This amendment will update procedures and policies relating to the implementation of the Sex Offender and Child Murderer Community Notification Law.

6) **Will these proposed amendments replace any emergency rulemaking currently in effect?** No

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

8) **Do these proposed amendments contain incorporations by reference?** No

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

10) **Statement of Statewide Policy Objectives:** These rules will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Within 45 days after the publication of this Notice, any interested person may submit comments, data, views or argument regarding the proposed amendments. The submissions must be in writing and directed to:

    Mr. James W. Redlich
    Chief Legal Counsel
    Illinois State Police
    124 East Adams Street, Room 102
    Post Office Box 19461
DEPARTMENT OF STATE POLICE

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Springfield, Illinois 62794-9461

12) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: January 2003

The full text of the Proposed Amendments begins on the next page:
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NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

CHAPTER II: DEPARTMENT OF STATE POLICE

PART 1282
SEX OFFENDER AND CHILD MURDERER COMMUNITY
NOTIFICATION LAW

SUBPART A: PROMULGATION

Section 1282.10 Purpose

Section 1282.20 Definitions

SUBPART B: OPERATIONS

1282.30 Procedures

AUTHORITY: Implementing the Sex Offender and Child Murderer Community Notification Law [730 ILCS 152] and authorized by Section 2605-35 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-35(a)(8)].


SUBPART A: PROMULGATION

Section 1282.20 Definitions

a) Unless specified otherwise, all terms shall have the meanings set forth in the Sex Offender and Child Murderer Community Notification Law.

b) For purposes of these rules, the following definitions apply:

“Child care facilities” has the meaning set forth in Section 2.05 of the Child Care Act of 1969 [225 ILCS 10/2.05], but does not include licensed foster homes. This term includes licensed child care facilities and child care facilities for which applications for license are being processed by the Department of Children and Family Services.
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“Department” means the Illinois Department of State Police.

“Institution of higher education” means an Illinois institution legally constituted to offer degree and instruction post secondary education.

“Jurisdiction” means law enforcement jurisdiction as described in the definition of “law enforcement agency having jurisdiction” in Section 105 of the Sex Offender Registration Act.

“Law” means the Sex Offender and Child Murderer Community Notification Law [730 ILCS 152].

“Point of contact” means an individual identified by an agency or other entity as the person responsible for accepting and issuing communications relating to the implementation of this Part.

“Registry” means data maintained by the Department for the purpose of complying with and implementing the Sex Offender Registration Act and the Sex Offender and Child Murderer Community Notification Act. This data includes information forwarded to the Department by jurisdictions and information obtained by the Department itself.

“Scheduled notifications” means the first two weeks of February, May, August and November.

“Schools” means the school boards of public school districts and the principal or other appropriate administrative officer of each non-public school which has registered with the State Board of Education or, in the case of a group of non-public schools registered with the State Board of Education which are organized under a single controlling administrative entity, the controlling administrative entity of that group of non-public schools.

“Sex offender” means the same as the definition found in Section 2(A) of the Sex Offender Registration Act [730 ILCS 150/2(A)].

“Sexual predator” means the same as the definition found in Section 2(E) of the Sex Offender Registration Act [730 ILCS 150/2(E)]. An adjudicated juvenile delinquent sex offender is not a sexual predator.
“Victim” means the individual subjected to the particular offense for which the perpetrator acquired the status of a sex offender. This term also includes the individual’s parent and legal guardian.

(Source: Amended at 27 Ill. Reg. __________, effective ________________)

SUBPART B: OPERATIONS

Section 1282.30 Procedures

a) State Board of Education
1) The State Board of Education will provide to the Department an accurate listing of addresses and points of contact for all schools.
2) The listing will be provided to the Department at least 30 days prior to the beginning of scheduled notifications.
3) The State Board of Education will appoint a point of contact to coordinate notification activities with the Department.

b) Department of Children and Family Services
1) The Department of Children and Family Services will provide to the Department a listing of addresses and points of contact for all child care facilities.
2) The listing will be provided to the Department at least 30 days prior to the beginning of scheduled notifications.
3) The Department of Children and Family Services will appoint a point of contact to coordinate notification activities with the Department.

c) State Board of Higher Education
1) The State Board of Higher Education will provide to the Department an accurate listing of addresses and points of contact for all institutions of higher education.
2) The listing will be provided to the Department at least 30 days prior to the beginning of scheduled notifications.
3) The State Board of Higher Education will appoint a point of contact to coordinate notification activities with the Department.

d) Victim Notification
1) The victim may request automatic notification of the change of address of the associated sex offender.
2) In order to obtain automatic notification, the victim must make a request in writing to the Department which must include the full name and date of
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birth of the sex offender or the full name, date of conviction and county of conviction of the sex offender.

Law Enforcement Agency Having Jurisdiction

1) Law enforcement agencies having jurisdiction will develop internal procedures and policies for implementing the provisions of the Law. Procedures will provide for the reasonable access to the information required to be provided under the Law.

2) Agencies shall provide the name, address, date of birth and offense or adjudication of sex offenders required to register to any individual as may be authorized by law who requests access to the registry. Agencies have the discretion to provide any additional information contained in the registry, which will help identify the sex offender, to any individual as may be authorized by law. Such disclosure shall not include any information which would help identify the victim.

3) A point of contact will be identified to serve as a liaison with schools, and child care facilities, and institutions of higher education. Agencies will provide the name and telephone number of their point of contact to all child care facilities and schools within their jurisdictions. Schools and child care facilities will be provided any changes on a timely basis. Point of contact information will also be provided to the Department.

4) Requesters will be required to show identification to receive sex offender information.

5) Agencies may charge a reasonable fee, not to exceed costs, to provide the information to individuals requesting access to the registry. Provisions for this charge must be included in their written procedures. Fees cannot be charged to schools, child care facilities, institutions of higher education, other government agencies or for discretionary release of information.

6) Disclosure to the Department of Children and Family Services, schools, and child care facilities, and institutions of higher education will be made during each scheduled notification. Additional disclosures may be made at any time.

7) Law enforcement agencies having jurisdiction can establish agreements with other law enforcement agencies having jurisdiction to facilitate the discharge of their responsibilities under the Law and this Part. These agreements may delegate to another agency tasks necessary to accomplish an agency’s mandatory duties. The agreements shall be in writing and shall be submitted to the Department prior to implementation. Regardless of any agreement, each agency shall be responsible to ensure its individual compliance with the Law and this Part.
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8) Law enforcement agencies having jurisdiction have the discretion to place sex offender information, including photographs, on the Internet or in other media. Law enforcement agencies having jurisdiction shall have the discretion to release information regarding employment, school, institution of higher education, and juvenile information only when a risk to the public exists.

9) Law enforcement agencies having jurisdiction of sex offenders attending or employed at institutions of higher education will within three days forward one copy of the registration form and all changes of employment or education status to the point of contact for the institution.

Illinois State Police

1) The Department will provide a listing of all schools and child care facilities, and institutions of higher education to Illinois sheriffs’ offices and the Chicago Police Department for their respective jurisdictions. However, the Department will not list controlling administrative entities of groups of non-public schools. The listing or changes will be provided to agencies at least two weeks prior to the beginning of scheduled notifications.

2) The Department will maintain the registry and conduct audits of criminal justice agencies affected by this Part to ensure the integrity of data. The Department will maintain LEADS as the primary mechanism for registration and communication relating to sex offenders.

3) The Department will confer with the State Board of Education, and the Department of Children and Family Services, and the State Board of Higher Education concerning the implementation of this Part. Procedures to evaluate the notification process will be developed jointly. Periodic meetings will be scheduled to address issues and identify potential problems.

Requirements

1) Confidentiality

Information regarding offenders who are not subject to the Law shall not be open to public inspection or to any person other than a law enforcement officer or other individual authorized by law. Information regarding an adjudicated juvenile delinquent sex offender shall not be available to the public except that information may be provided to a person when that person’s safety may be compromised for some reason related to the juvenile sex offender if so determined by the Department or any law enforcement agency.

2) Sex Offender Information
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The name, address, date of birth and offense of the sex offender will be provided to all persons or entities receiving information from the registry pursuant to this Part. General sex offender information can be obtained on the Illinois State Police Website at www.isp.state.il.us. Law enforcement agencies have the discretion to provide any additional information contained in the registry, including photographs, which will help identify the sex offender. Information which would help identify the victim may not be disclosed.

3) Registration and Notification Period
Sex offenders are required to register for 10 years after conviction or adjudication if not confined to a penal institution, hospital or any other institution or facility. If confined, sex offenders are required to register for 10 years after final parole, discharge or release from any such facility. Sexual predators, sexually dangerous persons, and sexually violent persons are required to register for the period of their natural lives. Notification requirements with respect to a particular sex offender expire when that individual is no longer required to register.

4) Electronic Transmission of Information
Any of the Department’s communications and transfer of information described in this Part may be accomplished by electronic means. Publicly accessible communication networks, such as those commonly described as the “Internet”, may be used when technically feasible.

h g) Public Access
1) Discretionary Access
The Department and any law enforcement agency having jurisdiction may provide any information contained in the registry, including photographs but excluding information which would help identify the victim, on any sex offender to any individual or entity likely to encounter the offender.

2) Public Inspection
Any individual or entity shall, upon request to the local law enforcement agency having jurisdiction, be provided an opportunity by that agency to inspect a listing of all names, addresses, dates of birth and offenses or adjudications of sex offenders required to register or registered with that agency. The agency has the discretion to provide any additional information contained in the registry, including photographs but excluding information which would help identify the victim, for the purposes of public inspection. The agency has the discretion to provide the requester with the list of all sex offenders required to register within the county, or in any other Illinois county. The agency may either allow the requester to
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inspect the list and take notes, as appropriate, or provide a copy of the list to the requester. Secondary dissemination of sex offender information is not prohibited. Employment information is only available for public inspection when the agency having jurisdiction determines the employment poses a risk to the public.

(Source: Amended at 27 Ill. Reg. __________, effective _________________ )
ILLINOIS COMMERCCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS


2) Code Citation: 83 Ill. Adm. Code 280

3) Section Numbers: Adopted Action:

280.40 Amendment
280.50 Amendment


5) Effective Date of Amendments: April 1, 2003

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

7) Do these amendments contain incorporations by reference? Yes

8) A statement that a copy of the adopted rule, amendment, or repealer, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection: A copy of the adopted amendments, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:

05/31/2002, at 26 Ill. Reg. 7801

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version:

Section 280.50(a): Replace "reflecting the" with "describing its".
Section 280.50: Add

e) A utility shall not require a deposit based on a credit scoring system if the applicant for residential service is eligible for the Low Income Home Energy Assistance Program (LIHEAP) or provides proof of identity fraud.

f) A utility that elects to utilize a credit scoring program for applicants for residential service shall collect the following data and maintain such data for a period of five years following its collection:

1) the number of credit scores requested for applicants;

2) the number of applicants who received passing credit scores;

3) the number of applicants who received failing scores;

4) the number and total amount of deposits obtained from applicants subject to the credit scoring program;

5) the number of times a security deposit was waived for low-income applicants and for other applicants, with stated reasons for the waiver;

6) the number of disconnections of service for applicants who failed to pay the required deposit; and

7) the number of formal or informal complaints alleged by applicants regarding the use of credit scoring or the requirement to pay a deposit based on the credit scoring program.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No
15) **Summary and Purpose of Amendments?**

This rulemaking will allow make the credit risk assessment method for deposits available to utilities on a uniform basis. This change will improve customer service by using a faster and easier credit screening system, relying upon reputable customer credit data which is maintained in strict confidence and applying a consistent, unbiased credit methodology that is widely accepted in modern commerce.

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

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL  62701  
(217)785-3922

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

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES

CHAPTER I: ILLINOIS COMMERCe COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO
MORE THAN ONE KIND OF UTILITY

PART 280
PROCEDURES FOR GAS, ELECTRIC, WATER AND SANITARY SEWER UTILITIES
GOVERNING ELIGIBILITY FOR SERVICE, DEPOSITS, PAYMENT PRACTICES AND
DISCONTINUANCE OF SERVICE

Section
280.10 Policy
280.20 Scope and Application
280.30 Saving Clause
280.40 Definitions
280.50 Applicants for Service
280.60 Present Customers
280.70 Deposits
280.75 Refunds
280.76 Refunds of Additional Charges
280.80 Estimated Bills
280.90 Past Due Bills and Late Payment Charges
280.100 Unbilled Service
280.105 Treatment of Illegal Taps
280.110 Deferred Payment Agreements
280.120 Budget Payment Plan
280.130 Discontinuance of Service
280.135 Discontinuance of Service During the Period of Time from December 1 Through
and Including March 31
280.138 Reconnection of Former Residential Utility Customers for the Heating Season
280.140 Discontinuance of Service to Accounts Affecting Master Metered Apartment
Buildings
280.150 Service Reconnection Charge
280.160 Dispute Procedures
280.170 Commission Complaint Procedures
280.180 Public Notice of Commission Rules
280.190 Second Language Notices
280.200 Customer Information Booklet
NOTICE OF ADOPTED AMENDMENTS

APPENDIX A  Notice of Utility Shut Off
APPENDIX B  Requirements to Avoid Shut Off of Service in the Event of Illness
APPENDIX C  Public Notice
APPENDIX D  Insert to be Included with Each Notice of Disconnection Sent to Residential Gas and Electric Customers


Section 280.40 Definitions

“Applicant” - a person who applies for residential or non-residential utility service.

“Credit scoring system” has the same meaning set forth in 12 CFR 202.2 as of January 1, 2002, and no later amendments or editions are incorporated.

“Customer” - a person who has agreed with a utility to pay for gas, electric, water or sanitary sewer utility service.
“Master-metered apartment building” - a building of three or more rental dwelling units where any utility service is registered by a single meter for all the units.

“Nonresidential Service” - gas, electric, water or sanitary sewer utility service rendered which is not residential service.

“Person” - a natural person, corporation, real estate trust, partnership, association or other legal entity.

“Residential Service” - gas, electric, water or sanitary sewer utility service for household purposes furnished to a dwelling of two units or less which is billed under a residential rate; or gas, electric, water or sanitary sewer utility service for household purposes furnished to a dwelling unit or units which is billed under a residential rate and which is registered by a separate meter for each dwelling unit.

"Small business" – any Illinois based business which has 50 or less full-time employees in the State. [220 ILCS 35/2] (SECTION 2 of P.A. 83-1343).

“User” - a person who receives gas, electric, water or sanitary sewer utility service.

“Utility Service” - gas, electric, water or sanitary sewer utility service provided to a customer at a specific location.

(Source: Amended at 27 Ill. Reg. 4527, effective April 1, 2003)

280.50 Applicants for Service

a) If, after a review of its own past service records, a utility finds that an applicant for residential service has failed to pay for past due utility service for the same class of service furnished to him/her at the same or at another address, or if the credit score of the applicant for residential service does not meet or exceed the predetermined minimum credit score selected by the utility using a credit scoring system (see Section 280.40), a utility may refuse to provide service, unless the applicant, at the option of the utility, pays any past due bill and/or provides a deposit pursuant to Section 280.70 and/or enters into a deferred payment agreement pursuant to Section 280.110. A utility that elects to use a credit scoring system shall file a tariff describing its practice of using a credit scoring system. For purposes of this subsection, a utility may refuse to provide service if the
applicant is liable for a past due bill for utility service pursuant to Section 15 of the Rights of Married Persons Act [750 ILCS 65/15], unless the applicant, at the option of the utility, pays any past due bill and/or provides a deposit pursuant to Section 280.70 and/or enters into a deferred payment agreement pursuant to Section 280.110.

b) If, after a review of its own past service records, a utility finds that an applicant for non-residential service has failed to pay for past due utility service for the same class of service furnished to him/her at the same or at another address, or if the applicant for non-residential service is unable to establish satisfactory credit references, a utility may refuse to provide service, unless the applicant, at the option of the utility, pays any past due bill and/or provides a deposit pursuant to Section 280.70 and/or enters into a deferred payment agreement pursuant to Section 280.110.

c) A bill for one class of service (residential or non-residential) shall not be transferred to a bill for the other class of service, nor shall the bill for one form of utility service (such as gas) be transferred to a bill for another form of utility service (such as electric). Service shall not be denied for nonpayment of bills for merchandise or nonutility services.

d) If a utility takes applications for service by telephone from third parties or users who will not be the customers of the service, and if the utility does not verify the third party or user application with the customer, the utility shall not be entitled to collect from the customer of the service if the customer disclaims any responsibility for requesting the service; provided, however, that users will be responsible for paying for their use.

e) A utility shall not require a deposit based on a credit scoring system if the applicant for residential service is eligible for the Low Income Home Energy Assistance Program (LIHEAP) or provides proof of identity fraud.

f) A utility that elects to utilize a credit scoring program for applicants for residential service shall collect the following data and maintain such data for a period of five years following its collection:

1) the number of credit scores requested for applicants;

2) the number of applicants who received passing credit scores;
3) the number of applicants who received failing scores;
4) the number and total amount of deposits obtained from applicants subject to the credit scoring program;
5) the number of times a security deposit was waived for low-income applicants and for other applicants, with stated reasons for the waiver;
6) the number of disconnections of service for applicants who failed to pay the required deposit; and
7) the number of formal or informal complaints alleged by applicants regarding the use of credit scoring or the requirement to pay a deposit based on the credit scoring program.

(Source: Amended at 27 Ill. Reg. 4527, effective April 1, 2003)
NOTICE OF ADOPTED AMENDMENTS

1) The Heading of the Part: Cost of Service

2) Code Citation: 83 Ill. Adm. Code 791

3) Section Numbers: Adopted Action:

   791.20 Amendment
   791.40 Amendment
   791.60 Amendment
   791.70 Amendment
   791.80 Amendment


5) Effective Date of Amendments: April 1, 2003

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

7) Do these amendments contain incorporations by reference? No

8) A statement that a copy of the adopted rule, amendment, or repealer, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection: A copy of the adopted amendments, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:

   08/09/2002, at 26 Ill. Reg. 12105

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Difference(s) between proposal and final version:

    None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
ILLINOIS COMMERCES COMMISSION

NOTICE OF ADOPTED AMENDMENTS

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments?

Part 791 concerns the methodology used in pricing services provided by one telecommunications carrier to another. It defines the methods and assumptions to be employed, as well as the various cost-study components.

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

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL  62701
(217)785-3922

The full text of the Adopted Amendments begins on the next page:
Section 791.20 Terminology

a) The long-run service incremental cost of a service ("LRSIC") is the forward-looking additional costs incurred by the telecommunications carrier ("carrier") to provide the entire output of a service, including additional resources such as labor, plant, and equipment. Long-run service incremental cost excludes any costs, including common costs, that would be incurred if the service is not produced.

b) Long-run costs are the economic costs over a planning horizon long enough so that there are no sunk inputs or costs.
c) Forward-looking costs are the costs to be incurred by a carrier in the provision of a service. These costs shall be calculated as if the service were being provided for the first time and shall reflect planned adjustments in the firm’s plant and equipment. Forward-looking costs ignore embedded or historical costs; rather, they are based on the least cost technology currently available whose cost can be reasonably estimated based on available data. As such forward-looking cost estimates must reflect assumptions and technologies that are currently operational, that is, able to be used and available in the marketplace.

d) Volume-insensitive costs are costs that do not vary with changes in output.

e) Volume-sensitive costs are costs that vary with changes in output of a particular service.

f) A group of services that is referenced in this Part consists of those services that share a common network technology, element, or business function that is necessary and unique to the provision of all services in the group, and where that common network technology, element, or business function cannot be attributed to any one service or subgroup of services in the group.

g) LRSIC of a group of services: Where additional resources are used in common and are necessary to provide a group of services, the long-run service incremental cost of that group of services includes the cost caused by the portion of such additional resources used solely by that group of services, including the LRSIC’s of the individual services. Resources include labor, plant, and equipment.

h) Common costs are those costs that a carrier must incur in order to operate that are not directly attributable to any particular service or to any group of services smaller than the group of services consisting of all the services of the carrier. Common costs shall not be included in the LRSIC for a service.

i) Ad valorem taxes are those which are levied on the value of plant as determined by a governmental taxing authority (e.g., local property taxes levied against telephone plant).

j) Capital costs are the recurring costs that result from expenditures that for plant facilities which are capitalized. These annual capital costs include depreciation, cost of capital (return), and income taxes.
k) Expenses are the cost or resources consumed in the production of revenue that are expensed rather than capitalized in accordance with the Uniform System of Accounts applicable to the carrier (83 Ill. Adm. Code 710).

l) Investment is a long-term capital asset (normally with a life exceeding one year) which is depreciated rather than expensed in accordance with the Uniform System of Accounts applicable to the carrier (83 Ill. Adm. Code 710).

m) Recurring costs are costs which will continue throughout the revenue producing life of the service. They include capital costs and expenses.

n) Usable capacity is the maximum physical capacity of the equipment or resource less any capacity required for maintenance, testing or administrative purposes.

(Source: Amended at 27 Ill. Reg. 4535, effective April 1, 2003)

Section 791.40 Methods and Assumptions

a) The methodology and assumptions in this Part apply to cost studies required by this Part and the Act.

b) Nothing in this Part shall require a carrier in any LRSIC study to account for, allocate, apportion, assign or reflect costs in any manner inconsistent with the Uniform System of Accounts (83 Ill. Adm. Code 710) or the Federal Communications Commission’s Uniform System of Accounts (47 CFR 32).

c) Since LRSIC represents a measurement of the costs to a carrier of providing a service or group of services on a prospective basis over a planning horizon long enough to have no sunk inputs or costs, when determining the LRSIC of a service or a group of services, use of the following assumptions and methods shall be presumed reasonable:

1) The LRSIC study shall be based upon the locations of, and planned locational changes to, the existing central office and facilities network configuration. As used in this Section, “facilities” shall be interpreted to include feeder routes, central offices, drop wire, network interface devices, and other specific items that make up the facilities of a telecommunications company;
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2) To the fullest extent possible, volume-insensitive costs shall be directly attributed to particular services or, where shared by a group of services, to that group of services, consistent with the cost causation principle;

3) Volume-sensitive costs shall be directly attributed to the service that causes the costs, consistent with the cost causation principle;

4) The LRSIC study shall reflect the demand for the entire service that is affected by the business or regulatory decision at hand. If the LRSIC study is for a new service, the study shall include all demand forecasts used in the computations.

(Source: Amended at 27 Ill. Reg. 4535, effective April 1, 2003)

Section 791.60 General Cost Study Components

a) Service description. Each cost study shall include a definition of the service being studied. This definition shall be in terms of technical characteristics, functionality, application, targeted market, and availability. The elements of the service shall also be defined.

b) Demand Information. The carrier shall provide the demand figures and/or forecasts used in the LRSIC computations and an explanation detailing the explicit and implicit assumptions and methods used to derive the figures and/or forecasts. Demand forecasts for new services shall reflect total demand for the service, averaged over the projected revenue producing life of the service.

c) Revenue life. Each cost study shall identify and provide a basis for the projected revenue producing life of the service or group of services.

d) Economic life. Each cost study shall identify and provide a basis for the projected economic life of the equipment involved in providing the service or group of services.

e) Input prices. Each cost study shall reflect input prices (e.g., the prices for materials, labor, and capital) that the carrier is actually expected to face. The carrier shall provide the underlying bases for projected changes in input price levels, using, wherever possible, projections based on market expectations and
rates set in labor contracts. Where appropriate, costs shall be based on prevailing vendor prices or vendor prices under consideration that reflect volume discounts or term discounts off listed input prices. These discounts shall be reflected in the cost study.

f) Factors. Whenever any factors are used to estimate costs, such as maintenance or labor costs, the basis for those factors shall be described in an annual filing with the Manager Director of the Telecommunications Division Section in the Public Utilities Division of the Illinois Commerce Commission. Factors shall be based upon historical costs only to the extent that it can be demonstrated that those historical costs are relevant to the study of forward-looking costs. Any deviations in individual cost studies from factors filed on an annual basis shall be identified and explained in each cost study.

g) Volume-insensitive costs. To the fullest extent possible, volume-insensitive costs shall be directly attributed to particular services or, where shared by a group of services, to that group of services.

h) Volume-sensitive costs. Volume-sensitive costs shall be directly attributed to the service that causes the costs.

i) The cost study shall include all relevant service-specific start-up costs, including installation costs.

(Source: Amended at 27 Ill. Reg. 4535, effective April 1, 2003)

Section 791.70 Investment-related Cost Study Components

a) Material. The material component of investment shall be based on the most recent vendor prices, reflecting applicable discounts and all applicable taxes, for the hardware and software resources required to provide the service. The carrier shall provide a breakdown of the material involved in providing the service.

b) Inventory and supply. The inventory and supply components shall reflect the costs to the company of inventory, administration, storage and delivery.

c) Labor investment. The labor investment component shall consist of the labor required to install and put into service capital assets. The labor investment component shall be divided into two components, vendor-related and carrier-
related labor investment. Vendor-related labor investment shall include billed installation and engineering. Carrier-related investment may be calculated based on either account averages or product specific plant engineering and installation hours. Total labor costs shall be computed by multiplying the account average or product specific work time by the appropriate labor hours. Hourly labor rates shall include the operational wages, benefits, paid absence, tools, and miscellaneous expenses.

d) Utilization factors. The utilization factor measures the usable capacity of a capital resource pursuant to the definition of usable capacity in Section 791.20(n). Investment shall be adjusted to reflect the usable capacity by dividing the dollar amount of investment by the utilization factor estimated pursuant to this Section.

(Source: Amended at 27 Ill. Reg. 4535, effective April 1, 2003)

Section 791.80  Annual Cost Study Components

a) Depreciation.

1) Depreciation shall represent the periodic recognition of investment cost as dictated by accounting rules (83 Ill. Ill. Adm. Code 710). Depreciation costs for a service shall be computed based upon the projected life of plant at age zero underlying the depreciation rates most recently approved by the Commission. (For purposes of a cost study submitted in a rate proceeding which includes a depreciation represcription proposal, a telecommunications carrier may, as an alternative, use the projected life of plant at age zero filed for approval in that proceeding, subject to final Commission action on represcription proposal.)

2) For a carrier seeking approval of an alternative regulatory plan under Section 13-506.1 of the Act, the Commission shall make a finding of, or adopt a methodology for determining the projected life of plant at year zero underlying the carrier’s rates of depreciation for purposes of this Part in any order approving an alternative regulatory plan.

b) Cost of capital.

1) The cost of capital associated with an investment shall be the weighted average of the carrier’s costs of debt and equity applied to the net
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investment. The development of this component shall be based upon the current amount and weighted cost of debt. Carriers shall use the cost of equity approved by the Commission in the carrier’s latest proceeding in which cost of money was litigated, last rate case (For purposes of a cost study submitted in a rate proceeding in which the telecommunications carrier is presenting evidence on its cost of capital, the telecommunications carrier may, as an alternative, base the return components upon the costs submitted in the proceeding, subject to the final Commission action on such issue.)

2) For a carrier seeking approval of an alternative regulatory plan under Section 13-506.1 of the Act, the Commission shall make a finding of, or adopt a methodology for determining the carrier’s cost of equity, for purposes of this Part in any order approving an alternative regulatory plan.

c) Federal, State, and local income taxes. The Federal, State, and local income tax expenses shall be determined based on rates which are expected to be in effect at the time of the cost study development for the service. Since Federal, State, and local taxes are applicable, recognition shall be given to the “tax-on-tax” situation that results from the deductibility of State and local tax when Federal taxes are paid.

d) Maintenance. Maintenance costs are those costs incurred to keep equipment resources in usable condition and the cost incurred to rearrange cable or other facilities, if applicable. In calculating the cost of a service, the carrier may use an investment-related annual maintenance factor to arrive at an annual maintenance cost estimate or service-specific maintenance cost for the service. If a maintenance factor is used, the factor shall be specific to Investment and Expense accounts associated with the service. Maintenance costs may be based upon historical costs if it can be demonstrated that those historical costs are relevant to the study of forward-looking costs.

e) Ad valorem taxes. For telecommunications services, an ad valorem tax factor shall be applied against investment. This factor shall be based on the quotient of the most current ad valorem taxes paid by the carrier divided by the carrier’s total current investment.

f) Other costs. Other service-specific costs shall be identified and attributed to particular services or groups of services and included in the cost study of those
services or groups of services. These costs may be based upon historical costs if it can be demonstrated that those historical costs, in particular the estimated labor hours, are relevant to the study of forward-looking costs. In the case of labor costs, the carrier shall provide a breakdown of these costs to reflect loaded labor rates and estimated labor hours.

(Source: Amended at 27 Ill. Reg. 4535, effective April 1, 2003)
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1) **Heading of the Part:** Temporary Assistance for Needy Families

2) **Code Citation:** 89 Ill. Adm. Code 112

3) **Section Numbers:**

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<tr>
<td>112.78 Amendment</td>
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<td>112.83 Amendment</td>
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4) **Statutory Authority:**

   Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

5) **Effective Date of Amendments:** February 28, 2003

6) **Does this rulemaking contain an automatic repeal date?**

   _Yes   X_ No

7) **Do these amendments contain incorporations by reference?** No

8) **A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:**

   October 4, 2002 (26Ill. Reg. 14416)

10) **Has JCAR Issued a Statement of Objections to this Rule?** No

11) **Difference(s) between proposal and final version:**

    The following changes were made in the text of the proposed amendments:

   1. In Section 112.78(e)(1)(D), “JTPA” was changed to “Workforce Investment Act (WIA)”

   2. In Section 112.83(g), “for any of the following reasons: 1) the participant no longer receives assistance through TANF; 2)” was replaced by “if”.
12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace an emergency amendments currently in effect? No

14) Are there any amendments pending on this Part: Yes

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<td>112.304</td>
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15) **Summary and Purpose of Rule:**

These amendments remove language about the discontinued Targeted Work Initiative (TWI) Program and update language to reflect current policy concerning the Teen Parent Services (TPS) Program.

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

Karl Menninger, Acting Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of Adopted Amendments begins on the next page:
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TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

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Section 112.1 Description of the Assistance Program and Time Limit
112.2 Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3 Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5 Incorporation by Reference
112.6 The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 112.8 Caretaker Relative
112.9 Client Cooperation
112.10 Citizenship
112.20 Residence
112.30 Age
112.40 Relationship
112.50 Living Arrangement
112.52 Social Security Numbers
112.54 Assignment of Medical Support Rights
112.60 Basis of Eligibility
112.61 Death of a Parent (Repealed)
112.62 Incapacity of a Parent (Repealed)
112.63 Continued Absence of a Parent (Repealed)
112.64 Unemployment of the Parent (Repealed)
112.65 Responsibility and Services Plan
112.66 Alcohol and Substance Abuse Treatment
112.67 Restriction in Payment to Households Headed by a Minor Parent
112.68 School Attendance Initiative
## DEPARTMENT OF HUMAN SERVICES

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**112.69** Felons and Violators of Parole or Probation

### SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

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112.354 Qualified Provider (Repealed)
112.356 Notification of Available Services (Repealed)
112.358 Participant Rights and Responsibilities (Repealed)
112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364 Rates of Payment for Child Care (Repealed)
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112.414 Child Care Overpayments and Recoveries (Repealed)
112.416 Fees for Service for Transitional Child Care (Repealed)
112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18,
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SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section 112.78 TANF Employment and Work Activities

a) Education (Below Post-Secondary)
Participants who are not working are limited to Adult Basic Education/GED/ESL and short-term Vocational Training programs lasting less than two years and may be required, in coordination with the education schedule, to participate in Job Readiness activities, job skills training, Job Search, and/or Work Experience at the same time they are attending the education/training program to the extent resources will allow. Co-enrollment in Adult Basic Education/GED/ESL and Vocational Training is encouraged. In this activity, the individual receives information, referral, counseling services and supportive services to increase the individual's employment potential. Participants may be referred to testing, counseling and education resources. Educational activities will include basic and remedial education; English proficiency classes; high school or its equivalency (for example, GED) or alternative education at the secondary level; and with any educational program, structured study time to enhance successful participation.

1) Assignment to Education (Below Post-Secondary)
   A) Individuals to be assigned to Education may include but are not limited to individuals:
      i) who do not have a high school degree or equivalent;
      ii) who have limited English proficiency; and
      iii) who do not read at or above a 9.0 grade level.
   B) Educational activities may be combined with other activities if it is determined appropriate.

2) Approval criteria for education (Below Post-Secondary)
   A) The program selected by the individual must be accredited under State law.
   B) The individual's program must be needed for the participant to complete his or her Responsibility and Services Plan.
C) The individual must be enrolled full-time as defined by the institution or part-time if a full-time program is not available or appropriate.

D) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

3) Participation Requirements

A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) Clients attending a program administered by the Illinois State Board of Education (ISBE) must maintain satisfactory progress as determined by the following:
   i) active participation and pursuit of educational objectives;
   ii) teacher's written remarks;
   iii) grades;
   iv) demonstrated competencies;
   v) classroom exercises; and
   vi) periodic test/retest results.

C) ISBE educational providers determine satisfactory progress based on a combination of the indicators listed above and test/retest results. The determination of satisfactory progress including test/retest results must be reported upon completion of the academic term or twice a year if the program is continuous for 12 months.

D) Clients attending a program not administered by ISBE must maintain satisfactory progress as determined by the written policy of the institution. The determination of satisfactory progress including test/retest results must be reported upon completion of the academic term or twice a year if the program is continuous for 12 months.

E) Curriculum changes must be made with the prior approval of TANF staff and will be approved when the change is consistent with the Responsibility and Services Plan.

F) Except for individuals attending high school, participation in Education (Below Post-Secondary) is limited to 24 months except that the individual may continue in the education program if he or
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she also works for at least 20 hours each week and the combined hours of work plus credit hours or class hours, as appropriate, equal at least 25 hours each week. Months in which the individual establishes good cause (see Section 112.80) for not participating in the program will not count toward the 24-month limit.

b) Vocational Training
Vocational Training is designed to increase the individual's ability to obtain and maintain employment. Vocational Training activities will include vocational skill classes designed to increase a participant's ability to obtain and maintain employment. Vocational Training may include certificate programs. Participants who are not working are limited to short-term Vocational Training programs lasting less than two years and may be required, in coordination with the education/training schedule, to participate in Job Readiness activities, job skills training, Job Search, and/or Work Experience at the same time they are attending the education/training program to the extent resources will allow.

1) Approval Criteria For Vocational Training

A) The individual's program must be accredited under requirements of State law.

B) The individual must be underemployed or unemployed and in need of additional training and the training will better prepare the participant to enter the labor force.

C) Co-enrollment in Adult Basic Education/GED/ESL and Vocational Training is encouraged if the individual does not have a high school diploma or GED.

D) The individual must apply for all available educational benefits such as the Pell Grant and scholarships from the Illinois Student Assistance Commission as well as any scholarship or grants identified by the education or training facility for which the participant may be eligible.

E) The individual must be enrolled full-time as defined by the institution or part-time if full-time is not available or appropriate.

F) Clients who are working at least 20 hours per week and whose combined work plus credit hours or class hours, as appropriate, equal at least 25 hours each week may be approved for vocational training after the two-year limitation.

G) The individual must be in a program needed for the individual to obtain employment in a recognized occupation.

H) Jobs must be available in the chosen field in a specific geographical area where the individual intends to work consistent
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with the individual's Responsibility and Services Plan upon completion.

I) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

J) Vocational Training may be combined with other activities if it is determined appropriate.

K) The individual must possess the aptitude, ability and interest necessary for success in the selected program as determined by such factors as test results and educational/training background.

2) Participation Requirements

A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) The individual must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The individual will be allowed one semester below a "C" average to bring the grades up to a "C" average. When grades are not used, progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term.

C) The individual must participate the assigned number of hours each week.

D) The client must complete all scheduled program enrollment hours each academic term to maintain satisfactory progress, except in the following situation. If the client withdraws from one or more scheduled courses during an academic term, the client must complete all scheduled enrollment hours during the following academic term. The client may withdraw from one or more scheduled classes in more than one academic term, but must complete all scheduled enrollment hours the following academic term to maintain satisfactory progress.

E) Curriculum changes must be made with the prior approval of TANF and will be approved when the change is consistent with the Responsibility and Services Plan.

c) Job Readiness

1) The Job Readiness activities are designed to enhance the quality of the
individual's level of participation in the world of work while learning the necessary essentials to obtain and maintain employment. These activities help individuals gain the necessary job finding skills to help them find and retain employment that will lead to economic independence.

2) Assignment to Job Readiness

Job Readiness activities may be combined with other activities if it is determined appropriate.

3) Participation requirements

A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) The individual must attend all scheduled classes or sessions. The individual must be making satisfactory progress as defined by the written policy of the job readiness provider and approved by the Department. If there is a job search activity in the program, the individual must make up to ten acceptable employer contacts in a 30 day period unless the participant shows good faith effort (see subsection (d)(3)(B) of this Section for the definition of "good faith effort").

C) The individual must participate the number of assigned hours each week.

D) The individual must respond to a job referral, accept employment and respond to mail-in contact.

d) Job Search

1) Description of Job Search

Job Search may be conducted individually or in groups. Job Search may include the provision of counseling, job seeking skills, training and information dissemination. Group Job Search may include training in a group session.

2) Assignment to Job Search

A) If assessed as job ready, participants will be assigned to Job Search. If job ready clients are unable to find employment on their own, they will be reassessed and may be placed in a more appropriate activity within six months.

B) Individuals completing education or vocational training or Job Readiness training may be assigned to Job Search.

C) Job Search may be combined with other activities if it is determined appropriate.

3) Participation Requirements
A) Participants must attend all scheduled classes or sessions. Participants will be notified in writing of all meetings.

B) Individuals must contact employers in an effort to secure employment. Participants must make up to 20 acceptable employer contacts in a 30-day period.

C) Acceptable employer contacts may include but are not limited to:
   i) a face-to-face contact with an employer or the employer's representative;
   ii) the completion and return of an application to an employer;
   iii) the completion of a civil service test required for employment with State—state, local, or the federal government or the completion of a Department of Employment Security (DES) screening test;
   iv) the completion and mailing of a resume with a cover letter to a recognized employer;
   v) reporting to the union hall for union members verified to be in good standing; or
   vi) registration with DES/Illinois Employment and Training Center (IETC).

e) Community Work Experience

TANF participants who have not found employment and who need orientation to work, work experience or training are placed on a supervised work assignment to improve their employment skills through actual Work Experience at private or not-for-profit employers, organizations and governmental agencies. Participants are referred to work assignments as vacancies are available. Participants in Work Experience may perform work in the public interest (which otherwise meets the requirements of this Section) such as enrollment as a full-time VISTA volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.) for a Federal office or agency with its consent, and, notwithstanding (31 U.S.C. 1342) or any other provision of law, such agency may accept such services but such participants shall not be considered to be federal employees for any purpose.

1) Assignment to Community Work Experience
   A) Community Work Experience is for:
      i) participants who will benefit from working for an employer who provides a subsidized employment assignment to improve the individual's opportunity to attain self-sufficiency; or
      ii) participants who need experience to prevent deterioration
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of, or to enhance, existing skills (for example, typing).

B) Entry into Community Work Experience
Participants are determined to be appropriate for Community Work Experience activity based on an assessment of their education, training and employment history. Procedures used in the assessment are a face-to-face meeting with the participant and a review of all available information on the participant (including, but not limited to, the individual's case record and Responsibility and Services Plan).

C) Community Work Experience Positions
Participants shall be assigned to a Community Work Experience position to increase the potential for attaining employment. The date participants are scheduled to begin the work assignment marks the beginning of participation in Community Work Experience. Community Work Experience activities may be combined with other activities if it is determined appropriate.

D) Enrollment as a full-time VISTA volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.) is an allowable work activity. Paid work study and some paid Workforce Investment Act (WIA) JTPA programs are also allowable.

2) Participation Requirements

A) The hours of the work assignment for a calendar month shall not exceed the family's monthly TANF grant and food stamp allotment divided by the higher of the State or federal minimum wage.

B) During work assignment, participants shall be required to perform Job Search activities unless a participant is in an education and training program. Participants are required to accept bona fide offers of employment pursuant to Section 112.72.

C) Participants are also required to report as scheduled and on time to their work assignment Sponsor when notified of an assignment. When they cannot report to their work assignment or if they will be late, they are to immediately notify their work assignment Sponsor.

D) Participants must participate the number of assigned hours each week.

3) Review

Every six months, the participant's Responsibility and Services Plan will be reviewed. If continuing the work assignment will benefit participants in terms of furthering work skills (see subsections (e)(1)(A) and (B)),
participants shall be reassigned to the same or another work assignment. In addition, participants will be assessed for assignment to another TANF activity.

4) Length of Assignment
Participants must participate in Work Experience for as long as the Responsibility and Services Plan reflects the need for this activity.

5) Anti-Displacement
Community Work Experience is subject to the provisions of Section 112.78(p)(q).

f) On the Job Training (OJT)
In OJT, a participant is hired by a private or public employer and while engaged in productive work receives training that provides knowledge or skills essential to full and adequate performance of the job.

1) Assignment to OJT
   A) Job ready individuals may be assigned to OJT.
   B) OJT participants shall be compensated at the same rate and with the same benefits as other employees.
   C) Wages to participants in OJT shall not be less than the higher of the State or federal minimum wage.
   D) Wages to participants in OJT are considered earned income.
   E) OJT may be combined with other component activities if it is determined appropriate.

2) Participation Requirements
   The individual must participate the assigned number of hours each week.

3) Supportive Services
   Participants in OJT receive child care and Medicaid benefits.

1) The Work Supplementation Program develops employment opportunities for TANF recipients by paying wage subsidies to employers who hire program participants. The program is funded by diverting the cash grant an individual would receive if not employed and using the diverted grant to pay a wage subsidy to the employer who hires the recipient. The goal of the Work Supplementation Program is to obtain jobs for TANF recipients, who might not be hired without a subsidy, with sufficient pay to take them off TANF.

2) Eligible Participants
   A) TANF participants who meet the selection criteria listed in subsection (g)(2)(B) of this Section are eligible to participate in the Work Supplementation Program. Participation in the program is
voluntary. A TANF recipient who wants to participate in the Work Supplementation Program must agree to all provisions in this Section during the time of participation in the program.

B) In order to place special emphasis on people who would not be likely to obtain a job without work supplementation, TANF recipients must meet the following criteria for selection to participate in the Work Supplementation Program:
   i) the recipient must be the parent of at least one of the children in the TANF unit;
   ii) the recipient must have completed the Job Search work activity; and
   iii) the recipient must have no income other than TANF benefits.

C) Recipients identified for employment must be determined eligible for participation by their worker. The worker will recommend for participation in the Work Supplementation Program those participants who are likely to encounter difficulty in obtaining employment (for example, lack of skills for which jobs are available in the area, lack of work history).

D) Nothing in this Section should be construed as providing any recipient the right to participate in the program.

3) Benefits and Reporting Requirements While Participating in the Work Supplementation Program

A) Participants in the Work Supplementation Program are considered to be TANF recipients and remain eligible for Medical Assistance for the duration of their Work Supplementation Program participation. Child care, for cases that are eligible for a cash grant, will be regarded as employment child care.

B) The participant must agree to accept wages from employment, which will be at least an amount which would be earned by working full time (30 hours minimum) at the prevailing minimum wage, less applicable payroll taxes.

C) Participants are required to file quarterly reports as a requirement for continuing eligibility. Changes in income from sources other than the Work Supplementation Program job and/or circumstances must still be reported within five days after occurrence pursuant to 89 Ill. Adm. Code 102.50.

D) Wages paid under a Work Supplementation Program shall be considered to be earned income for purposes of any provision of
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law (42 U.S.C. 1614(e)(3)).

4) Duration of Program Participation
A) Participants may not exceed a total of six months in the Work Supplementation Program subsidized placements regardless of the number of times an individual becomes a TANF recipient. The period of a single assignment is dependent upon the terms of the Work Supplementation Program contract that has been developed with the employer. Recipients will be informed of the length of the Work Supplementation Program subsidy period prior to placement.

B) Participants who leave a supported work position without good cause (as defined in Section 112.80) are removed from the Work Supplementation Program and are subject to sanction.

5) Contracts with Employers
A) Employers that participate in the Work Supplementation Program must enter into a written contract with the Department prior to receiving referrals.

B) Employers must be in good standing (that is, in compliance with all applicable federal, State, county and local laws, regulations and ordinances) with the Illinois Department of Revenue, the Secretary of State and any and all regulatory agencies that have jurisdiction over their activities.

C) Employers agree to screen clients to hire on their own payroll after six months. Failure to do so will result in the employer being terminated from the program.

6) Calculation of the Diverted Grants
A) The level of grant to be diverted is determined on a prospective basis when a work assignment under the Work Supplementation Program is made. The effective date of the diverted grant is the first day of the first full month of Work Supplementation Program wages.

B) Work Supplementation Program participants are eligible only for the earned income budgeting disregards provided in Sections 112.141 and 112.143. The difference between the flat grant amount and revised amount is diverted to the wage pool.

C) The difference between the payment level and the grant the participant receives is diverted and used in whole or in part to pay a wage subsidy to the employer.

7) Program Completion
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If the participant is no longer eligible for TANF benefits after the Work Supplementation Program period, a determination of continued medical eligibility shall be made in accordance with Section 112.330.

8) Anti-Displacement
The Work Supplementation Program is subject to the provisions of Section 112.78(p)(q).

h) Post-Secondary Education
Post-secondary education must be administered by an educational institution accredited under requirements of State law including, but not limited to, the Barber, Cosmetology and Esthetics Act of 1985 [225 ILCS 410], the Real Estate License Act of 1983 [225 ILCS 455], the Public Community College Act [110 ILCS 805], the University of Illinois Act [110 ILCS 305], the Chicago State Universities Law [110 ILCS 660], the Eastern Illinois University Law [110 ILCS 665], the Governors State University Law [110 ILCS 670], the Illinois State University Law [110 ILCS 675], the Northeastern Illinois University Law [110 ILCS 680], the Northern Illinois University Law [110 ILCS 685], the Western Illinois University Law [110 ILCS 690] and the Southern Illinois University Name Change Act [110 ILCS 505].

1) Approval Criteria For Post-Secondary Education

A) The individual must have a high school diploma or a GED.
B) Approval of post-secondary education is part of the process of developing the Responsibility and Services Plan (RSP) with the client. Factors to consider when determining whether post-secondary education is appropriate include, but are not limited to, the client's educational and work history, the client's aptitude for further education, the client's career goal, the client's ability to finance tuition and other expenses not provided by the Department, and the client's ability to arrange transportation, child care and other family obligations.
C) The individual must be enrolled full-time as defined by the institution or part-time if a full-time program is not available or appropriate to upgrade skills for current employment.
D) The individual must be in a program needed for the individual to obtain employment in a recognized occupation or upgrade skills for current employment.
E) The individual does not already possess a baccalaureate degree or an associate degree if the Responsibility and Services Plan goal is an associate degree.
F) If the participant possesses a baccalaureate degree, no additional
education may be approved.

G) The individual's program must be accredited under requirements of State law.

H) If needed, the individual must apply for all available educational benefits, such as the Pell Grant and scholarships from the Illinois Student Assistance Commission, as well as any scholarship or grants identified by the education or training facility for which the participant may be eligible.

I) Jobs, consistent with the individual's Responsibility and Services Plan, must be available in the chosen field in a specific geographical area where the individual intends to work upon program completion.

J) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

K) The program selected may be no more than a program that will result in the receipt of a baccalaureate degree consistent with the Responsibility and Services Plan.

L) For category 04 cases, the individual, unless exempted under (h)(1)(N) of this Section, must also be employed in unsubsidized work for at least 20 hours each week or be participating for at least 20 hours per week in one or more of the following paid or unpaid work activities:
   i) work study;
   ii) practicums, clinicals, or vocational internships such as student teaching, if required by the institution to complete the educational program;
   iii) apprenticeships;
   iv) self-employment; or
   v) enrollment as a full-time Americorps VISTA volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (41 USC 4951 et seq.).
   In addition, the combined work or work activities plus credit hours or class hours, as appropriate, must equal at least 25 hours per week.

M) For category 06 (two parent) cases, the parents in the case must be working or involved in approved work activities for a total of 35
hours per week, individually or combined.

N) Clients in a category 04 case with an approved RSP for full-time post-secondary education and a cumulative 2.5 or better grade point average (on a 4.0 scale) may not be subject to the minimum work requirement, described in (h)(1)(L) of this Section, as follows:

i) For the first semester, while the client is establishing a grade point average, the client will not be subject to the minimum work requirement. If a 2.5 grade point average is not achieved in the first semester, the client will be subject to the minimum work requirement in the second semester.

ii) As long as the client's cumulative GPA remains at least 2.5, the client will not be subject to the minimum work requirement.

iii) If the client's cumulative GPA falls below 2.5 at any time, the client may continue to go to school full-time for another semester without being subject to the minimum work requirement.

iv) If the cumulative GPA is below 2.5 two semesters in a row, the client will be subject to the minimum work requirement.

O) Individuals who lose employment, unless due to a temporary scheduled employer shutdown, can continue in post-secondary education and receive supportive services, if eligible, during the current semester while they seek employment. If the individual has not reentered employment by the end of the current semester, the individual will not continue in post-secondary education and receive supportive services, but will be reassigned to another appropriate activity.

2) Participation Requirements

A) The individual must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The individual would be allowed one semester below a "C" average to bring the grades up to a "C" average. When grades are not used, satisfactory progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term.

B) The client must complete all scheduled program enrollment hours each academic term to maintain satisfactory progress, except in the
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following situation. If the client withdraws from one or more scheduled courses during an academic term, the client must complete all scheduled enrollment hours during the following academic term. The client may withdraw from one or more scheduled classes in more than one academic term but must complete all scheduled enrollment hours the following academic term to maintain satisfactory progress.

C) Curriculum changes must be made with the approval of the TANF worker and will be approved when the change is consistent with the Responsibility and Services Plan.

i) Job Development and Placement (JDP)

1) TANF staff shall develop through contacts with public and private employers unsubsidized job openings for participants. Job interviews will be secured for clients by the marketing of participants for specific job openings.

2) Assignment to JDP
   - Job ready individuals may be assigned to JDP.

j) Job Retention

Job Retention is designed to assist participants in retaining employment. Job Retention expenses are provided. The individual's supportive service needs are assessed and the individual receives counseling regarding Job Retention skills. Counseling or job coaching may continue after employment begins as long as the individual continues to receive TANF.

k) Self-Employment

Self-employment activities will increase the individual's ability to start and maintain a business. Self-employment activities will include self-employment development training programs and technical assistance programs. In order to be approved in the self-employment component, the self-employment development plan must be approved.

1) Assignment to Self-Employment
   - Applicants must have a GED or high school diploma, some work experience and/or proven ability or have a plan that indicates success can be obtained without these requirements.

2) Participation Requirements
   - Participants must participate in the assigned number of hours.

l) Unstructured Community Service

Unstructured Community Service provides TANF participants with activities that emphasize and build on the individual's job seeking confidence by positively reinforcing the achievement of each small step gained in his or her successful
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advances toward employment. Activities may include volunteer work as well as job search contacts. Activities are closely monitored for compliance and for tracking the length of time that participants are assigned to Unstructured Community Service. At the reassessment the participant is assigned to the more structured work experience activity or Work First when the participant becomes more job ready. Participants are required to document their Job Search and Community Service activities. Activities must be at the State TANF Work Requirement level or as assigned by their Responsibility and Services Plan.

m) Targeted Work Initiative (TWI)

1) Selection of Participants

TANF cash recipients whose youngest child is age 13 or older shall be required to participate in TWI and must seek and accept employment as part of the TANF activity requirement, unless the recipient is excused for one of the following reasons (other TANF exemption reasons listed in Section 112.71 do not apply to the TWI population):

A) The recipient is temporarily ill or chronically ill.

i) An individual is temporarily ill when determined by the local office, on the basis of medical evidence (for example, a statement from a medical provider) or on another sound basis, that the illness or injury is serious enough to temporarily prevent the individual from engaging in employment or participating in a work activity. A sound basis for exemption on a temporary basis includes but is not limited to: the observation of a cast on a broken leg or the client provides information of a scheduled surgery or recuperation from surgery. Minor ailments and injuries, such as colds, broken fingers or rashes are not serious enough normally to exempt the individual under this criterion.

ii) An individual is chronically ill or incapacitated, as determined by the local office, when a physician or licensed or certified psychologist finds that a physical or mental impairment, either by itself or in conjunction with age or other factors, prevents the individual from engaging in employment or participating in a work activity. This includes a 12 week period of recuperation after childbirth.

iii) When an individual is determined either temporarily or chronically ill or incapacitated, the exclusion shall continue until further action is taken by the Department. When the
exemption is initially granted, the Department will establish a date as to when the condition warranting the exemption is expected to end or, upon case review, the exemption will be reevaluated to determine whether the exempted individual continues to be exempt under the same procedures as for the initial determination of exemption with appropriate notice to the individual that the reevaluation is necessary.

B) The recipient provides full time care for another household member due to that person’s medical condition or incapacity.

2) Work or Work First at 24 Months
   A) When the participant has been in TWI for 24 months, the participant must be working or in Work First to qualify the family for TANF, unless the participant is excused for one of the reasons in Section 112.78(m)(1). A participant who has been in TWI for 24 months who fails to cooperate with Work First shall make the family ineligible for TANF rather than be subject to sanction.
   B) Beginning with the first month in TWI, the addition to the household of a child under age 13 or the birth of a child more than 10 months later shall not extend the 24-month period.

3) Participation Requirements
   During the 24-month eligibility period, participants must cooperate with the requirements of the TANF Program as described in Section 112.72. Participants who fail to cooperate shall be subject to sanction.

4) Sanctions
   A) Reconciliation (see Section 112.77) will be attempted with participants who fail to meet participation requirements without good cause (see Section 112.80).
   B) When reconciliation is unsuccessful, the TANF sanctions will apply (see Section 112.79).

5) Activity Assignments for TWI Participants
   A) Initial Activity Assignment
   Participants will be placed in an appropriate activity.
   B) Assignment After 12 Months
      i) Participants who have completed their appropriate activity and have not become employed after 12 months will be assigned to the Work First/Pay After Performance program.
      ii) Participants in Work First must work at least 80 hours per month (20 hours per week for single-parent cases) or 120 hours per month (30 hours per week for two-parent cases)
in an assigned Pay After Performance position to earn their TANF grant and food stamps. If the value of the participant's TANF grant plus food stamps divided by 80 or 120, respectively, does not equal the federal minimum wage, then the hours will be reduced accordingly. If the participant does not work 80 hours per month for single-parent cases or 120 hours per month for two-parent cases, the reduction per hour not worked will be the amount of the grant divided by 80 hours or 120 hours respectively. The maximum number of hours worked cannot exceed the amount of TANF and food stamp allotment divided by the minimum wage.

iii) Participants in Work First must also complete 20 employer contacts each month.

iv) Participants will be assigned to Work First/Pay After Performance until they find unsubsidized employment. A review will be conducted every six months to determine appropriateness of assignment, if work skills are being gained and if the opportunity for placement exists.

v) The Department will develop Work First/Pay After Performance positions with private employers or not for profit or public agencies and will provide Worker's Compensation coverage for participants.

vi) Work First/Pay After Performance for TWI participants is subject to the provisions of Section 112.78(q).

vii) Individuals who fail to participate, without good cause, are determined to have not availed themselves of the Work First opportunity. If good cause is not determined, the entire case is ineligible for TANF assistance. Upon reapplication for TANF, the individual may be reassigned to a Work First position.

6) Failure to participate is determined to have occurred:

A) if the participant does not report to the provider or employer. Participants are deemed to have failed to report if they have not contacted the provider or employer in person, by telephone or mail, or by a third party; or

B) if the participant has engaged in misconduct connected with the Work First assignment. The term "misconduct" means deliberate and willful violation of a reasonable rule or policy of the employer.
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governing the individual's behavior in performance of work, provided such violation has harmed the employer or other employees or has been repeated by the individual despite a warning or the explicit instruction from the employer.

Work First/Pay After Performance for Non-TWI Participants

1) Participants who are not in TWI and quit employment without good cause or lose employment for reasons entirely out of their control (for example, plant closings or layoffs) will be required to participate in Work First/Pay After Performance for six months or until they obtain employment to the extent slots exist. To the extent that resources allow, job ready clients will also be targeted for Work First/Pay After Performance slots.

2) Individuals in a TANF case, assigned to Work First, must participate in Work First an average of at least 20 hours each week to earn their TANF grant and food stamps plus 5 employer contacts per week. If the participant does not work 80 hours per month, the reduction per hour not worked will be the amount of the grant divided by 80 hours.

3) Nonexempt individuals in a two-parent TANF case must participate an average of at least 30 hours each week in Work First and 5 employer contacts per week. If the individuals do not work 120 hours per month, the reduction per hour not worked will be the amount of the grant divided by 120 hours.

4) If the value of the participant's TANF grant plus food stamps divided by 80 or 120, respectively, does not equal the federal minimum wage, then the hours will be reduced accordingly.

5) Participants will be assigned to Work First/Pay After Performance until they find unsubsidized employment. An assessment will be conducted every six months to determine appropriateness of assignment, if work skills are being gained and if the opportunity for placement exists.

6) The Department will develop Work First/Pay After Performance positions with private employers or not-for-profit or public agencies. The Department shall provide Worker's Compensation coverage for participants. The Department will ensure all applicable employer safety laws are met for Work First/Pay After Performance assignments. Failure of an employer to do so will result in termination of the contract.

7) Work First/Pay After Performance for non-TWI participants is subject to the provisions of subsection (pq) of this Section.

8) Individuals who fail to participate, without good cause, are determined to have not availed themselves of the Work First opportunity. If good cause is not determined, the entire case is ineligible for TANF assistance. Upon
reaplication for TANF, the individual may be reassigned to a Work First position.

9) Failure to participate is determined to have occurred:
   A) if the participant does not report to the provider or employer. Participants are deemed to have failed to report if they have not contacted the provider or employer in person, by telephone or mail, or by a third party; or
   B) if the participant has engaged in misconduct connected with the Work First assignment. The term "misconduct" means deliberate and willful violation of a reasonable rule or policy of the employer governing the individual's behavior in performance of work, provided such violation has harmed the employer or other employees or has been repeated by the individual despite a warning or the explicit instruction from the employer.

ne) Substance Abuse
   1) Selection of Participants
      If alcohol or substance abuse is suspected as a barrier to employment during the family assessment process or at an intake interview, the client will be referred for a clinical assessment by an alcohol/substance abuse counselor. If treatment is indicated, the client will be required to follow-up as a condition of eligibility, unless the client is employed more than 30 hours per week or if treatment resources are not available.

2) Work Activity
   Clients participating in alcohol/substance abuse treatment in accordance with their Responsibility and Services Plan are participating in a work activity.

3) Supportive Services
   Supportive services, i.e., child care and transportation, will be provided to enable clients' participation in treatment, to the extent resources are available.

4) Sanctions
   A) Reconciliation will be attempted with clients who fail to cooperate with their treatment plan. Cooperation with the treatment plan will be defined by the alcohol/substance abuse provider, based on uniform guidelines.
   B) When reconciliation is unsuccessful, the TANF sanctions will apply.

op) Domestic Violence
   1) Selection of Participants
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All clients receiving TANF will have a family assessment completed. If domestic violence is a barrier to employment, the client will be referred to a domestic violence service provider.

2) Work Activity
Clients participating in domestic violence abuse treatment are in accordance with their Responsibility and Services Plan and are participating in a work activity.

3) Supportive Services
Supportive Services, i.e., child care and transportation, will be provided to enable clients' participation in treatment, to the extent resources are available.

4) Sanctions
If the individual does not comply with the Responsibility and Services Plan relating to domestic violence, a sanction will not be imposed. The Responsibility and Services Plan will be reviewed, and other work related activities will be developed. Compliance will be required for the new activities.

Anti-Displacement and Grievance Procedure
1) An employer may not utilize a work activity participant if such utilization would result in:
   A) the displacement or partial displacement of current employees, including but not limited to a reduction in hours of non-overtime or overtime work, wages, or employment benefits; or
   B) the filling of a position that would otherwise be a promotional opportunity for current employees; or
   C) the filling of a position created by or causing termination, layoff, a hiring freeze, or a reduction in the workforce; or
   D) the placement of a participant in any established unfilled vacancy; or
   E) the performance of work by a participant if there is a strike, lockout, or other labor dispute in which the employer is engaged.

2) An employer who wishes to utilize work activity participants shall notify the appropriate labor organization in accordance with the applicable State statute [305 ILCS 5/9A-13].

3) Participants, other employees at the work site or their representative, may file a grievance with the Department if they believe the participant's work assignments are causing displacement. In order for the Department to consider a grievance, it must be in writing and contain the following information:
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A) the name and address of the participant or other employee at the work site (the grievant);
B) the participant's case number (if grievant is participant);
C) the grievant's Social Security number;
D) Work Experience (work site); and
E) a statement as to why the grievant believes the participant is causing displacement.

4) Within ten days after receipt of a written grievance, the Department shall arrange an in-person conference with:
   A) the grievant;
   B) the grievant's representative, if any;
   C) the Work Experience Sponsor;
   D) the Work Experience Sponsor's representative, if any; and
   E) the Department's representative.

5) At the in-person conference, the Department shall solicit and receive from the grievant and the Work Experience Sponsor any documents and statements relevant to the matters alleged in the grievance. The Work Experience Sponsor shall provide whatever documents or other information is requested by the grievant and/or the Department.

6) Within 15 days after the in-person conference, the Department shall advise the participant or other employee at the work site and the Work Experience Sponsor in writing of the information obtained in the investigation and of the findings and conclusions as to the matters alleged in the grievance.

7) If the Department concludes that displacement occurred (as described in subsection (p) of this Section), the Department shall terminate the participant's assignment to that Work Experience Sponsor. If the Department concludes, as a result of the evidence presented at the conference, that the Work Experience Sponsor has caused displacement by use of TANF participants in addition to the participants involved in the grievance, the Department shall terminate those TANF participants' assignment to that work assignment Sponsor.

8) The Department, its employees or the Work Experience Sponsor shall not retaliate for filing a grievance or otherwise proceeding under this policy. Retaliation will result in the termination of the Work Sponsor contract.

(Source: Amended at 27 Ill. Reg. 4545, effective February 28, 2003)

Section 112.83 Teen Parent Services
Teen Parent Services (TPS) Program provides Teen Parent Services Program assists pregnant or parenting teens age 19 or younger while in below post-secondary education or any age while in high school and who receive assistance under the Temporary Assistance for Needy Families (TANF) program. Teen Parent Services (TPS) helps young persons in school to obtain a high school diploma or equivalent so they can become self-sufficient and move from dependence to independence. The major goal of TPS is to provide case management services that assist pregnant or parenting teens, to participate in who are receiving TANF, in a minimum of 20 hours per week of education and/or related activities to enable them to attain a high school or alternative high school diploma, or GED certificate and move toward self-sufficiency. The major objectives of TPS include:

1) keeping pregnant or parenting teens in school and progressing toward achieving a high school diploma or GED certificate;
2) providing on-site or making referrals to family-centered activities and services to meet personal, physical and social needs;
3) to the extent resources allow, assuring that all of the pregnant or parenting young persons receive parenting skills, child growth and development instruction and health services delivery information;
4) increasing paternities established and support paid by providing information and follow-up on the Child Support Enforcement program;
5) instilling knowledge and modifying behaviors to enable long term self-reliance and thus breaking the generational cycle of welfare dependence; and
6) developing an individualized Responsibility and Services Plan to move to economic self-sufficiency.

Program Services

1) Teen Parent Services are available statewide. TPS participants who receive TANF are entitled to the same supportive services as TANF employment and work-activity participants as described in Section 112.82. Other TPS participants may receive supportive services as described in Section 112.82 to the extent the TPS budget allows. To be eligible to enroll, a person must be pregnant or a parent, under the age of 20, a recipient of TANF or other DHS services such as Family Case Management, food stamps or Woman, Infant and Children (WIC) program, or DPA services such as FamilyCare, and not have a high school diploma or GED certificate.

2) A participant who attains age 19 may remain in the Program for advancement of the participant’s plan Family—Assessment—
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Responsibility and Services Plan in effect until his or her twenty-first twentieth birthday. Upon completion of the plan, TANF participants are transitioned to the adult TANF Program (see Sections 112.70 through 112.82). A participant of any age who is in high school may remain in TPS while in high school when classes are in session, or when enrolled and expected to attend classes following semester break. Upon completion of high school, the participant may remain in TPS for up to six months for advancement of the Family Assessment and Responsibility and Services Plan in effect until his or her twentieth birthday.

c) Teen Parent Services Program operates as follows:
   1) TPS is administered by the Department of Human Services. Depending on the address of the participant, the program is operated either by DHS staff or under contract with health departments, community agencies, organizations, entities and educational institutions that are experienced in working with youth and trained in Departmental policies, programs and services.
   2) The Teen Parent Services Program shall:
      A) Arrange and monitor the participant's education at a high school/alternative high school or GED program which is a minimum of 20 hours per week.
      B) Provide a program orientation that includes:
         i) information on program requirements;
         ii) an explanation of the program activities/services including program goals and participant responsibilities to attend classes for a high school diploma or GED certificate;
         iii) an explanation of the supportive services available, including an assessment of the need for child care and transportation to attend classes;
         iv) an explanation of the mandatory nature of the program for TANF recipients and the reconciliation process, including good cause and sanction; and
         v) an explanation of the Department's programs, including but not limited to the income budgeting process (Work Pays); Child Support Enforcement Program; Child Care Program; and eligibility for the FamilyCare Program, Transitional Medical Assistance.
   3) Conduct an assessment of strengths, weaknesses, abilities, and career interests, education and employment history, family health including
family planning and a record of children's immunizations that were done or need to be done, prenatal care and identification of a primary care provider. During the assessment process, the worker is to obtain or otherwise determine the participant's current literacy level. TPS will develop an assessment a Family Assessment and plan Responsibility and Services Plan for each participant. The plan for TPS participants who receive TANF includes an agreement by the participant to cooperate with paternity establishment and child support enforcement and attend parenting and life skills classes if required. The plan for TPS participants who receive TANF must also include an agreement to not voluntarily quit a job without good cause as determined by the TPS case manager. The plan for all TPS participants Responsibility and Services Plan also establishes the responsibilities of the TPS case manager in helping the participant set up a plan to become self supporting. The TPS case manager provides the participant with the services necessary to allow the teen parent to move toward independence, including, but not limited to: education, employment and training programs; supportive services such as reimbursement for child care and transportation; and help in establishing paternity, getting a support order and collecting child support. Once completed, the plan is to be signed by the teen parent, if the teen receives TANF.

4) Conduct workshops and/or activities of interest and concern to participants as determined to be helpful to preparing the pregnant or parenting teen to complete his or her education and obtain employment. These activities include but are not limited to:
   A) parenting instruction;
   B) child growth and development classes;
   C) home and family management instruction;
   D) decision making skills;
   E) life skills instruction;
   F) structured and supervised study time;
   G) volunteer work and peer tutoring;
   H) work study; and
   I) job readiness.

5) Offer a case management approach to customer service that which includes the use of intervention techniques to eliminate the barriers to ongoing participation and goal attainment by close monitoring and follow-up. The case manager works closely with the teen, his or her family and significant others in the process. The case manager provides or
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coordinates counseling and mediation services, advocacy, service referral and role modeling.

6) Facilitate health services delivery for pregnant or parenting teens and their children, particularly Early and Periodic Screening, Diagnosis and Treatment (EPSDT); prenatal care; instruction on postponing subsequent pregnancy; health and sexuality education including risk reduction for STD/HIV infection and abstinence; and information on birth control and primary health care providers. Referral for drug and alcohol abuse prevention, violence prevention, and other health and safety related areas.

7) Having ongoing communication with the schools and/or community agencies that serve the teen parents to facilitate coordination of service delivery and school attendance.

8) For pregnant or parenting teens, provide assistance in the development of a child care plan and follow-up on referrals for the provision of child care. Referrals may be made to the Child Care Resource and Referral network (CCR & R) or any other customer serving agency in the community or any other source.

9) Conduct activities and events, including job fairs, related to employment development and job placement.

10) The following on-site or community education activities as needed: tutoring; GED; Adult Basic Education and literacy classes; return-to-school preparation classes; computer assisted literacy lab; computer assisted career exploration; or appropriate alternative.

11) On-site or community enrichment and goal directed activities such as: cultural, health, or education fairs; holiday celebrations; and paternal involvement sessions.

12) Regular developmental parent-child activities including: on-site family literacy instruction; education field trips; teaching child play and communication; toy making; and parent-child parties.

13) Upon completion of the TPS below post-secondary education plan, if the teen is under age 21, he or she may remain in TPS, for up to six months from transition into the adult TANF Program. A parent of any age may remain in TPS while enrolled in high school. For participants who receive TANF, upon completion of TPS activity or when otherwise no longer eligible for TPS, the case is transferred to adult TANF employment services.

d) Assignment to TPS Activities

1) Based on the Family assessment Assessment and plan Responsibility and
Services Plan, the participant is assigned to one of the following activities: Education, Vocational Training, Job Readiness, or Job Search. Participation in each of the TPS activities consists of performance of related activities such as: enrolling in and attending school, English as a Second Language (ESL) instruction, training, or conducting a job search; and/or attending assigned group and/or individual activities. See Section 112.78 for description of program activities and participation requirements.

2) If a need for services other than or in addition to TPS services is determined, the participant will be assisted in obtaining necessary services or will be referred to the appropriate provider.

3) Every thirty days six months or more frequently, the TPS worker shall reassess the plan and determine whether to continue, revise or terminate the participant's plan responsibility and services plan and/or activity assignment.

4) If the plan responsibility and services plan and/or assigned activity are not suited to a participant's needs, the plan shall be revised with input from the participant and the TPS worker and, if necessary, the participant shall be assigned to a more suitable activity.

e) Teen Parent Services Sanction (TANF participants only)
See Section 112.79 for TANF sanction rules for failure to cooperate with Teen Parent Services Program requirements.

f) Good Cause for Failure to Comply with Teen Parent Services Participation Requirements (TANF participants only)
See Section 112.80 on good cause rules for failure to comply with Teen Parent Services participation requirements.

g) Termination of TPS Cases
TPS cases shall be terminated if for any of the following reasons: 1) the participant no longer receives assistance through TANF; 2) the participant completes high school and is age 21 or older or completes other below post-secondary education and is age 21-20.

h) Reconciliation and Fair Hearings
See Section 112.77 for Reconciliation and Fair Hearings rules.

i) TANF Supportive Services Expenses
In order to enable TPS participants to engage in TPS approved activities or to provide access to services for the treatment of physical, mental and/or substance abuse related problems for themselves and/or their children, payment requests for certain education or training expenses, initial employment/job retention expenses,
job search allowance, child care and/or transportation costs may be approved by TPS workers. (See Section 112.82.)

j) Family Assessment and Responsibility and Services Plan (TANF participants only)

1) A young parent, who is required to participate in the Teen Parent Services (TPS) Program, must complete the assessment Family Assessment and plan Responsibility and Services Plan. The plan is completed as part of the Family Assessment.

2) The plan Family Assessment and Responsibility and Services Plan defines the responsibilities the young parent must meet to receive TANF cash assistance and what services the Department agrees to provide. The plan outlines family needs, the required activities and necessary supportive services. The plan must be signed by both the young parent and the TPS case manager. The plan sets the following goals for the young parent and describes how the Department will help the young parent to meet these goals:
   A) attend school to complete a high school education;
   B) establish paternity for the young parent's child or children and obtain child support;
   C) improve the young parent's parenting skills; and
   D) seek and obtain full-time employment.

3) Completion of the assessment Family Assessment and plan Responsibility and Services Plan is a TANF employment and work-activity requirement for TPS participants. Failure to cooperate in completing the plan shall result in a sanction as described in Section 112.79, if reconciliation is not successful, unless the participant has a child 12 weeks of age or younger.

(Source: Amended at 27 Ill. Reg. 4545, effective February 28, 2003)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Food Stamps

2) **Code Citation:** 89 Ill. Adm. Code 121

3) **Section Numbers:**

   121.10 **Adopted Action:** Amendment

4) **Statutory Authority:**

   Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

5) **Effective Date of Amendments:** February 28, 2003

6) **Does this rulemaking contain an automatic repeal date?**

   - Yes  **X** No

7) **Do these amendments contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:**

   October 4, 2002 (26 Ill. Reg. 14452)

10) **Has JCAR Issued a Statement of Objections to this Rule?** No

11) **Difference(s) between proposal and final version:**

    In Section 121.10(d), “the household” was changed to “the Department will issue a Notice of Missed Interview that will inform the household that the household missed its scheduled interview and that the household”.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will these amendments replace an emergency amendments currently in effect?** No
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part: Yes

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Illinois Register Citation</th>
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<tbody>
<tr>
<td>121.20</td>
<td>Amendment</td>
<td>27 Ill. Reg. 2533, 02/14/03</td>
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<tr>
<td>121.92</td>
<td>Amendment</td>
<td>26 Ill. Reg. 17605, 12/13/02</td>
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15) Summary and Purpose of Rule:

These amendments revise the provisions for the scheduling of a second interview when the household has missed the first scheduled appointment. This rulemaking removes the requirement that the Department schedule a second interview. As a result of these amendments, if the household fails to appear for the scheduled interview, the Department will issue a Notice of Missed Interview that will inform the household that the household missed its scheduled interview and that the household is responsible for requesting another interview.

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

Karl Menninger, Acting Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg. 3rd Floor
Springfield, Illinois 62762
Telephone number: (217) 785-9772

The full text of Adopted Amendments begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

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121.3 Approval of an Application and Initial Authorization of Assistance
121.4 Denial of an Application
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121.10 Interviews

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121.18 Work Requirement
121.19 Ending a Voluntary Quit Disqualification (Repealed)
121.20 Citizenship
121.21 Residence
121.22 Social Security Numbers
121.23 Work Registration/Participation Requirements
121.24 Individuals Exempt from Work Registration Requirements
121.25 Failure to Comply with Work Provisions
121.26 Period of Sanction
121.27 Voluntary Job Quit/Reduction in Work Hours
121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

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DEPARTMENT OF HUMAN SERVICES

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121.50 Exempt Earned Income
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121.71 Living Arrangement
121.72 Nonhousehold Members
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121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility
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SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

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121.80 Fraud Disqualification (Renumbered)
121.81 Initiation of Administrative Fraud Hearing (Repealed)
121.82 Definition of Fraud (Renumbered)
121.83 Notification To Applicant Households (Renumbered)
121.84 Disqualification Upon Finding of Fraud (Renumbered)
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121.90 Monthly Reporting and Retrospective Budgeting
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121.98 Client Training for the Electronic Benefits Transfer (EBT) System
121.105 State Food Program (Repealed)
121.107 New State Food Program
121.120 Recertification of Eligibility
121.130 Residents of Shelters for Battered Women and their Children
121.131 Fleeing Felons and Probation/Parole Violators
121.135 Incorporation By Reference
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SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

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DEPARTMENT OF HUMAN SERVICES

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121.162 Program Requirements
121.163 Vocational Training
121.164 Orientation (Repealed)
121.165 Community Work
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121.177 Illinois Works Component (Repealed)
121.178 Job Training Component (Repealed)
121.179 JTPA Employability Services Component (Repealed)
121.180 Grant Diversion Component (Repealed)
121.182 Earnfare Activity
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121.186 Good Cause for Failure to Cooperate
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121.190 Conciliation
121.200 Types of Claims (Recodified)
121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203 Collecting Claim Against Households (Recodified)
121.204 Failure to Respond to Initial Demand Letter (Recodified)
121.205 Methods of Repayment of Food Stamp Claims (Recodified)
121.206 Determination of Monthly Allotment Reductions (Recodified)
121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section
121.220 Work Requirement Components (Repealed)
121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)
121.222 Volunteer Community Work Component (Repealed)
121.223 Work Experience Component (Repealed)
121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
DEPARTMENT OF HUMAN SERVICES

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121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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SUBPART A: APPLICATION PROCEDURES

Section 121.10 Interviews

a) All applicant households, including those submitting applications by mail, shall have face-to-face interviews in a food stamp office with a qualified eligibility worker prior to initial certification and all recertifications.

b) Interview Process

1) The individual interviewed may be the head of the household, spouse, any other adult member of the household who is sufficiently familiar with the household's circumstances to be able to assist in the determination of eligibility, or an authorized representative (see Section 121.1(e) (1) and (2)). The applicant may bring any person he/she chooses to the interview. Prior to beginning the interview, the applicant shall indicate which persons are not applying for food stamps because they are unable or unwilling to provide alien status verification.

2) The interviewer shall not simply review the information that appears on the application, but shall explore and resolve with the household unclear and incomplete information.

3) Households shall be advised of their rights and responsibilities during the interview, including the appropriate applications processing standard (see Sections 121.2 and 121.7) and the household's responsibility to report changes.

4) The interview shall be conducted as an official and confidential discussion of household circumstances. The applicant's right to privacy shall be protected during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.

c) Waiver of Office Interviews

1) The office interview shall be waived if requested by any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because they are qualifying members as defined in Section 121.61.
DEPARTMENT OF HUMAN SERVICES

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2) The office interview shall also be waived on a case-by-case basis for any household which is unable to appoint an authorized representative and which has no household members able to come to the food stamp office because of transportation difficulties or similar hardships which the Department determines warrants a waiver of the office interview. These hardship conditions include, but are not limited to:
A) illness;
B) care of household member;
C) hardships due to residency in a rural area;
D) prolonged severe weather;
E) work or training hours which prevent the household from participating in an in-office interview.

3) The Department shall determine if the transportation difficulty or hardship reported by a household warrants a waiver of the office interview and shall document in the case file why a request for a waiver was granted or denied.

4) The Department has the option of conducting a telephone interview or a home visit for those households for whom the office interview is waived. Home visits shall be used only if the time of the visit is scheduled in advance with the household. However, a home visit interview for redetermination of eligibility for financial assistance/recertification does not have to be scheduled with the household in advance.

5) Waiver of the face-to-face interview does not exempt the household from the verification requirements, although special procedures may be used to permit the household to provide verification and thus obtain its benefits in a timely manner, such as substituting a collateral contact in cases where documentary verification would normally be provided.

6) Waiver of the face-to-face interview shall not affect the length of the household's certification period.

d) The Department shall schedule all interviews as promptly as possible to ensure the eligible households receive an opportunity to participate within thirty (30) days after the application is filed. If a household fails to appear for the scheduled interview, the Department will issue a Notice of Missed Interview that will inform the household that the household missed its scheduled interview and that the household is responsible for requesting another interview.

1) If a household fails to appear for the first interview, the Department shall attempt to schedule another interview. The interview shall be rescheduled by the Department without requiring the household to provide good cause for failing to appear.
DEPARTMENT OF HUMAN SERVICES

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2) If the household does not appear for the rescheduled interview, the Department shall not initiate action to schedule any further interviews unless the household requests that another interview be scheduled.

3) For recertification applications, the Department shall schedule only one interview after the application is filed. The household is responsible for requesting another interview if the one scheduled is missed.

(Source: Amended at 27 Ill. Reg. 4583, effective February 28, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: General Definitions

2) Code Citation: 62 Ill. Adm. Code 1701

3) Section Numbers: Adopted Action:
   Appendix A Amended

4) Statutory Authority: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) Effective Date of Amendments: February 26, 2003

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 19, 2002, 26 Ill. Reg. 5553

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

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

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking:

   The definition of “Valid Existing Rights (VER)” has been changed to that found in the new federal regulations.

   The definition of “Interagency Committee” has been removed since it was abolished by Public Act 90-0490.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1701

GENERAL DEFINITIONS

Section
1701.5 Definitions
APPENDIX A Definitions

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].


Section 1701.APPENDIX A Definitions

As used in 62 Ill. Adm. Code 1700 through 1850, the following terms have the specified meanings, except when another meaning is given:

"Acid drainage" means water with a pH of less than 6.0 and in which total acidity exceeds total alkalinity, discharged from an active, inactive or abandoned surface coal mine and reclamation operation or from an area affected by surface coal mining and reclamation operations.

"Acid - forming materials" means earth materials that contain sulfide minerals or other materials which, if exposed to air, water or weather processes, form acids that may create acid drainage.

"Act or Federal Act" means the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87 (30 USC 1201 et seq.).
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"Adjacent area" means the area located outside the permit area, or shadow area, where a resource or resources, determined according to the context in which adjacent area is used, are or reasonably could be expected to be adversely impacted by proposed mining operations.

"Administratively complete application" means an application for permit approval or approval for coal exploration where required, which the Department determines to contain information addressing each application requirement of the regulatory program and to contain all information necessary to initiate processing and public review.

"Affected area" means, with respect to surface mining activities, any land or water upon or in which those activities are conducted or located. With respect to underground mining activities, affected area means: any water or surface land upon which those activities are conducted or located.

"Agricultural use" means the use of any tract of land for the production of animal or vegetable life. The uses include, but are not limited to, the pasturing, grazing, and watering of livestock, and the cropping, cultivation, and harvesting of plants.

"Applicant" means any person seeking a permit; permit revision; renewal; or transfer, assignment or sale from the Department to conduct surface coal mining and reclamation operations or, where required, seeking approval for coal exploration.

"Applicant Violator System" or "AVS" means the computer system maintained by OSM to identify ownership or control links involving permit applicants, permittees, and persons cited in violation notices.

"Application" means the documents and other information filed with the Department under these regulations for the issuance of permits; revisions; renewals; and transfer, assignment, or sale of permit rights for surface coal mining and reclamation operations or, where required, for coal exploration.

"Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined areas so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls, and spoil piles and coal refuse piles eliminated. Permanent water impoundments may be
permitted where the Department has determined that they comply with 62 Ill. Adm. Code 1816.49 and 1816.56, 1816.133 or 1817.49, 1817.56 and 1817.133. (Section 1.03(a)(2) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(2)])

"Aquifer" means a zone, stratum, or group of strata that can store and transmit water in sufficient quantities for specific use.

"Article" means an Article of the State Act.

"Auger mining" means a method of mining coal at a cliff or highwall by drilling holes into an exposed coal seam from the cliff or highwall and transporting the coal along an auger bit to the surface.

"Best technology currently available" means equipment, devices, systems, methods, or techniques which will:

prevent, to the extent possible, additional contributions of suspended solids to stream flow or runoff outside the permit area, but in no event result in contributions of suspended solids in excess of requirements set by 62 Ill. Adm. Code 1816.42; and

minimize, to the extent possible, disturbances and adverse impacts on fish, wildlife and related environmental values, and achieve enhancement of those resources where practicable. The term includes equipment, devices, systems, methods, or techniques which are currently available anywhere as determined by the Department, even if they are not in routine use. The term includes, but is not limited to, construction practices, siting requirements, vegetative selection and planting requirements, animal stocking requirements, scheduling of activities and design of sedimentation ponds in accordance with 62 Ill. Adm. Code 1816 and 1817.

"Boxcut" means the first open cut resulting in the placing of overburden on unmined land adjacent to the initial pit.

"Cemetery" means any area of land where human bodies are interred.

"Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-84 found at pp. 247-252 in Vol 5.05 of the Annual Book of ASTM Standards published by the
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"Coal exploration" means the field gathering of:

- surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; or

- the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of 62 Ill. Adm. Code 1700 through 1850.

"Coal mine waste" means coal processing waste and underground development waste.

"Coal mining operation" means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite, or lignite, or of reclaiming the area upon which such activities occur.

"Coal processing or coal preparation" means chemical or physical processing and the cleaning, concentrating, or other processing or preparation of coal.

"Coal preparation plant" means a facility where coal is subjected to chemical or physical processing or the cleaning, concentrating, or other processing or preparation. It includes facilities associated with coal preparation activities including, but not limited to the following: loading facilities; storage and stockpile facilities; sheds, shops and other buildings; water treatment and water storage facilities; settling basins and impoundments; coal processing and other waste disposal areas.

"Coal processing waste" means earth materials which are separated and wasted from the product coal during cleaning, concentrating, or other processing or preparation of coal.

"Combustible material" means organic material that is capable of burning, either by fire or through oxidation, accompanied by the evolution of heat and a significant temperature rise.
"Community or institutional building" means any structure, other than a public building or an occupied dwelling, which is used primarily for functions of community groups; used for an educational, cultural, historic, religious, scientific, correctional, mental-health or physical-health care facility; or is used for public services, including, but not limited to, water supply, power generation or sewage treatment.

"Compaction" means increasing the density of a material by reducing the voids between the particles and is generally accomplished by controlled placement and mechanical effort such as from repeated application of wheel, track, or roller loads from heavy equipment.

"Complete and accurate application" means an application for permit approval or approval for coal exploration where required, which the Department determines contains all information which the State Act and 62 Ill. Adm. Code 1700 - 1850 require.

"Consolidated material" means materials of sufficient hardness or stability to resist weathering so as to inhibit erosion or sloughing.

"Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

"Cumulative impact area" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and groundwater systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of:

the proposed operation;

all existing operations;

any operation for which a permit application has been submitted to the Department.

"Darkened surface soil" means mineral horizons formed at or adjacent to the surface of the soil which are higher in organic matter content, and visibly darker in color than the immediately underlying horizons.
"Department" means the Illinois Department of Natural Resources, Office of Mines and Minerals, or its successor.

"Direct financial interest" means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operations. Direct financial interests include employment, pensions, creditor, real property, and other financial relationships.

"Director" means the Director of the Department of Natural Resources.

"Disturbed area" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as disturbed until reclamation is complete and the performance bond or other assurance of performance required by 62 Ill. Adm. Code 1800 is released.

"Diversion" means a channel, embankment, or other man-made structure constructed to divert water from one area to another.

"Downslope" means the land surface between the projected outcrop of the lowest coalbed being mined along each highwall and a valley floor.

"Drinking, domestic or residential water supply" means water received from a well or spring and any appurtenant delivery system that provides water for direct human consumption or household use. Wells and springs that serve only agricultural, commercial or industrial enterprises are not included except to the extent the water supply is for direct human consumption, human sanitation, or domestic use.

"Embankment" means an artificial deposit of material that is raised above the natural surface of the land and used to contain, divert, or store water, support roads or railways, or for other similar purposes.

"Employee" means:

any person employed by the Department who performs any function or duty under the Act; and
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advisory board or commission members and consultants who perform any function or duty under the Act, if they perform decision-making functions for the Department under the authority of State law or regulations. However, members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests are not considered to be employees. State officials may through State law or regulations expand this definition to meet their program needs.

"Ephemeral stream" means a stream which meets both of the following requirements:

It flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice; and

It has a channel bottom that is always above the local water table.

"Excess spoil" means spoil material disposed of in a location other than the mined-out area; provided, the spoil material used to achieve the approximate original contour or to blend the mined-out area with the surrounding terrain in accordance with 62 Ill. Adm. Code 1816.102(d) and 1817.102(d) in nonsteep slope areas shall not be considered excess spoil.

"Existing structure" means a structure used in connection with surface coal mining and reclamation operations for which construction began prior to June 1, 1982.

"Federal Director" means the Director of the Federal Office of Surface Mining Reclamation and Enforcement.

"Federal violation notice" means a violation notice issued by OSM or by another agency or instrumentality of the United States.

"Final cut" means the last pit created in a surface-mined area.

"Fragile lands" means geographic areas containing important natural, ecologic, scientific or esthetic resources that could be damaged or destroyed by surface coal mining operations. Examples of fragile lands include valuable habitats for fish or wildlife, critical habitats for endangered or threatened species of animals or plants, uncommon geologic formations, National Natural Landmark sites, areas where mining may cause flooding, environmental corridors containing a
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concentration of ecologic and esthetic features, areas of recreational value due to high environmental quality, and buffer zones adjacent to the boundaries of areas where surface coal mining operations are prohibited under Section 7.01 of the State Act [225 ILCS 720/7.01] and 62 Ill. Adm. Code 1761.11, if those areas have characteristics requiring additional areal protection or if the buffer zone itself contains fragile resources.

"Fugitive dust" means that particulate matter not emitted from a duct or stack which becomes airborne due to the forces of wind or surface coal mining and reclamation operations or both. During surface coal mining and reclamation, it may include emissions from haul roads; wind erosion of exposed surfaces, storage piles, and spoil piles; reclamation operations; and other activities in which material is either removed, stored, transported, or redistributed.

"Gravity discharge" means, with respect to underground mining activities, mine drainage that flows freely in an open channel downgradient. Mine drainage that occurs as a result of flooding a mine to the level of the discharge is not gravity discharge.

"Ground cover" means the area of ground covered by the combined aboveground parts of vegetation and by the litter that is produced naturally on site.

"Ground water" means subsurface water that fills available openings in rock or soil materials to the extent that they are considered water saturated.

"Head-of-hollow fill" means a fill structure consisting of any material, other than organic material, placed in the uppermost reaches of a hollow where side slopes of the existing hollow measured at the steepest point are greater than 20 degrees or the average slope of the profile of the hollow from the toe of the fill to the top of the fill is greater than ten degrees. In head-of-hollow fills, the top surface of the fill, when completed, is at approximately the same elevation as the adjacent ridge line, and no significant area of natural drainage occurs above the fill draining into the fill area.

"High capability land" means land not meeting the definition of prime farmland or land exempted in accordance with 62 Ill. Adm. Code 1785.17 where the Department determines the following three facts are present together:

The land is capable of being reclaimed for row-crop agricultural purposes;
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The land is suitable for row-crop agricultural purposes based on U.S. Department of Agriculture, Soil Conservation Service soil survey classifications of the affected land prior to mining (all soil types in capability Classes I, II, III and those soil types in capability Class IV with slopes of five percent or less), as set forth in Land-Capability Classification, Agriculture Handbook No. 210, published by the U.S. Department of Agriculture, Soil Conservation Service in 1973; and

The optimum future use of the land is for row-crop agricultural purposes.

"Highwall" means the face of exposed overburden and coal in an open cut of a surface coal mining activity or for entry to underground mining activities.

"Highwall remnant" means that portion of highwall that remains after backfilling and grading of a remining permit area.

"Higher or better uses" means post-mining land uses that have a higher economic value or nonmonetary benefit to the landowner or the community than the premining land uses.

"Historically used for cropland" means:

Lands that have been used for cropland for any five years or more out of the ten years immediately preceding the acquisition, including purchase, lease, or option, of the lands for the purpose of conducting or allowing through resale, lease or option, the conduct of surface coal mining and reclamation operations;

Lands that the Department determines, on the basis of additional cropland history of the surrounding lands and the lands under consideration that the permit area is clearly cropland but falls outside the specific five-years-in-ten criterion, in which case the regulations for prime farmland shall be applied to include more years of cropland history only to increase the prime farmland acreage to be preserved; or

Lands that would likely have been used as cropland for any five out of the last ten years, immediately preceding such acquisition but for the same fact of ownership or control of the land unrelated to the productivity of the land.
"Historic lands" means, for purposes of implementing 62 Ill. Adm. Code 1762 and 1764, important historic, cultural, and scientific areas that could be damaged or be destroyed by surface coal mining operations. Examples of historic lands include archaeological and paleontological sites, National Historic Landmark sites, sites listed on or eligible for listing on a State or National Register of Historic Places, sites having religious or cultural significance to native Americans or religious groups or sites for which historic designation is pending.

"Hydrologic balance" means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. It encompasses the dynamic relationships among precipitation, runoff, evaporation, and changes in ground and surface water storage.

"Hydrologic regime" means the entire state of water movement in a given area. It is a function of the climate and includes the phenomena by which water first occurs as atmospheric water vapor, passes into a liquid or solid form, falls as precipitation, moves along or into the ground surface, and returns to the atmosphere as vapor by means of evaporation and transpiration.

"Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirements of the State Act in a surface coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same condition or practice giving rise to the peril, would avoid exposure to the danger during the time necessary for abatement. (Section 1.03(a)(7) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(7)])

"Impounding structure" means a dam, embankment, or other structure used to impound water, slurry, or other liquid or semi-liquid material.

"Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

"Indirect financial interest" means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests, including interests held by his or her spouse, minor child and other relatives, including in-
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laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's duties and the coal mining operation in which the spouse, minor children, or other resident relatives hold a financial interest.

"In situ processes" means activities conducted in connection with in-place distillation, retorting, leaching, or other chemical or physical processing of coal. The term includes, but is not limited to, in situ gasification, in situ leaching, slurry mining, solution mining, borehole mining, and fluid recovery mining.

"Interagency Committee" means the Interagency Committee on Surface Mining Control and Reclamation Section 1.05 of the State Act created.

"Intermittent stream" means:

A stream or reach of a stream that drains a watershed of at least one square mile; or

A stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface runoff and ground water discharge.

"Irreparable damage to the environment" means any damage to the environment in violation of the State Act or 62 Ill. Adm. Code, Chapter 1 that cannot be corrected by actions of the applicant.

"Land capability" means the soils' premining capabilities based on the United States Department of Agriculture, Soil Conservation Service classification system as found in Agriculture Handbook No. 210, Land-Capability Classification, (1973) as interpreted from the soils map for sustained production of commonly cultivated crops or for the production of permanent vegetation.

"Land eligible for remining" means those lands that would otherwise be eligible for expenditures under Section 402(g)(4) or Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 USC 1232(g)(4), 1234).

"Land use" means specific uses or management-related activities, rather than the vegetation or cover of the land. Land uses may be identified in combination when joint or seasonal uses occur and may include land used for support facilities that are an integral part of the use. Changes of land use or uses from one of the following categories to another shall be considered as a change to an alternative
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land use which is subject to approval by the Department in accordance with 62 Ill. Adm. Code 1780.23.

"Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops. Allowable support facilities include access roads, farm buildings, hedgerows, erosion control structures such as grassed waterways, terraces and sediment ponds, and other incidental facilities related to cropland management, except that no facility, other than erosion control structures, may be located on prime farmland.

"Pastureland" means land used primarily for the long-term production of adapted, domesticated forage plants to be grazed by the livestock or occasionally cut and cured for livestock feed. Allowable support facilities include access roads, farm buildings, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, water impoundments used for stock watering, and other incidental facilities related to pasture management.

"Grazingland" means land used for grasslands and forest lands where the indigenous vegetation is actively managed for grazing, browsing, or occasional hay production.

"Forestry" means land used or managed for the long-term production of wood, wood fiber, or wood-derived products. Allowable support facilities include water impoundments, access and fire control lanes, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, and other incidental facilities related to sound multiple use management of the forest resource.

"Residential" means land used for single- and multiple-family housing, mobile home parks, and other residential lodgings.

"Industrial/Commercial" means land used for:

Extraction or transformation of materials for fabrication of products, wholesaling of products, or for long-term storage of products. This includes all heavy and light manufacturing facilities.
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Retail or trade of goods or services, including hotels, motels, stores, restaurants, and other commercial establishments.

"Recreation" is land used for public or private leisure-time use, including developed recreation facilities such as parks, camps, and amusement areas, as well as areas for less intensive uses such as hiking, canoeing, and other undeveloped recreational uses. Allowable support facilities include water impoundments, access roads, and other incidental facilities related to the recreational development of the area.

"Fish and wildlife habitat" is land dedicated wholly or partially to the production, protection, or management of fish or wildlife. Allowable support facilities include water impoundments, access lanes, erosion control structures such as grassed waterways, downdrains, terraces and sediment ponds, and other incidental facilities related to sound fish and wildlife management practices.

"Developed water resources" includes land used for storing water for beneficial uses such as stockponds, irrigation, fire protection, flood control, and water supply. Where appropriate, developed water resources are considered a joint or seasonal use with cropland, pastureland, forestry, recreation and fish and wildlife habitat.

"Undeveloped land or no current use or land management" includes land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession. A post-mining designation of undeveloped land shall not be allowed for any land which is proposed to be affected by the mining operation.


Any functional impairment of surface lands, features, structures or facilities;

Any physical change that has a significant adverse impact on the affected land's capability to support any current or reasonably foreseeable uses or causes significant loss in production or income; or
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Any significant change in the condition, appearance or utility of any structure or facility from its pre-subsidence condition.

"Mining operations or surface coal mining operations" means both surface mining operations and underground mining operations. (Section 1.03(a)(11) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(11)])

"Moist bulk density" means the weight of soil (oven dry) per unit volume. Volume is measured when the soil is at field moisture capacity (⅓ bar moisture tension). Weight is determined after drying the soil at 105° C.

"MSHA" means the Mine Safety and Health Administration of the United States Department of Labor.

"Mulch" means vegetation residues or other suitable materials that aid in soil stabilization and soil moisture conservation, thus providing micro-climatic conditions suitable for germination and growth.

"Natural hazard lands" means geographic areas in which natural conditions exist which pose or, as a result of surface coal mining operations, may pose a threat to the health, safety or welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches, and areas of unstable geology.

"Noxious plants" means any plant species listed as a "noxious weed" under regulations authorized by the Illinois Noxious Weed Law [505 ILCS 100]; any plant species whose seed is listed as a "prohibited (primary) noxious weed" or "restricted" (secondary) noxious weed" or "weed seeds" under regulations authorized by the Illinois Seed Law [505 ILCS 110]; or any plant which the Department of Agriculture has declared a pest under the Illinois Pesticide Act [415 ILCS 60].

"Occupied dwelling" means any building that is currently being used on a regular or temporary basis for human habitation.

"Office" means the Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior.
"Operator" means any person engaged in coal mining who removes or intends to remove more than 250 tons of coal from the earth or from coal refuse piles by mining within 12 consecutive calendar months in any one location.

"Outslope" means the face of the spoil or embankment sloping downward from the highest elevation to the toe.

"Overburden" means material of any nature, consolidated or unconsolidated, that overlies a coal deposit, excluding topsoil.

"Ownership or control link" means any relationship included in the definition of owned or controlled or owns or controls at 62 Ill. Adm. Code 1773.5(a) and (b) or in the violations review provisions of 62 Ill. Adm. Code 1773.15(b). It includes any relationship presumed to constitute ownership or control under the definition of "owned or controlled" or "owns or controls" unless such presumption has been successfully rebutted under the provisions of 62 Ill. Adm. Code 1773.24 and 1773.25.

"Perennial stream" means a stream that flows continuously during all of the calendar year or part of a stream that flows continuously during all of the calendar year. The stream or part of a stream flows continuously as a result of groundwater discharge or surface runoff. The term does not include intermittent stream or ephemeral stream.

"Performance bond" means a surety bond, collateral bond or a combination thereof, by which a permittee assures faithful performance of all the requirements of the Federal Act, the State Act, 62 Ill. Adm. Code, Chapter I, and the requirements of the permit and reclamation plan.

"Performing any function or duty under this Act" means those decisions or actions, which if an employee performed or did not perform would affect the programs under the State Act.

"Permanent diversion" means a diversion remaining after surface coal mining and reclamation operations are completed which has been approved for retention by the Department and other appropriate State and Federal agencies.

"Permanent impoundment" means an impoundment which the Department approved and, if required, is approved by other State and Federal agencies for retention as part of the post-mining land use.
"Permit" means a permit to conduct surface coal mining and reclamation operations which the Department issues pursuant to the State program.

"Permit area" means the area of land and water within the boundaries of the permit which are designated on the permit application maps, as approved by the Department. This area shall include all areas which are or will be affected by the surface coal mining and reclamation operations during the term of the permit indicated on the approved map which the operator submitted with the operator's application and which is required to be bonded under 62 Ill. Adm. Code 1800 and where the operator proposes to conduct surface coal mining and reclamation operations under the permit, including all disturbed areas; provided, that areas adequately bonded under another valid permit may be excluded from a permit area. The permit area excludes the area defined in this Part as the shadow area.

"Permit term" means the period during which the permittee may engage in mining and reclamation operations under the permit. (Section 1.03(a)(18) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(18)])

"Permittee" means a person holding or required by the State Act or these regulations to hold a permit to conduct surface coal mining and reclamation operations issued by a Department pursuant to a State program.

"Person" means an individual, Indian tribe when conducting surface coal mining and reclamation operations on non-Indian lands, general partnership, limited partnership, business trust association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization or any agency, unit, or instrumentality of Federal, State or local government including any publicly-owned utility or publicly-owned corporation of Federal, State or local government.

"Person having an interest which is or may be adversely affected" or "Person with a valid legal interest" shall include any person:

Who uses any resources of economic, recreational, esthetic, or environmental value that may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department; or
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Whose property is or may be adversely affected by coal exploration or surface coal mining and reclamation operations or any related action of the Secretary or the Department.

"Placeland" means undisturbed land before any mining activity.
"Precipitation event" means a quantity of water resulting from drizzle, rain, snow, sleet, or hail in a limited period of time. It may be expressed in terms of recurrence interval. As used in these regulations, precipitation event also includes that quantity of water emanating from snow cover as snow-melt in a limited period of time.

"Previously mined area" means land that had been mined before August 3, 1977 that has not been reclaimed to the standards of 62 Ill. Adm. Code, Chapter I.

"Prime farmland" means those lands which are defined by the Secretary of Agriculture in 7 CFR 657 (43 Fed. Reg. 4031 (1978)) and which have historically been used for cropland as that phrase is defined above.

"Principal shareholder" means any person who is the record or beneficial owner of ten percent or more of any class of voting stock.

"Prohibited financial interest" means any direct or indirect financial interest in any coal mining operation.

"Property to be mined" means both the surface and mineral estates within the permit area and the mineral estate within the shadow area.

"Public building" means any structure that is owned or leased and principally used by a public government agency for public business or meetings.

"Public office" means a facility under the control of a governmental entity which is open to public access on a regular basis during reasonable business hours.

"Public park" means an area or portion of an area dedicated or designated by any Federal, State, or local agency primarily for public recreational use, whether or not such use is limited to certain times or days, including any land leased, reserved or held open to the public because of that use.

"Publicly-owned park" means a public park that is owned by a Federal, State or local governmental entity.
"Public road" means a road:

which has been designated as a public road pursuant to the law of the jurisdiction in which it is located;
which is maintained with public funds in a manner similar to other public roads of the same classification within the jurisdiction;
for which there is substantial (more than incidental) public use; and
which meets road construction standards for other public roads of the same classification in the local jurisdiction.

"Qualified registered professional engineer" means a civil engineer, mining engineer, environmental engineer or general engineer meeting the requirements of Section 9 of the Professional Engineering Practice Act of 1989 [225 ILCS 325/9].

"Rangeland" means land on which the natural potential (climax) plant cover is principally native grasses, forbs, and shrubs valuable for forage. This land includes natural grasslands and savannahs, such as prairies, and juniper savannahs, such as brushlands. Except for brush control, management is primarily achieved by regulating the intensity of grazing and season of use.

"Reasonably available spoil" means spoil and suitable coal mine waste material generated by the remining operation or other spoil or suitable coal mine waste material located in the permit area that is accessible and available for use and that when rehandled will not cause a hazard to public safety or significant damage to the environment.

"Recharge capacity" means the ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.

"Reclamation" means those actions which these regulations require to restore mined land to a post-mining land use which the Department has approved. These actions do not include subsidence control measures conducted in the shadow area to restore damaged land to pre-mining capability.

"Recurrence interval" means the interval of time in which a precipitation event is expected to occur once, on the average. For example, the ten-year, 24-hour precipitation event would be that 24-hour precipitation event expected to occur on the average once in ten years.
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"Reference area" means a land unit maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity and plant species diversity that are produced naturally or by Department-approved crop production methods. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area.

"Refuse pile" means a surface deposit of coal mine waste that does not impound water, slurry, or other liquid or semi-liquid material.

"Regional Director" means Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement or Regional Director of the Federal Office of Surface Mining Reclamation and Enforcement's representative.

"Regulatory program" means Illinois' permanent regulatory program which the Office of Surface Mining Reclamation and Enforcement approved and set forth in 30 CFR 913.1-913.16 (1994). 30 CFR 913.1-913.16 do not include any subsequent amendments or editions.

"Remining" means conducting surface coal mining and reclamation operations which affect previously mined areas.

"Renewable resource lands" means aquifers and areas for the recharge of aquifers and other underground waters, areas for agricultural or silvicultural production of food and fiber, and grazing lands.

"Replacement of water supply" means, with respect to protected water supplies contaminated, diminished, or interrupted by coal mining operations, provision of water supply on both a temporary and permanent basis equivalent to premining quantity and quality. Replacement includes provisions of an equivalent water delivery system and payment of operation and maintenance costs in excess of customary and reasonable delivery costs for premining water supplies.

Upon agreement by the permittee and the water supply owner, the obligation to pay operation and maintenance costs may be satisfied by a one-time payment in an amount that covers the present worth of the increased annual operation and maintenance costs for a period agreed to by the permittee and the water supply owner. If the affected water supply was not needed for the land use in existence at the time of loss, contamination, or diminution, and if the supply is not needed to achieve the postmining land use, replacement requirements may
be satisfied by demonstrating that a suitable alternative water source is available and could feasibly be developed. If the latter approach is selected, written concurrence must be obtained from the water supply owner.

"Responsible land management" means that combination of preparation, maintenance, fertilization and tilling of land capable of producing row crops which would be practiced by a person in the business of producing row crops on unmined land in the same region on the same, or similar, soil type as the mined land being managed, which practices can reasonably be expected to continue after mining and reclamation are completed, as determined by the Department.

"Road" means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haulroads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal hauling vehicles to and from transfer, processing or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

"Safety factor" means the ratio of the available shear strength to the developed shear stress, or the ratio of the sum of the resisting forces to the sum of the loading or driving forces.

"Secretary" means the Secretary of the Interior or the Secretary's representative.

"Sedimentation pond" means an impoundment used to remove solids from water in order to meet water quality standards or effluent limitations before the water leaves the permit area.

"Shadow area" means any area beyond the limits of the permit area in which underground mine workings are located. This area includes all resources above and below the coal that are protected by the State Act that may be adversely impacted by underground mining operations including impacts of subsidence.

"Significant forest cover" means an area where the plant community consists predominantly of trees and other woody vegetation.
"Significant, imminent environmental harm to land, air or water resources" means:

An environmental harm is an adverse impact on land, air, or water resources which resources include, but are not limited to, plant and animal life;

An environmental harm is imminent if a condition, practice, or violation exists which:

- Is causing such harm; or

- May reasonably be expected to cause such harm at any time before the end of the reasonable abatement time that would be set under Section 8.06(c) of the State Act [225 ILCS 720/8.06(c)];

An environmental harm is significant if that harm is appreciable and not immediately reparable.

"Siltation structure" means a device, or devices, used to remove, collect or otherwise control runoff so that resulting outflow will meet applicable effluent standards.

"Slope" means average inclination of a surface measured from the horizontal, generally expressed as the ratio of a unit of vertical distance to a given number of units of horizontal distance (e.g., 1v:5h). It may also be expressed as a percent or in degrees.

"Soil horizons" means contrasting layers of soil parallel or nearly parallel to the land surface. Soil horizons are differentiated on the basis of field characteristics and laboratory data. The four master soil horizons are:

A horizon. The uppermost mineral layer, often called the surface soil or topsoil. It is the part of the soil in which organic matter is most abundant, and leaching of soluble or suspended particles is typically the greatest.

E horizon. The layer commonly near the surface below an A horizon and above a B horizon. An E horizon is most commonly differentiated from an overlying A horizon by lighter color and generally has measurably less organic matter than the A horizon. An E horizon is most commonly
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differentiated from the underlying B horizon in the same sequum by color of higher value or lower chroma, by coarser texture, or by a combination of these properties.
B horizon. The layer that typically is immediately beneath the A and E horizons and often called the subsoil. This middle layer commonly contains more clay, iron, or aluminum than the A, E, or C horizons.

C horizon. The deepest layer of the soil profile. It consists of loose material or weathered rock that is relatively unaffected by biologic activity.

"Soil survey" means a field and other investigation, resulting in a map showing the geographic distribution of different kinds of soils and an accompanying report that describes, classifies, and interprets such soils for use. Soil surveys must meet the standards of the National Cooperative Soil Survey as incorporated by reference in 62 Ill. Adm. Code 1785.17(c)(1).

"Spoil" means overburden that has been removed during surface coal mining operations.

"Stabilize" means to control movement of soil, spoil piles, or areas of disturbed earth by modifying the geometry of the mass, or by otherwise modifying physical or chemical properties, such as by providing a protective surface coating.

"State Act" means the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

"State regulatory program" means the Illinois program which the Secretary approved on June 1, 1982 pursuant to 30 CFR 732.1 through 732.15.

"State violation notice" means a violation notice issued by a state regulatory authority or by another agency or instrumentality of State government.

"Steep slope" means any slope of more than 20 degrees or such lesser slope as the Department may designate after consideration of such regional characteristics as soil and climate.

"Substantially disturb" means, for purposes of coal exploration, to impact significantly upon land, air or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes;
by placement of excavated earth or waste material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.

"Substantial legal and financial commitments in a surface coal mining operation" means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities, and other capital-intensive activities. An example would be an existing mine, not actually producing coal, but in a substantial stage of development prior to production. Costs of acquiring the coal in place or of the right to mine it without an existing mine alone, as described in the above example, are not sufficient to constitute substantial legal and financial commitments.

"Successor in interest" means any person who succeeds to rights granted under a permit, by transfer, assignment, or sale of those rights.

"Surface mining activities" means those surface coal mining and reclamation operations incident to the extraction of coal from the earth by removing the materials over the coal seam, before recovering the coal, by auger coal mining, or by recovery of coal from a deposit that is not in its original geologic location.

"Surface coal mining and reclamation operations", or "mining and reclamation operations", means surface coal mining operations and all activities necessary or incidental to the reclamation of such operations. This term includes the term "surface coal mining operations".

"Surface coal mining operations" or "mining operations" means:

Activities conducted on the surface of lands in connection with a surface coal mine or subject to the requirements of Section 516 of the Federal Act, surface operations and surface impacts incident to an underground coal mine, the products of which enter commerce, or the operations of which directly or indirectly affect interstate commerce. Such activities include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, the uses of explosives and blasting; in situ distillation or retorting; leaching or other chemical or physical processing; and the cleaning, concentrating, or other processing or preparation of coal. Such activities also include the loading of coal for interstate commerce at or near the mine-site, provided, these activities do not include the extraction of coal incidental to the extraction of other minerals, where coal does not
exceed 16⅔% of the tonnage of minerals removed for purposes of commercial use or sale, or coal exploration subject to Section 512 of the Federal Act; and provided further, that excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles; and
The areas upon which the activities described in the first paragraph of this definition occur or where those activities disturb the natural land surface. These areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of those activities and for haulage and excavation, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or material on the surface, resulting from or incident to those activities.

"Surface mining operations" means activities conducted on the surface of lands in connection with a surface coal mine or surface operations. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, mountaintop removal, box cut, open pit, and area mining, coal recovery from coal waste disposal areas, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site; and the areas on which such activities occur or where such activities disturb the natural land surface. Such areas include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities. (Section 1.03(a)(24) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(24)])

"Suspended solids or nonfilterable residue, expressed as milligrams per liter", means any materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the Environmental Protection Agency's regulations for waste water and analyses (40 CFR 136).
"Temporary diversion" means a diversion of a stream or overland flow which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Temporary impoundment" means an impoundment which is used during coal exploration or surface coal mining and reclamation operations and which the Department has not approved to remain after reclamation.

"Ton" means 2000 pounds avoirdupois (.90718 metric ton).

"Topsoil" means the A and E soil horizon layers of the four master soil horizons.

"Toxic-forming materials" means earth materials or wastes which, if acted upon by air, water, weathering, or microbiological processes, are likely to produce chemical or physical conditions in soils or water that are detrimental to living organisms or uses of water.

"Toxic mine drainage" means water that is discharged from active or abandoned mines or other areas affected by coal exploration or surface coal mining and reclamation operations, which contains a substance that through chemical action or physical effects is likely to kill or injure, or impair living organisms commonly present in the area that might be exposed to it.

"Transfer, assignment or sale of permit rights" means a change in ownership or other effective control over the right to conduct surface coal mining operations under a permit which the Department issued.

"Underground development waste" means waste rock mixtures resulting from development of areas for underground mining activities.

"Underground mining activities" means a combination of:

Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and
Underground operations such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting.

"Underground mining operations" means:

the underground excavation of coal; and

surface operations incident to the underground extraction of coal, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas on which are sited support facilities including hoist and ventilation ducts, areas used for the storage and disposal of waste, and areas on which materials incident to underground mining operations are placed; and

underground operations incident to underground excavation of coal, such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, or blasting. (Section 1.03(a)(26) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(26)])

"Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of the operator's permit or any requirement of the State Act due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit of the State due to indifference, lack of diligence, or lack of reasonable care. (Section 1.03(a)(27) of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/1.03(a)(27)])

"Valid existing rights" means: The definition of "valid existing rights" can be found in 62 Ill. Adm. Code 1761.5.

Except for haul roads, that a person possesses valid existing rights for an area protected under Section 7.01 of the State Act [225 ILCS 720/7.01] on August 3, 1977, if the application of any of the prohibitions contained in that Section to the property interest that existed on that date would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Section 15 of the Illinois Constitution of 1970, or both.

For haul roads:
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A recorded right of way, recorded easement or a permit for a coal haul road recorded as of August 3, 1977, or at the time of the designation of an area, as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of the coming into existence, within the prohibited distance of a structure, road, cemetery, or other activity listed in Section 7.01 of the State Act; or

Any other road in existence as of August 3, 1977, or at the time of the designation of an area as to which a conflict is alleged, as part of a national system listed in Section 7.01 of the State Act, or at the time of coming into existence, within the prohibited distance of a structure, road, cemetery or other activity listed in Section 7.01 of the State Act.

Where an area comes under the protection of Section 7.01 of the State Act after August 3, 1977, valid existing right shall be found if:

On the date the protection comes into existence, a validly authorized surface coal mine operation exists on that area; or

The prohibition caused by Section 7.01 of the State Act, if applied to the property interest that exists on the date the protection comes into existence, would effect a taking of the person's property which would entitle the person to just compensation under the Fifth and Fourteenth Amendments to the United States Constitution or Article 1, Section 15 of Illinois Constitution of 1970, or both.

Interpretation of the terms of the document relied upon to establish valid existing rights shall be based either upon Illinois case law concerning interpretation of documents conveying mineral rights or, where Illinois case law is lacking, upon the usage and custom at the time and place where it came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right.

"Valley fill" means a fill structure consisting of any material, other than organic material, that is placed in a valley where side slopes of the existing valley, measured at the steepest point, are greater than 20 degrees, or where the average slope of the profile of the valley from the toe of the fill to the top of the fill is greater than ten degrees.

"Violation notice" means any written notification, from a governmental entity, whether by letter, memorandum, judicial or administrative pleading, or other written communication, of a violation of the Act; any federal regulation
promulgated pursuant thereto; a State program; or any federal or state law or regulation pertaining to air or water environmental protection in connection with a surface coal mining operation. It includes, but is not limited to, a notice of violation; an imminent harm cessation order; a failure-to-abate cessation order; a final order, bill or demand letter pertaining to a delinquent civil penalty; a bill or demand letter pertaining to delinquent abandoned mine reclamation fees; and a notice of bond forfeiture, where one or more violations upon which the forfeiture was based have not been corrected.

"Water table" means the upper surface of a zone of saturation, where the body of ground water is not confined by an overlying impermeable zone.

"Wetland" means land that has a predominance of hydric soils (soils which are usually wet and where there is little or no free oxygen) and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of hydrophytic vegetation (plants typically found in wet habitats) typically adapted for life in saturated soil conditions. Areas which are restored or created as the result of mitigation or planned construction projects and which function as a wetland are included within this definition even when all three wetland parameters are not present.

"Willful violation" means a deliberate act or omission which violates the State Act, these regulations, or any permit condition which the State Act requires.

(Source: Amended at 27 Ill. Reg. 4595, effective February 26, 2003)
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1) **Heading of the Part:** Areas Designated By Act of Congress

2) **Code Citation:** 62 Ill. Adm. Code 1761

3) **Section Numbers:**

<table>
<thead>
<tr>
<th>Section Numbers</th>
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<tr>
<td>1761.5</td>
<td>New Section</td>
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<td>1761.11</td>
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<td>1761.12</td>
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<td>1761.14</td>
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4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5582

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:**

   In Section 1761.12, “The prohibitions and limitations of Section 1761.11 do not apply to:” has been added at the beginning of this Section.

   In Section 1761.16, “subsections” has been changed to “subsections”; subsection (b)(3), “subsection (b)(2)” has been corrected to “subsection (b)(1)”; subsection (d)(2)(B), “Office” has been corrected to “Officer”.
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12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking:

Section 1761.5 has been amended to define a new definition of “Valid Existing Rights (VER)” to that found in the new federal regulations. The rules currently require a “takings standard” to determine if an applicant possesses VER, the federal regulations now require a “good faith/all permits” standard or a “needed for and adjacent” standard be implemented.

Section 1761.11(b) which prohibits surface coal mining of certain federal lands unless called for by acts of Congress has been deleted as 30 CFR 761.11(h) was deleted.

Section 1761.12 has been deleted and replaced with new language to address exceptions to existing operations from the prohibitions and limitations for mining operation.

Section 1761.14 has been added to address procedures for relocation or closing of a public road or waiving the prohibitions within the buffer zone of a public road.

Section 1761.15 has been added to address procedures for waiving the prohibition of mining operations within the buffer zone of an occupied dwelling.

Section 1761.16 has been added to address the submission and processing of requests for VER determinations

Section 1761.17 has been added to address the submission and processing of requests for VER determinations.

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809
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The full text of the Adopted Amendments begins on the next page:
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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1761
AREAS DESIGNATED BY ACT OF CONGRESS

Section 1761.1  Scope

1761.5  Definition of Valid Existing Rights

1761.11  Areas Where Mining is Prohibited or Limited

1761.12  Exceptions to Existing Operations Procedures

1761.14  Procedures for Relocation or Closing of a Public Road or Waiving the Prohibition on Surface Coal Mining Operations within the Buffer Zone of a Public Road

1761.15  Procedures for Waiving the Prohibition on Surface Coal Mining Operations within the Buffer Zone of an Occupied Dwelling

1761.16  Submission and Processing of Requests for Valid Existing Rights Determinations

1761.17  Department Obligations at Time of Permit Application Review

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].


Section 1761.5  Definition of Valid Existing Rights

Valid existing rights (VER) means a set of circumstances under which a person may, subject to regulatory authority approval, conduct surface coal mining operations on lands where Section 1761.11 would otherwise prohibit such operations. Possession of valid existing rights only confers an exception from the prohibitions of Section 1761.11 and 30 USC 1272(e). A person seeking to exercise valid existing rights must comply with all other pertinent requirements of the Act and the applicable regulatory program.

a) Property rights demonstration. Except as provided in subsection (c) of this definition, a person claiming valid existing rights must demonstrate that a legally binding conveyance, lease, deed, contract or other document vests that person, or
a predecessor in interest, with the right to conduct the type of surface coal mining operations intended. This right must exist at the time that the land came under the protection of Section 1761.11. Applicable State statutory or case law will govern interpretation of documents relied upon to establish property rights, unless Federal law provides otherwise. If no applicable State law exists, custom and generally accepted usage at the time and place that the documents came into existence will govern their interpretation.

b) Except as provided in subsection (c) of this definition, a person claiming valid existing rights also must demonstrate compliance with one of the following standards:

1) Good faith/all permits standard. All permits and other authorizations required to conduct surface coal mining operations had been obtained, or a good faith effort to obtain all necessary permits and authorizations had been made, before the land came under the protection of Section 1761.11. At a minimum, an application must have been submitted for any permit required under 62 Ill. Adm. Code 1772 through 1785.

2) Needed for and adjacent standard. The land is needed for and immediately adjacent to a surface coal mining operation for which all permits and other authorizations required to conduct surface coal mining operations had been obtained, or a good faith attempt to obtain all permits and authorizations had been made, before the land came under the protection of Section 1761.11. To meet this standard, a person must demonstrate that prohibiting expansion of the operation onto that land would unfairly impact the viability of the operation as originally planned before the land came under the protection of Section 1761.11. Except for operations in existence before August 3, 1977, or for which a good faith effort to obtain all necessary permits had been made before August 3, 1977, this standard does not apply to lands already under the protection of Section 1761.11 when the regulatory authority approved the permit for the original operation or when the good faith effort to obtain all necessary permits for the original operation was made. In evaluating whether a person meets this standard, the agency making the determination may consider factors such as:

A) The extent to which coal supply contracts or other legal and business commitments that predate the time that the land came under the protection of Section 1761.11 depend upon use of that land for surface coal mining operations.

B) The extent to which plans used to obtain financing for the operation before the land came under the protection of Section
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1761.11 rely upon use of that land for surface coal mining operations.

C) The extent to which investments in the operation before the land came under the protection of Section 1761.11 rely upon use of that land for surface coal mining operations.

D) Whether the land lies within the area identified on the life-of-mine map submitted under 62 Ill. Adm. Code 1779.24(c) or 1783.24(c) before the land came under the protection of Section 1761.11.

c) Roads. A person who claims valid existing rights to use or construct a road across the surface of lands protected by Section 1761.11 must demonstrate that one or more of the following circumstances exist if the road is included within the definition of "surface coal mining operations" in 62 Ill. Adm. Code 1701.Appendix A:

1) The road existed when the land upon which it is located came under the protection of Section 1761.11, and the person has a legal right to use the road for surface coal mining operations.

2) A properly recorded right of way or easement for a road in that location existed when the land came under the protection of Section 1761.11 and, under the document creating the right of way or easement, and under subsequent conveyances, the person has a legal right to use or construct a road across the right of way or easement for surface coal mining operations.

3) A valid permit for use or construction of a road in that location for surface coal mining operations existed when the land came under the protection of Section 1761.11.

4) Valid existing rights exist under subsections (a) and (b) of this definition.

(Source: Added at 27 Ill. Reg. 4625, effective February 26, 2003)

Section 1761.11 Areas Where Mining is Prohibited or Limited

a) Subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, unless those operations existed on the date of enactment:

a-1) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 USC 1276(a)) or study rivers or study river corridors as established in guidelines pursuant to that Act published at 47 FR 39454 (September 7, 1982), and National
Recreation Areas designated by Act of Congress. The guidelines at 47 FR 39454 do not include any subsequent editions or amendments;

b-2) On any Federal lands within the boundaries of any national forest; provided, however, that surface coal mining operations may be permitted on such lands, if the Secretary of the United States Department of the Interior (Secretary) finds that there are no significant recreational, timber, economic, or other values which may be incompatible with surface coal mining operations; and surface operations and impacts are incidental to an underground coal mine;

c-3) On any lands which will adversely affect any publicly owned park or any places included on the National Register of Historic Places, unless approved jointly by the Department and the Federal, State or local agency with jurisdiction over the park or places;

d-4) Within 100 feet measured horizontally of the outside right-of-way line of any public road, except:

1A) Where mine access roads or haulage roads join such right of way lines; or

2B) Where the Illinois Department of Natural Resources, Office of Mines and Minerals (Department) and the public road authority with jurisdiction over the road under Illinois law allows the public road to be relocated, closed, or where the Department allows the area affected to be within 100 feet of such road, after:

Ai) Public notice and opportunity for a public hearing in accordance with Section 1761.14 1761.12(c); and

Bii) Making a written finding that the interests of the affected public and landowners will be protected;

e-5) Within 300 feet measured horizontally, from any occupied dwelling in existence, under construction, or contracted for at the time of public notice, except when:

1A) The owner thereof has provided a written waiver consenting to surface coal mining operations closer than 300 feet; or

2B) The part of the mining operation which is within 300 feet of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling;

f-6) Within 300 feet measured horizontally of any public building, school, church, community or institutional building, or public park; or

g-7) Within 100 feet measured horizontally of a cemetery. Cemeteries may be relocated if authorized by applicable State law or regulations.

b) There will be no surface coal mining, permitting, licensing or exploration of Federal lands in the National Park System, National Wildlife Refuge System, National System of Trails, National Wilderness Preservation System, Wild and Scenic Rivers System, or National Recreation Areas, unless called for by Acts of Congress.
The prohibitions and limitations of Section 1761.11 do not apply to:

a) Surface coal mining operations for which a valid permit, issued under Illinois’ approved regulatory program, exists when the land comes under the protection of Section 1761.11. This exception applies only to lands within the permit area as it exists when the land comes under the protection of Section 1761.11. Upon receipt of a complete application for a surface coal mining and reclamation operation permit, the Department shall review the application to determine whether surface coal mining operations are limited or prohibited under Section 1761.11 on the lands which would be disturbed by the proposed operations.

b) With respect to operations subject to the interim program rules at 62 Ill. Adm. Code 300, lands upon which validly authorized surface coal mining operations exist when the land comes under the protection of Section 1761.11. Federal recreational systems, public buildings, cemeteries:

1) Where the proposed operation would be located on any lands listed in Section 1761.11(a), the Department shall reject the application if the applicant has no valid existing rights for the area or if the operation did not exist on August 3, 1977.

2) If the Department is unable to determine whether the proposed operation is located within the boundaries of any of the lands in Section 1761.11(a) or closer than the limits provided in Section 1761.11(a)(6) and (7)), the Department shall transmit a copy of the relevant portions of the permit application to the appropriate Federal, State, or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it must respond within 30 days after receipt of the request. The National Park Service or the U.S. Fish and Wildlife Service shall be notified of any claim of valid existing rights (VER) pertaining to areas within the boundaries of areas under their jurisdiction and shall have 30 days from receipt of the notification in which to respond. The Department, upon request by the appropriate agency, shall grant an extension to the 30-day period of an additional 30 days. If no response is received within 30-day period or within the extended period granted, the Department may make the necessary determination based on the information it has available.

c) Where the proposed mining operation is proposed to be conducted within 100 feet measured horizontally of the outside right-of-way line of any public road (except as provided in Section 1761.11(a)(4)(B)) and the applicant does not have VER, or
where the applicant proposes to relocate or close any public road, the Department shall:

1) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road for relocation or closure of a public road;

2) Provide public notice in a newspaper of general circulation of the affected locale of an opportunity for a public hearing in the locality of the proposed mining operation for the purpose of determining whether the interests of the public and affected landowners will be protected. Any person with an interest which is or may be adversely affected by the proposed mining operation may request in writing that the Department hold a public hearing. Such request shall be submitted to the Department within 14 days after the newspaper notice required by this subsection;

3) If a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the affected locale at least two weeks prior to the hearing; and

4) Make a written finding based upon information received at the public hearing within 30 days after completion of the hearing, or after any public comment period ends if no hearing is held, as to whether the interests of the affected public and landowners will be protected from the proposed mining operations. No mining shall be allowed within 100 feet of the outside right-of-way line of a road unless the Department determines that the interests of the affected public and landowners will be protected.

d) Occupied dwellings

1) Absent VER, where the proposed surface coal mining operations would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the permit applicant shall submit with the application a written waiver by lease, deed or other conveyance from the owner of the dwelling, clarifying that the owner and signatory had the legal right to deny mining and knowingly waived that right. The waiver shall act as consent to such operations within a closer distance of the dwelling as specified.

2) Where the applicant for a permit after August 3, 1977, had obtained a valid waiver prior to August 3, 1977, from the owner of an occupied dwelling to mine within 300 feet of such dwelling, a new waiver shall not be required.

3) Effect of waiver

A) Where the applicant for a permit after August 3, 1977, had obtained a valid waiver from the owner of an occupied dwelling, that waiver shall remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase.
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B) A subsequent purchaser shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to State laws or if the mining has proceeded to within the 300 feet limit prior to the date of purchase.

e) Publicly owned parks; places included in the National Register of Historic Places

1) Where the Department determines that the proposed surface coal mining operation will adversely affect any publicly owned park or any place included in the National Register of Historic Places, the Department shall transmit to the Federal, State, or local agencies with jurisdiction over the publicly owned park or National Register place a copy of applicable parts of the permit application together with a request for that agency's approval or disapproval of the operation, and a notice to that agency that it has 30 days from receipt of the request within which to respond and that failure to interpose a timely objection will constitute approval. The Department, upon request by the appropriate agency, may grant an extension to the 30-day period of an additional 30 days. Failure to interpose an objection within 30 days after the extended period granted shall constitute an approval of the proposed permit.

2) A permit for the operation shall not be issued unless jointly approved by all affected agencies.

f) If the Department determines that the proposed surface coal mining operation is not prohibited under Section 7.01 of the State Act and this Part, it may nevertheless, pursuant to appropriate petitions, designate such lands as unsuitable for all or certain types of surface coal mining operations pursuant to 62 Ill. Adm. Code 1762 or 1764.

g) A determination by the Department that a person holds or does not hold a valid existing right or that surface coal mining operations did or did not exist on the date of enactment shall be subject to administrative and judicial review under 62 Ill. Adm. Code 1847.3.

(Source: Amended at 27 Ill. Reg. 4625, effective February 26, 2003)

Section 1761.14 Procedures for Relocation or Closing of a Public Road or Waiving the Prohibition on Surface Coal Mining Operations within the Buffer Zone of a Public Road

a) This Section does not apply to:

1) Lands for which a person has valid existing rights, as determined under Section 1761.16.

2) Lands within the scope of the exception for existing operations in Section 1761.12.
3) Access or haul roads that join a public road, as described in Section 1761.11(d)(1).

b) Subject to subsection (a), where the proposed mining operation is proposed to be conducted within 100 feet measured horizontally of the outside right-of-way line of any public road (except as provided in Section 1761.11(d)(2)) and the applicant does not have VER, or where the applicant proposes to relocate or close any public road, the Department shall:

1) Require the applicant to obtain necessary approvals of the authority with jurisdiction over the public road for relocation or closure of a public road;

2) Provide public notice in a newspaper of general circulation of the affected locale of an opportunity for a public hearing in the locality of the proposed mining operation for the purpose of determining whether the interests of the public and affected landowners will be protected. Any person with an interest that is or may be adversely affected by the proposed mining operation may request in writing that the Department hold a public hearing. The request shall be submitted to the Department within 14 days after the newspaper notice required by this subsection (b)(2);

3) If a public hearing is requested, provide appropriate advance notice of the public hearing, to be published in a newspaper of general circulation in the affected locale at least two weeks prior to the hearing; and

4) Make a written finding based upon information received at the public hearing within 30 days after completion of the hearing, or after any public comment period ends if no hearing is held, as to whether the interests of the affected public and landowners will be protected from the proposed mining operations. No mining shall be allowed within 100 feet of the outside right-of-way line of a road unless the Department determines that the interests of the affected public and landowners will be protected.

(Source: Added at 27 Ill. Reg. 4625, effective February 26, 2003)

Section 1761.15 Procedures for Waiving the Prohibition on Surface Coal Mining Operations within the Buffer Zone of an Occupied Dwelling

a) This Section does not apply to:

1) Lands for which a person has valid existing rights, as determined under Section 1761.16,

2) Lands within the scope of the exception for existing operations in Section 1761.12.
3) Access or haul roads that connect with an existing public road on the side of the public road opposite the dwelling, as provided in Section 1761.11(e)(2).

b) Where the proposed operation would be conducted within 300 feet, measured horizontally, of any occupied dwelling, the permit application must include a written waiver by lease, deed, or other conveyance from the owner of the dwelling. The waiver must clarify that the owner and signator had the legal right to deny mining and knowingly waived that right. The waiver will act as consent to surface coal mining operations within a closer distance of the dwelling, as specified.

c) If a valid waiver was obtained before August 3, 1977 from the owner of an occupied dwelling to conduct operations within 300 feet of the dwelling, a new waiver need not be submitted.

d) If a valid waiver was obtained from the owner of an occupied dwelling, that waiver will remain effective against subsequent purchasers who had actual or constructive knowledge of the existing waiver at the time of purchase. A subsequent purchaser will be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to State laws or if surface coal mining operations have entered the 300-foot zone before the date of purchase.

(Source: Added at 27 Ill. Reg. 4625, effective February 26, 2003)

Section 1761.16 Submission and Processing of Requests for Valid Existing Rights Determinations

a) Basic framework for valid existing rights determinations. The following table identifies the agency responsible for making a valid existing rights determination and the definition that it must use, based upon which subsection of Section 1761.11 applies and whether the request includes Federal lands.

<table>
<thead>
<tr>
<th>Subsection of 62 Ill. Adm. Code 1761.11 that provides protection for which request pertains</th>
<th>Type of land to which request pertains</th>
<th>Agency responsible for determination of valid existing rights</th>
<th>Applicable definition of valid existing rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) National parks, wildlife refuges,</td>
<td>Federal OSM</td>
<td>Federal1</td>
<td></td>
</tr>
</tbody>
</table>
## NOTICE OF ADOPTED AMENDMENTS

<table>
<thead>
<tr>
<th>(a)</th>
<th>National parks, etc.</th>
<th>Non-Federal</th>
<th>Department</th>
<th>Federal</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b)</td>
<td>Federal lands in national forest</td>
<td>Federal</td>
<td>OSM</td>
<td>Federal</td>
</tr>
<tr>
<td>(c)</td>
<td>Public parks and historic places</td>
<td>Does not matter</td>
<td>Department</td>
<td>Regulatory program</td>
</tr>
<tr>
<td>(d)</td>
<td>Public roads</td>
<td>Does not matter</td>
<td>Department</td>
<td>Regulatory program</td>
</tr>
<tr>
<td>(e)</td>
<td>Occupied dwellings</td>
<td>Does not matter</td>
<td>Department</td>
<td>Regulatory program</td>
</tr>
<tr>
<td>(f)</td>
<td>Schools, churches, parks, etc.</td>
<td>Does not matter</td>
<td>Department</td>
<td>Regulatory program</td>
</tr>
<tr>
<td>(g)</td>
<td>Cemeteries</td>
<td>Does not matter</td>
<td>Department</td>
<td>Regulatory program</td>
</tr>
</tbody>
</table>

1 Definition in 30 CFR 761.5.
2 Definition in Section 1761.5.
3 Neither 30 USC 1272(e) nor 30 CFR 761.11 provides special protection for non-Federal lands within national forests. Therefore, this table does not include a category for those lands.

When the Department is the agency responsible for valid existing rights determinations, the procedures under subsections (b) through (g) of this Section apply.

b) The applicant or permittee must submit a request for a valid existing rights determination to the Department if it intends to conduct surface coal mining operations on the basis of valid existing rights under Section 1761.11 or wishes to confirm the right to do so. Such request may be submitted before preparing and submitting an application for a permit or boundary revision for the land.

1) Requirements for property rights demonstration. The applicant or permittee must provide a property rights demonstration under Section 1761.5(a) if the request relies upon the good faith/all permits standard or the needed for and adjacent standard in Section 1761.5(b). This demonstration must include the following items:

A) A legal description of the land to which the request pertains.
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B) Complete documentation of the character and extent of the current interests in the surface and mineral estates of the land to which the request pertains.

C) A complete chain of title for the surface and mineral estates of the land to which the request pertains.

D) A description of the nature and effect of each title instrument that forms the basis for the request, including any provision pertaining to the type or method of mining or mining-related surface disturbances and facilities.

E) A description of the type and extent of surface coal mining operations that the applicant or permittee claims the right to conduct, including the method of mining, any mining-related surface activities and facilities, and an explanation of how those operations would be consistent with State property law.

F) Complete documentation of the nature and ownership, as of the date that the land came under the protection of Section 1761.11, of all property rights for the surface and mineral estates of the land to which the request pertains.

G) Names and addresses of the current owners of the surface and mineral estates of the land to which the request pertains.

H) If the coal interests have been severed from other property interests, documentation that the owners of other property interests in the land to which the request pertains have been notified and provided reasonable opportunity to comment on the validity of the applicant's or permittee's property rights claims.

I) Any comments received in response to the notification provided under subsection (b)(1)(H) of this Section.

2) Requirements for good faith/all permits standard. If the request relies upon the good faith/all permits standard in Section 1761.5(b)(1) of the definition of valid existing rights, the information required under subsection (b)(1) of this Section must be submitted. The following information about permits, licenses and authorizations for surface coal mining operations on the land to which the request pertains must also be submitted:

A) Approval and issuance dates and identification numbers for any permits, licenses, and authorizations that the applicant, permittee or predecessor in interest obtained before the land came under the protection of Section 1761.11.

B) Application dates and identification numbers for any permits, licenses, and authorizations for which the applicant, permittee or a
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predecessor in interest submitted an application before the land came under the protection of Section 1761.11.

C) An explanation of any other good faith effort that the applicant, permittee or a predecessor in interest made to obtain the necessary permits, licenses, and authorizations as of the date that the land came under the protection of Section 1761.11.

3) Requirements for needed for and adjacent standard. If the request relies upon the needed for and adjacent standard in subsection (b)(1) of the definition of valid existing rights in Section 1761.5, the applicant or permittee must submit the information required under subsection (b)(2) of this Section. In addition, the applicant or permittee must explain how and why the land is needed for and immediately adjacent to the operation upon which the request is based, including a demonstration that prohibiting expansion of the operation onto that land would unfairly impact the viability of the operation as originally planned before the land came under the protection of Section 1761.11.

4) Requirements for standards for mine roads. If the request relies upon one of the standards for roads in subsections (c)(1) through (c)(3) of the definition of valid existing rights in Section 1761.5, satisfactory documentation must be submitted that:

A) The road existed when the land upon which it is located came under the protection of Section 1761.11 and the applicant or permittee has a legal right to use the road for surface coal mining operations;

B) A properly recorded right of way or easement for a road in the location existed when the land came under the protection of Section 1761.11, and, under the document creating the right of way or easement, and under any subsequent conveyances, the applicant or permittee has a legal right to use or construct a road across that right of way or easement to conduct surface coal mining operations; or

C) A valid permit for use or construction of a road in that location for surface coal mining operations existed when the land came under the protection of Section 1761.11.

c) Initial review of request.

1) The Department must conduct an initial review to determine whether the request includes all applicable components of the submission requirements of subsection (b) of this Section. This review pertains only to the completeness of the request, not the legal or technical adequacy of the materials submitted.
2) If the request does not include all applicable components of the submission requirements of subsection (b) of this Section, the Department must give notice of such and establish a reasonable time for submission of the missing information.

3) When the request includes all applicable components of the submission requirements of subsection (b) of this Section, the Department must implement the notice and comment requirements of subsection (d) of this Section.

4) If information that the Department requests under subsection (c)(2) of this Section is not provided within the time specified or as subsequently extended, the Department must issue a determination that the applicant or permittee has not demonstrated valid existing rights, as provided in subsection (e)(4) of this Section.

d) Notice and comment requirements and procedures.

1) When the request satisfies the completeness requirements of subsection (c) of this Section, the applicant or permittee must publish a notice in a newspaper of general circulation in the county in which the land is located and provide the Department with a copy of the published notice. This notice must invite comment on the merits of the request. The Federal Office of Surface Mining will publish a similar notice in the Federal Register if the request involves Federal lands within an area listed in Section 1761.11(a) or (b). Each notice must include:

A) The location of the land to which the request pertains.

B) A description of the type of surface coal mining operations planned.

C) A reference to and brief description of the applicable standards under the definition of valid existing rights in Section 1761.5.

i) If the request relies upon the good faith/all permits standard or the needed for and adjacent standard in subsection (b) of the definition of valid existing rights in Section 1761.5, the notice also must include a description of the property rights that are claimed and the basis for such claim.

ii) If the request relies upon the standard in subsection (c)(1) of the definition of valid existing rights in Section 1761.5, the notice also must include a description of the basis for the applicant's or permittee's claim that the road existed when the land came under the protection of Section 1761.11. In addition, the notice must include a description of the basis for the applicant's or permittee's claim that it
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has a legal right to use that road for surface coal mining operations.

iii) If the request relies upon the standard in subsection (c)(2) of the definition of valid existing rights in Section 1761.5, the notice also must include a description of the basis for the claim that a properly recorded right of way or easement for a road in that location existed when the land came under the protection of Section 1761.11. In addition, the notice must include a description of the basis for the claim that, under the document creating the right of way or easement, and under any subsequent conveyances, the applicant or permittee has a legal right to use or construct a road across the right of way or easement to conduct surface coal mining operations.

D) If the request relies upon one or more of the standards in subsections (b), (c)(1) and (c)(2) of the definition of valid existing rights in Section 1761.5, a statement that the Department will not make a decision on the merits of the request if, by the close of the comment period under this notice or the notice required by subsection (d)(3) of this Section, a person with a legal interest in the land initiates appropriate legal action in the proper venue to resolve any differences concerning the validity or interpretation of the deed, lease, easement or other documents that form the basis of the applicant or permittee's claim.

E) A description of the procedures that the Department will follow in processing the request.

F) The closing date of the comment period, which must be a minimum of 30 days after the publication date of the notice.

G) A statement that interested persons may obtain a 30 day extension of the comment period upon request.

H) The name and address of the Department's office where a copy of the request is available for public inspection and to which comments and requests for extension of the comment period should be sent.

2) The Department must promptly provide a copy of the notice required under subsection (d)(1) of this Section to:

A) All reasonably locatable owners of surface and mineral estates in the land included in the request.

B) The owner of the feature causing the land to come under the protection of Section 1761.11, and, when applicable, the agency
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with primary jurisdiction over the feature with respect to the values causing the land to come under the protection of Section 1761.11.
For example, both the landowner and the State Historic Preservation Officer must be notified if surface coal mining operations would adversely impact any site listed on the National Register of Historic Places. As another example, both the surface owner and the National Park Service must be notified if the request includes non-Federal lands within the authorized boundaries of a unit of the National Park System.

3) The letter transmitting the notice required under subsection (d)(2) of this Section must provide a 30 day comment period, starting from the date of service of the letter, and specify that another 30 days is available upon request. At its discretion, the Department may grant additional time for good cause upon request. The Department need not consider comments received after the closing date of that comment period.

e) How a decision will be made.

1) The Department must review the materials submitted under subsection (b) of this Section, comments received under subsection (d) of this Section and any other relevant, reasonably available information to determine whether the record is sufficiently complete and adequate to support a decision on the merits of the request. If not, the Department must notify the applicant or permittee in writing, explaining the inadequacy of the record and requesting submittal, within a specified reasonable time, of any additional information that the Department deems necessary to remedy the inadequacy.

2) Once the record is complete and adequate, the Department must determine whether the applicant or permittee has demonstrated valid existing rights. The decision document must explain how all applicable elements of the definition of valid existing rights in Section 1761.5 have or have not been satisfied. It must contain findings of fact and conclusions, and it must specify the reasons for the conclusions.

3) Impact of property rights disagreements. This subsection (e)(3) applies only when the request relies upon one or more of the standards in subsections (b), (c)(1) and (c)(2) of the definition of valid existing rights in Section 1761.5.

A) The Department must issue a determination that the applicant or permittee has not demonstrated valid existing rights if the property rights claims are the subject of pending litigation in a court or administrative body with jurisdiction over the property rights in question. The Department will make this determination without
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prejudice, meaning that the applicant or permittee may refile the request once the property rights dispute is finally adjudicated. This subsection (e)(3)(A) applies only to situations in which legal action has been initiated as of the closing date of the comment period under subsection (d)(1) or (d)(3) of this Section.

B) If the record indicates disagreement as to the accuracy of the property rights claims, but such disagreement is not the subject of pending litigation in a court or administrative agency of competent jurisdiction, the Department must evaluate the merits of the information in the record and determine whether the applicant or permittee has demonstrated that the requisite property rights exist under subsection (a), (c)(1) or (c)(2) of the definition of valid existing rights in Section 1761.5, as appropriate. The Department must then proceed with the decision process under subsection (e)(2) of this Section.

4) The Department must issue a determination that valid existing rights has not been demonstrated if information that the Department requests under subsection (c)(2) or (e)(1) of this Section is not submitted within the time specified or as subsequently extended. The Department will make this determination without prejudice, meaning that a revised request may be refiled at any time.

5) After making a determination, the Department must:

A) Provide a copy of the determination, together with an explanation of appeal rights and procedures, to the applicant or permittee, to the owner or owners of the land to which the determination applies, to the owner of the feature causing the land to come under the protection of Section 1761.11, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of Section 1761.11.

B) Publish notice of the determination in a newspaper of general circulation in the county in which the land is located. The applicant or permittee must publish this notice and provide a copy of the published notice to the Department. The Federal Office of Surface Mining will publish the determination, together with an explanation of appeal rights and procedures, in the Federal Register if the request includes Federal lands within an area listed in Section 1761.11(a) or (b).
Administrative and judicial review. A determination that an applicant or permittee has or does not have valid existing rights is subject to administrative and judicial review under 62 Ill. Adm. Code 1847.3.

Availability of records. The Department must make a copy of a request subject to notice and comment under subsection (d) of this Section available to the public in the same manner as the Department must make permit applications available to the public under 62 Ill. Adm. Code 1773.13(d). In addition, the Department must make records associated with that request, and any subsequent determination under subsection (e) of this Section, available to the public in accordance with the requirements and procedures of 62 Ill. Adm. Code 1840.14.

(Source: Added at 27 Ill. Reg. 4625, effective February 26, 2003)

Section 1761.17 Department Obligations at Time of Permit Application Review

a) Upon receipt of an administratively complete application for a permit for a surface coal mining operation, or an administratively complete application for revision of the boundaries of a surface coal mining operation permit, the Department must review the application to determine whether the proposed surface coal mining operation would be located on any lands protected under Section 1761.11.

b) The Department must reject any portion of the application that would locate surface coal mining operations on land protected under Section 1761.11 unless:
   1) The site qualifies for the exception for existing operations under Section 1761.12;
   2) A person has valid existing rights for the land, as determined under Section 1761.16;
   3) The applicant obtains a waiver or exception from the prohibitions of Section 1761.11 in accordance with Sections 1761.14 and 1761.15; or
   4) For lands protected by Section 1761.11(c), both the regulatory authority and the agency with jurisdiction over the park or place jointly approve the proposed operation in accordance with subsection (d) of this Section.

c) Location verification. If the Department has difficulty determining whether an application includes land within an area specified in Section 1761.11(a) or within the specified distance from a structure or feature listed in Section 1761.11(f) or (g), the Department must request that the Federal, State or local governmental agency with jurisdiction over the protected land, structure, or feature verify the location.
   1) The request for location verification must:
      A) Include relevant portions of the permit application.
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B) Provide the agency with 30 days after receipt to respond, with a notice that another 30 days is available upon request.

C) Specify that the Department will not necessarily consider a response received after the comment period provided under subsection (c)(1)(B) of this Section.

2) If the agency does not respond in a timely manner, the Department may make the necessary determination based on available information.

d) Procedures for joint approval of surface coal mining operations that will adversely affect publicly owned parks or historic places.

1) If the Department determines that the proposed surface coal mining operation will adversely affect any publicly owned park or any place currently included in the National Register of Historic Places, the Department must request that the Federal, State or local agency with jurisdiction over the park or place either approve or object to the proposed operation. The request must:

A) Include a copy of applicable parts of the permit application.

B) Provide the agency with 30 days after receipt to respond, with a notice that another 30 days is available upon request.

C) State that failure to interpose an objection within the time specified under subsection (d)(1)(B) of this Section will constitute approval of the proposed operation.

2) The Department may not issue a permit for a proposed operation subject to subsection (d)(1) of this Section unless all affected agencies jointly approve.

3) Subsections (d)(1) and (d)(2) of this Section do not apply to:

A) Lands for which a person has valid existing rights, as determined under Section 1761.16.

B) Lands within the scope of the exception for existing operations in Section 1761.12.

(Source: Added at 27 Ill. Reg. 4625, effective February 26, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Criteria For Designating Areas as Unsuitable For Surface Coal Mining Operations

2) **Code Citation:** 62 Ill. Adm. Code 1762

3) **Section Numbers:**  
   - **1762.14** Amended  
   - **1762.15** New Section

4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5601

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:**

    Section 1762.14, “and this Part” has been deleted and replaced with “and 62 Ill. Adm. Code 1761.11”.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:**
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This Section has been amended from dealing with exploration on lands designated as unsuitable for mining to a new Section titled “Applicability to Lands Designated as Unsuitable by Congress”. This change has been made to comport with changes made to the federal regulations.

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1762
CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

Section 1762.1 Scope
1762.11 Criteria for Designating Lands as Unsuitable
1762.12 Additional Criteria (Repealed)
1762.13 Land Exempt From Designation as Unsuitable for Surface Coal Mining Operations
1762.14 Applicability to Lands Designated as Unsuitable by Congress
1762.15 Exploration on Lands Designated as Unsuitable for Surface Coal Mining Operations

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].


Section 1762.14 Applicability to Lands Designated as Unsuitable by Congress
Examination of Lands Designated as Unsuitable for Surface Coal Mining Operations

If the Department determines that the proposed surface coal mining operation is not prohibited under Section 7.01 of the State Act and 62 Ill. Adm. Code 1761.11, it may nevertheless, pursuant to appropriate petitions, designate such lands as unsuitable for all or certain types of surface coal mining operations pursuant to 62 Ill. Adm. Code 1762 or 1764. Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to Section 7.02(a), (b), and (c) of the State Act and these regulations does not prohibit coal exploration operations in the area, if conducted in accordance with the State Act and these regulations, any approved State or Federal program, and other applicable requirements. Exploration operations on any lands designated unsuitable for surface coal mining operations must be approved by the Department under 62 Ill. Adm. Code 1772, to insure that exploration does not interfere with any value for which the area has been designated unsuitable for surface coal mining.
Section 1762.15  Exploration on Lands Designated as Unsuitable for Surface Coal Mining Operations

Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to Section 7.02(a), (b) and (c) of the State Act and this Part does not prohibit coal exploration operations in the area, if conducted in accordance with the State Act and this Part, any approved State or Federal program, and other applicable requirements. Exploration operations on any lands designated unsuitable for surface coal mining operations must be approved by the Department under 62 Ill. Adm. Code 1772 to insure that exploration does not interfere with any value for which the area has been designated unsuitable for surface coal mining.

(Source:  Added at 27 Ill. Reg. 4646, effective February 26, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Requirements For Coal Exploration

2) **Code Citation:** 62 Ill. Adm. Code 1772

3) **Section Numbers:**
   
<table>
<thead>
<tr>
<th>Adopted Action</th>
</tr>
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<tbody>
<tr>
<td>1772.12</td>
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</table>

4) **Statutory Authority:** Implementing and authorized by Sections 5.01, 5.02, 5.03 and 9.01 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/5.01, 5.02, 5.03 and 9.01].

5) **Effective Date of Amendments:** February 26, 2003

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5605

10) Has JCAR issued a Statement of Objections to these rules? No

11) **Differences between proposal and final version:**

   Section 1772.12(b)(13), “; and” should be stricken as it is new language; subsection (b)(14), “economic” has been changed to “economically”.

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

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) **Summary and Purpose of Rulemaking:**
NOTICE OF ADOPTED AMENDMENTS

This Part has been amended to require a demonstration that the proposed exploration activities have been designed to minimize interference with the activities for which the areas were designed unsuitable for mining. A new subsection has also been added to address a finding the Department must make in approving such exploration and provide for comment by the landowner or agency with jurisdiction over the protected feature.

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

Karen Jacobs  
Department of Natural Resources  
One Natural Resources Way  
Springfield IL 62702-1271  
217/782-1809

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1772

REQUIREMENTS FOR COAL EXPLORATION

Section 1772.1 Scope and Purpose

Section 1772.11 Notice Requirements for Exploration Removing 250 Tons of Coal or Less

Section 1772.12 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

Section 1772.13 Coal Exploration Compliance Duties

Section 1772.14 Requirements for Commercial Use or Sale

Section 1772.15 Public Availability of Information

AUTHORITY: Implementing and authorized by Sections 5.01, 5.02, 5.03 and 9.01 of the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720/5.01, 5.02, 5.03 and 9.01].


Section 1772.12 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

a) Any person who intends to conduct coal exploration outside a permit area during which more than 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under 62 Ill. Adm. Code 1761 through 1764 shall before conducting the exploration submit an application and obtain written approval from the Department in an exploration permit.

b) Each application for an exploration permit shall contain, at a minimum, the following information:

1) The name, address, and telephone number of the applicant;
2) The name, address, and telephone number of the applicant's representative who will be present at, and be responsible for, conducting the exploration;
3) A narrative and map describing the proposed exploration area;
4) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation;
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5) An estimated time table for conducting and completing each phase of the exploration and reclamation;
6) The estimated amount of coal to be removed and a description of the methods to be used to determine the amounts;
7) A statement of why extraction of more than 250 tons of coal is necessary for exploration;
8) A description of:
   A) Cultural or historical resources listed on the National Register of Historic Places,
   B) Cultural or historical resources known to be eligible for listing on the National Register of Historic Places,
   C) Known archeological resources located within the proposed exploration area, and
   D) Any other information which the Department may require regarding known or unknown historic or archeological resources, based upon consultation with the Illinois State Historic Preservation Agency;
9) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) identified within the proposed exploration area;
10) A description of the measures to be used to comply with the applicable requirements of 62 Ill. Adm. Code 1815;
11) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored;
12) A map or maps at a scale of 1:24,000 or larger, showing the areas of the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of proposed land excavations; the location of exploration holes or other drill holes or underground openings; location of excavated earth or waste-material disposal areas; and the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and
13) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation; and,
14) For any lands listed in 62 Ill. Adm. Code 176.11, a demonstration that, to the extent technologically and economically feasible, the proposed
exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of 62 Ill. Adm. Code 1761.11, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of 62 Ill. Adm. Code 1761.11.

c) Public notice of the application and opportunity to comment shall be provided as follows:

1) Within five (5) days, the applicant shall provide public notice of the filing of an administratively complete application with the Department in a newspaper of general circulation which is on the Department's list of approved newspapers in the county of the proposed exploration area;

2) The public notice shall state the name and address of the person seeking approval, the date of filing of the application, the address of the Department where written comments on the application may be submitted, the closing date of the comment period, and a description of the general area of exploration. In no case shall the public comment period be less than thirty (30) days;

3) Any person with an interest which is or may be adversely affected shall have the right to file written comments on the application within the specified public comment period.

d) Decision on an application for exploration removing more than 250 tons of coal.

1) The Department shall act upon an administratively complete application for a coal exploration permit and any written comments within sixty (60) days after the close of the public comment period. The approval of a coal exploration permit may be based only on a complete and accurate application.

2) The Department shall approve a complete and accurate application for a coal exploration permit filed in accordance with this Part, if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application will:

A) Be conducted in accordance with the Surface Mining Control and Reclamation Act of 1977 (30 USC U.S.C. 1201 et seq.) (Act), 62 Ill. Adm. Code 1815, this Part and the regulatory program;

B) Not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 USC U.S.C. 1533) or result in the
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destruction or adverse modification of critical habitat of those species as defined in Section 3 of the Endangered Species Act of 1973 (16 USC 1532); and

C) Not adversely affect any cultural or historic resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended (16 USC 470 et seq., 1976, Supp. V), unless the proposed exploration has been approved by the Department and the Illinois Historic Preservation Agency; and

D) With respect to exploration activities on any lands protected under 62 Ill. Adm. Code 1761.11, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the Department must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of 62 Ill. Adm. Code 1761.11, and, when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of 62 Ill. Adm. Code 1761.11, to comment on whether the finding is appropriate.

3) Terms of approval. Each approval issued by the Department shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with the Act, this Part, 62 Ill. Adm. Code 1815, and the regulatory program.

e) Notice and review.

1) The Department shall notify the applicant, the appropriate local government officials, and other commentors on the application in writing, of its decision on the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. Public notice of the decision on each application shall be posted by the Department at a public office in the vicinity of the exploration operations.

2) Any person with an interest which is or may be adversely affected by a decision of the Department pursuant to subsection (e)(1) above, shall have the opportunity for administrative and judicial review as set forth in 62 Ill. Adm. Code 1847.3.

(Source: Amended at 27 Ill. Reg. 4650, effective February 26, 2003)
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1) **Heading of the Part:** Requirements For Permits and Permit Processing

2) **Code Citation:** 62 Ill. Adm. Code 1773

3) **Section Numbers:**
   - 1773.13     Amended
   - 1773.15     Amended

4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5611

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:**

   This Part has been amended to correct references because of additions/changes made in previous sections.

16) **Information and questions regarding these adopted amendments shall be directed to:**
DEPARTMENT OF NATURAL RESOURCES

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Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL  62702-1271
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The full text of the Adopted Amendments begins on the next page:
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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1773

REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

Section
1773.1 Scope and Purpose
1773.5 Definitions
1773.11 Requirements to Obtain Permits
1773.12 Regulatory Coordination with Requirements under Other Laws
1773.13 Public Participation in Permit Processing
1773.14 Opportunity for Public Hearing
1773.15 Review of Permit Applications
1773.17 Permit Conditions
1773.19 Permit Issuance and Right of Renewal
1773.20 Improvidently Issued Permits: General Procedures
1773.21 Improvidently Issued Permits: Rescission Procedures
1773.22 Verification of Ownership or Control Application Information
1773.23 Review of Ownership or Control and Violation Information
1773.24 Procedures for Challenging Ownership or Control Links Shown in the Applicant Violator System
1773.25 Standards for Challenging Ownership or Control Links and the Status of Violations

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].


Section 1773.13 Public Participation in Permit Processing

a) Filing and public notice.
   1) Upon submission of an administratively complete application, an applicant for a permit, significant revision of a permit under 62 Ill. Adm. Code
1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15, shall place an advertisement in a local newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least once a week for 4 consecutive weeks. A copy of the advertisement as it will appear in the newspaper shall be submitted to the Department. The advertisement shall contain, at a minimum, the following:

A) The name and business address of the applicant.

B) A map or description which clearly shows or describes the precise location and boundaries of the proposed permit area and shadow area, if applicable, and is sufficient to enable local residents to readily identify the proposed permit area. It may include towns, bodies of water, local landmarks, and any other information which would identify the location. If a map is used, it shall indicate the north direction. If the application includes a shadow area, the map or description shall differentiate between the two.

C) The location where a copy of the application is available for public inspection.

D) The address of the office of the Department where written comments, objections or requests for informal conferences and public hearings on the application may be submitted under subsections (b) and (c).

E) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road, except where public notice and hearing have previously been provided for this particular part of the road in accordance with 62 Ill. Adm. Code 1761.12(e), a concise statement describing the public road, the activities proposed within 100 feet of the road, the particular part to be relocated or closed, if applicable, and the approximate timing and duration of the relocation or closing.

F) If the application includes a request for an experimental practice under 62 Ill. Adm. Code 1785.13, a statement indicating that an experimental practice is requested and identifying the regulatory provisions for which a variance is requested.

2) The applicant shall make an application for a permit, significant revision under 62 Ill. Adm. Code 1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15 available for the public to inspect and copy by filing a full copy of the application with the clerk at the courthouse of the county where the mining is proposed to occur. This copy of the application need not include confidential information exempt from disclosure under subsection (d). The application required by this subsection shall be filed
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in accordance with Section 2.04(a) of the State Act. The applicant shall file an additional copy of any changes to the application with the Department. The Department will then forward this copy to the county clerk.

3) Upon receipt of an administratively complete application for a permit, a significant revision to a permit under 62 Ill. Adm. Code 1774.13, or a renewal of a permit under 62 Ill. Adm. Code 1774.15, the Department shall issue written notification indicating the applicant's intention to mine the described tract of land, the application number or other identifier, the location where the copy of the application may be inspected, and the location where comments on the application may be submitted. The notification shall be sent to:

A) Local governmental agencies with jurisdiction over or an interest in the area of the proposed surface coal mining and reclamation operation, including but not limited to planning agencies, sewage and water treatment authorities, water companies; and

B) All Federal or State governmental agencies with authority to issue permits and licenses applicable to the proposed surface coal mining and reclamation operation and which are part of the permit coordinating process developed in accordance with Section 503(a)(6) of the Federal Act or Section 1773.12; or those agencies with an interest in the proposed operation, including the U.S. Department of Agriculture, Natural Resources Conservation Service district office, the local U.S. Army Corps of Engineers district engineer, the National Park Service, State and Federal fish and wildlife agencies, and the historic preservation officer.

b) Comments and objections on permit applications.

1) Written comments or objections to an application for a permit, significant revision to a permit under 62 Ill. Adm. Code 1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15 may be submitted to the Department by any person having an interest which is or may be adversely affected by the decision on the application, or by an officer or head of any Federal, State, or local government agency or authority notified under subsection (a)(3), within 30 days after the last publication of the newspaper notice required by subsection (a). Any person not a public officer, as designated in this subsection, who submits written comments or objections to an application and claims to have an interest which is or may be adversely affected by the Department's decision shall identify the interests claimed and shall state how the Department's decision may or will adversely affect the interests specified.
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2) The Department shall upon receipt of such written comments or objections:
   A) Transmit a copy of the comments or objections to the applicant; and
   B) File a copy for public inspection at the same public office where the application is filed.

c) Informal conferences.
   1) Any person having an interest which is or may be adversely affected by the decision on the application, or an officer or head of a Federal, State, or local government agency, may request in writing that the Department hold an informal conference on the application for a permit, significant revision to a permit under 62 Ill. Adm. Code 1774.13, or renewal of a permit under 62 Ill. Adm. Code 1774.15. Any person not a public officer, as designated in this subsection, who requests the Department to hold an informal conference with respect to an application based on a claim of an interest which is or may be adversely affected by the Department's decision, shall in the request for an informal conference identify the interests claimed and shall state how the Department's decision may or will adversely affect the interests specified. The request shall:
      A) Briefly summarize the issues to be raised by the requester at the conference;
      B) State whether the requester desires to have the conference conducted in the locality of the proposed operation; and
      C) Be filed with the Department no later than 30 days after the last publication of the newspaper advertisement required under subsection (a).

   2) Except as provided in subsection (c)(3), if an informal conference is requested in accordance with subsection (c)(1), the Department shall hold an informal conference within 75 days after the first newspaper notice required by subsection (a). The informal conference shall be conducted as follows:
      A) If requested under subsection (c)(1)(B), it shall be held in the locality of the proposed surface coal mining and reclamation operation.
      B) The date, time, and location of the informal conference shall be sent to the applicant and other parties to the conference and advertised by the Department in a newspaper of general circulation in the locality of the proposed surface coal mining and reclamation operation at least 2 weeks before the scheduled conference.
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C) If requested in writing by a conference requester at least 7 days before the conference, the Department may arrange with the applicant to grant parties to the conference access to the proposed permit area and, to the extent that the applicant has the right to grant access to it, to the shadow area and adjacent area prior to the established date of the conference for the purpose of gathering information relevant to the conference.

D) The conference shall be conducted by a representative of the Department, who shall accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties of the conference until final release of the applicant's performance bond or other equivalent guarantee pursuant to 62 Ill. Adm. Code 1800.40.

3) If all parties requesting the informal conference withdraw their request before the conference is held, the informal conference shall be canceled.

4) Informal conferences held in accordance with this subsection may be used by the Department as the public hearing required under 62 Ill. Adm. Code 1761.12(c) on proposed relocation or closing of public roads.

d) Public availability of permit applications.

1) General availability.
   Except as provided in subsection (d)(2) or (d)(3) above, all applications for permits; revisions; renewals; and transfers, assignments or sales of permit rights on file with the Department shall be available, at reasonable times, for public inspection and copying.

2) Limited availability.
   Except as provided for in subsection (d)(3)(A) above, information pertaining to coal seams, test borings, core samplings, or soil samples in an application shall be made available to any person with an interest that is or may be adversely affected. Information subject to this subsection (d)(2) above shall be made available to the public when such information is required to be on public file pursuant to the Freedom of Information Act [5 ILCS 140].

3) Confidentiality.
   In accordance with the Freedom of Information Act, the Department provides procedures, including notice and opportunity to be heard for persons both seeking and opposing disclosure, to ensure confidentiality of qualified confidential information, which shall be clearly identified by the
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applicant and submitted separately from the remainder of the application. Confidential information is limited to:

A) Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of such coal which are potentially toxic in the environment;

B) Information required under Section 508 of the Federal Act that is not on public file pursuant to State law and that the applicant has requested in writing to be held confidential;

C) Information on the nature and location of archaeological resources on public land and Indian land as required under the Archaeological Resources Protection Act of 1979 (16 USC 470).

(Source: Amended at 27 Ill. Reg. 4656, effective February 26, 2003)

Section 1773.15 Review of Permit Applications

a) General.

1) The Department shall review the application for a permit, revision, or renewal; written comments and objections submitted; and records of any informal conference or hearing held on the application, and either:

A) Issue a written decision, in accordance with Section 1773.19, either granting or denying the application. If a public hearing is held under Section 1773.14, the decision shall be made within 60 days after the close of the public hearing, unless a later time is necessary to provide an opportunity for a hearing under subsection (b)(3); or

B) Issue a written decision requiring modification of the application. If a public hearing is held under Section 1773.14, the decision to require modifications shall be made within 60 days after the close of the public hearing.

i) If the applicant does not submit the required modifications to the Department within one year after the date of receipt of notification of the need for modifications, the Department shall issue a written finding in accordance with Section 1773.19 denying the application. The Department may issue an extension to this time limit if the applicant can demonstrate just cause (e.g., extended periods of illness, extreme inclement weather, acts of civil unrest, or other emergency situations) for doing so.
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ii) Upon receipt of the applicant's responses to the required modifications, the Department shall review the responses and issue a written decision, in accordance with Section 1773.19, either granting or denying the application.

2) The applicant for a permit or revision of a permit shall have the burden of establishing that his application is in compliance with all the requirements of the regulatory program.

b) Review of violations.

1) Based on a review of all reasonably available information concerning violation notices and ownership or control links involving the applicant, including information obtained pursuant to Sections 1773.22, 1773.23, 1778.13 and 1778.14, the Department shall not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of the State Act, Federal Act, any State or federal regulation promulgated pursuant thereto, a State program, or any federal or State law or regulation pertaining to air or water environmental protection. In the absence of a failure-to-abate cessation order, the Department may presume that a notice of violation issued pursuant to 62 Ill. Adm. Code 1843.12 or under a Federal or State program is being corrected to the satisfaction of the agency with jurisdiction over the violation where the abatement period for such notice of violation has not yet expired and when, as part of the violation information provided pursuant to 62 Ill. Adm. Code 1778.14, the applicant has provided certification that such violation is in the process of being so corrected. Such presumption shall not apply where evidence to the contrary is set forth in the permit application, or where the notice of violation is issued for nonpayment of abandoned mine land reclamation fees or civil penalties. If a current violation exists, the Department shall require the applicant or person who owns or controls the applicant, before the issuance of the permit, to either:

A) Submit to the Department proof that the current violation has been or is in the process of being corrected to the satisfaction of the agency that has jurisdiction over the violation; or

B) Establish for the Department that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of the current violation. If the circuit or district court reviewing the violation, pursuant to 62 Ill. Adm. Code 1847.4(p),
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30 CFR 775.13 or in accordance with the procedures established by other state regulatory authorities, either denies a stay applied for in the appeal or affirms the violation, then the applicant shall submit the proof required under subsection (b)(1)(A) within 30 days after the court's decision.

2) Any permit that is issued on the basis of a presumption supported by certification under 62 Ill. Adm. Code 1778.14 that a violation is in the process of being corrected, on the basis of proof submitted under subsection (b)(1)(A) of this Section that a violation is in the process of being corrected, or pending the outcome of an appeal described in subsection (b)(1)(B) of this Section, shall be conditionally issued.

3) If the Department makes a finding that the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of the Federal or State Act of such nature and duration and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the Federal or State Act, the application shall be denied. Before such a finding becomes final, the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in 62 Ill. Adm. Code 1847.3.

c) Written findings for permit application approval.

No permit application or application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the Department finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following:

1) The application is complete and accurate and the applicant has complied with all requirements of the Federal Act, State Act and the regulatory program.

2) The applicant has demonstrated that reclamation as required by the Federal Act, State Act and the regulatory program can be accomplished under the reclamation plan contained in the permit application.

3) The proposed permit area or the proposed shadow area for a planned subsidence operation is:

A) Not within an area under study or administrative proceedings under a petition, filed pursuant to 62 Ill. Adm. Code 1764, to have an area designated as unsuitable for surface coal mining operations, unless the applicant demonstrates that before January 4, 1977, he has made substantial legal and financial commitments in relation to the operation covered by the permit application; or
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B) Not within an area designated as unsuitable for mining pursuant to 62 Ill. Adm. Code 1762 and 1764 or within an area subject to the prohibitions of 62 Ill. Adm. Code 1761.11 subject to the prohibitions or limitations of 62 Ill. Adm. Code 1761.11 and 1761.12.

4) For mining operations where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the Department the documentation required under 62 Ill. Adm. Code 1778.15(b).

5) The Department has made an assessment of the probable cumulative impacts of all anticipated coal mining on the hydrologic balance in the cumulative impact area, in accordance with 62 Ill. Adm. Code 1780 and 1784 and has determined that the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area.

6) The applicant has demonstrated that any existing structure will comply with 62 Ill. Adm. Code 1700.11(d).

7) The applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR 870.

8) The applicant has satisfied the applicable requirements of 62 Ill. Adm. Code 1785.

9) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural post-mining land use, in accordance with the requirements of 62 Ill. Adm. Code 1816.111(d) and 1817.111(d).

10) The operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act of 1973 (16 USC 1531 et seq.).

11) For a proposed reminingremaining operation where the applicant intends to reclaim in accordance with the requirements of 62 Ill. Adm. Code 1816.106 or 1817.106, the site of the operation is a previously mined area as defined in 62 Ill. Adm. Code 1701.Appendix A.

12) The Department has taken into account the effect of the proposed permitting action on properties listed on and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the operation plan protecting historic resources, or a documented decision that the Department has determined that no additional measures are necessary.

13) For a proposed reminingremaining operation where the applicant intends to reclaim in accordance with the requirements of 62 Ill. Adm. Code
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1816.116(a)(2)(B) or 1817.116(a)(2)(B), the site of the operation is land eligible for remining as defined in 62 Ill. Adm. Code 1701.Appendix A.

d) Expiration of findings.
Written findings issued by the Department approving a permit application shall expire within one year from the date of issuance if the permit has not been issued based upon the applicant's failure to submit permit fees in accordance with 62 Ill. Adm. Code 1777.17 or a performance bond in accordance with 62 Ill. Adm. Code 1800.11. When written findings expire, the Department will take no further action on the permit application. Should the applicant choose to resume permitting activity for the area in question, a new permit application must be submitted in accordance with the requirements of this Part.

e) Final compliance review.
After an application is approved, but before the permit is issued, the Department shall reconsider its decision to approve the application, based on the compliance review required by subsection (b)(1), in light of any new information submitted under 62 Ill. Adm. Code 1778.13(i) and 1778.14(e).

(Source: Amended at 27 Ill. Reg. 4656, effective February 26, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Permit Applications - - Minimum Requirements For Legal, Financial, Compliance, and Related Information

2) **Code Citation:** 62 Ill. Adm. Code 1778

3) **Section Numbers:**
   - 1778.15 Amended
   - 1778.16 Amended

4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5622

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:**

   This Part has been amended to change references because of changes made to previous sections.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
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The full text of the Adopted Amendments begins on the next page:
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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1778
PERMIT APPLICATIONS – MINIMUM REQUIREMENTS
FOR LEGAL, FINANCIAL, COMPLIANCE, AND RELATED INFORMATION

Section 1778.15  Right of Entry Information

a) An application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin surface coal mining and reclamation operations in the permit area and shall state whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document
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pertains, and explain the legal rights claimed by the applicant. The Department will not be liable in any way if the claimed right to enter and begin surface mining activities has been, or is later, adjudicated invalid by a court of competent jurisdiction. Documents shall not be submitted to the Department in lieu of the description identified in this subsection; however, the Department may subsequently require the applicant to provide such information during the permitting process.

b) For surface mining activities where the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide for lands within the permit area:
   1) A copy of the written consent of the surface owner to the extraction of coal by surface mining methods;
   2) A copy of the conveyance that expressly grants or reserves the right to extract the coal by surface mining methods; or
   3) If the conveyance does not expressly grant the right to extract the coal by surface mining methods, documentation that under the applicable State law, the applicant has the legal authority to extract the coal by those methods.

c) Nothing in this Section shall be construed to afford the Department the authority to adjudicate property title disputes.

d) In satisfaction of the requirements of this Section the Department may accept, as part of a permit application, a statement, notarized and attested to the truth of the statement, signed by an attorney licensed to practice law in the State of Illinois, the applicant has the legal right to enter and commence the surface coal mining and reclamation operations proposed in the application. The statement shall identify the documents upon which it is based by type and date of execution, identify the specific lands to which each document pertains, and explain the legal rights claimed by the applicant. If subsection (b) applies, such statement shall also include copies of the documents as required in subsections (b)(1) through (3).

e) An application in which the applicant claims to have valid existing rights to conduct surface coal mining operations in an area where mining is prohibited or limited under 62 Ill. Adm. Code 1761.11 shall contain the necessary information and meet the requirements of Section 1778.16 and the applicable portions of 62 Ill. Adm. Code 1761.12.

f) All applications for shadow area shall contain a notarized statement by a responsible official of the applicant attesting that all necessary mining rights, including the right to subside, if applicable, have been or will be obtained prior to mining.
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(Source: Amended at 27 Ill. Reg. 4668, effective February 26, 2003)

Section 1778.16 Relationship to Areas Designated Unsuitable for Mining

a) An application shall contain a statement of available information on whether the proposed permit and shadow areas are within an area designated unsuitable for surface coal mining and reclamation operations or under study for designation in an administrative proceeding under 62 Ill. Adm. Code 1762 and 1764.

b) If an applicant claims the exemption in 62 Ill. Adm. Code 1762.13(c), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed surface coal mining and reclamation operations.

c) An application in which the applicant proposes to conduct surface coal mining operations within three hundred (300) feet of an occupied dwelling or within one hundred (100) feet of a public road must meet the requirements of 62 Ill. Adm. Code 1761.15 or 1761.14, respectively, and shall contain the necessary information and meet the requirements of 62 Ill. Adm. Code 1761.12.

(Source: Amended at 27 Ill. Reg. 4668, effective February 26, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part:** Surface Mining Permit Application - - Minimum Requirements for Reclamation and Operation Plan

2) **Code Citation:** 62 Ill. Adm. Code 1780

3) **Section Numbers:**
   - 1780.31 Amended
   - 1780.33 Amended

4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5627

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:**

   This Part has been amended to change references because of changes made to previous sections.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1780
SURFACE MINING PERMIT APPLICATIONS – MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

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AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 8511; amended at 11 Ill. Reg. 8602, effective July
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1780.31 Protection of Public Parks and Historic Places

a) For any publicly owned parks or any places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used:
   1) To prevent adverse impacts caused by surface mining related activities including, but not limited to, loss or destruction of historic artifacts and damage to historic structures or property; or
   2) If a person has valid existing rights, as determined under 62 Ill. Adm. Code 1761.16, or if joint agency approval is to be obtained under 62 Ill. Adm. Code 1761.17(d), to minimize adverse impacts.

b) The Department, in consultation with the Illinois State Historic Preservation Agency, may require the applicant to protect historic or archeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance, taking into account mining plans and the amount of materials present, provided that the required measures are completed before the properties are affected by any mining operation. Appropriate mitigation and treatment measures for properties consisting of buried or surface deposits of archeological materials may include making the property available to any interested archeological investigators for study for a period of time that takes into account mining plans and the amount of materials present.

(Source: Amended at 27 Ill. Reg. 4673, effective February 26, 2003)

Section 1780.33 Relocation or Use of Public Roads
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Each application shall describe, with appropriate maps and cross-sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 62 Ill. Adm. Code 1761.14-1761.12(e), the applicant seeks to have the Department approve:

a) Conducting the proposed surface mining activities within one hundred (100) feet of the right-of-way line of any public road, except where mine access or haul roads join that right of way; or

b) Relocating a public road, after approval by local officials or State government.

(Source: Amended at 27 Ill. Reg. 4673, effective February 26, 2003)
1) **Heading of the Part:** Underground Mining Permit Applications - Minimum Requirements for Reclamation and Operation Plan

2) **Code Citation:** 62 Ill. Adm. Code 1784

3) **Section Numbers:**
   - 1784.17 Amended
   - 1784.18 Amended

4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5631

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:**

   This Part has been amended to change references because of changes made to previous sections.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1784
UNDERGROUND MINING PERMIT APPLICATIONS – MINIMUM
REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section
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1784.27 Rehabilitation of Siltation Structures, Diversions, Impoundments, and Treatment Facilities (Repealed)
1784.29 Diversions
1784.30 Support Facilities

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 1, effective June 1, 1982; amended at 6 Ill. Reg. 1, effective June 1, 1982; codified at 8 Ill. Reg. 9350; amended at 11 Ill. Reg. 8652, effective July
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 1784.17 Protection of Public Parks and Historic Places

a) For any publicly owned parks or any places listed on the National Register of Historic Places that may be adversely affected by the proposed operation, each plan shall describe the measures to be used:

1) To prevent adverse impacts caused by surface mining related activities including, but not limited to, loss or destruction of historic artifacts and damage to historic structures or property; or

2) If a person has valid existing rights, as determined under 62 Ill. Adm. Code 1761.16, or if joint agency approval is to be obtained under 62 Ill. Adm. Code 1761.17(d), to minimize adverse impacts.

b) The Department, in consultation with the Illinois State Historic Preservation Agency, may require the applicant to protect historic or archeological properties listed on or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. Appropriate mitigation and treatment measures may be required to be taken after permit issuance, taking into account mining plans and the amount of materials present, provided that the required measures are completed before the properties are affected by any mining operation. Appropriate mitigation and treatment measures for properties consisting of buried or surface deposits of archeological materials may include making the property available to any interested archeological investigators for study for a period of time that takes into account mining plans and the amount of materials present.

(Source: Amended at 27 Ill. Reg. 4678, effective February 26, 2003)

Section 1784.18 Relocation or Use of Public Roads
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Each application shall describe, with appropriate maps and cross sections, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 62 Ill. Adm. Code 1761.14 or 1761.12(c), the applicant seeks to have the Department approve:

a) Conducting the proposed surface activities of an underground mining operation within one hundred (100) feet measured horizontally of the right of way line of any public road, except where mine access or haul roads join that right of way; or

b) Relocating a public road, subject to State or local government approval.

(Source: Amended at 27 Ill. Reg. 4678, effective February 26, 2003)
1) **Heading of the Part:** Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations

2) **Code Citation:** 62 Ill. Adm. Code 1800

3) **Section Numbers:** 
   
   **Adopted Action:**
   
   1800.40 Amended

4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5635

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:**

   These rules currently require the Department to issue its bond release decision within 60 days after receipt of the release request. In addition, the public comment period extends to 30 days after the last publication of the notice announcing the bond release. As the
DEPARTMENT OF NATURAL RESOURCES

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rules are currently written, it is possible for the public comment period to expire after the deadline for the Department to issue its decision. This amendment eliminates this problem by extending the decision issuance date to 60 days after filing or 5 days after the close of the comment period, whichever is later.

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1800

BONDING AND INSURANCE REQUIREMENTS FOR
SURFACE COAL MINING AND RECLAMATION OPERATIONS

Section
1800.1 Scope and Purpose
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1800.30 Replacement of Bonds
1800.40 Requirement to Release Performance Bonds
1800.50 Forfeiture of Bonds
1800.60 Terms and Conditions for Liability Insurance

AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

DEPARTMENT OF NATURAL RESOURCES

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Section 1800.40 Requirement to Release Performance Bonds

a) Bond release application.
   1) The permittee may file an application with the Department for the release of all or part of a performance bond at any time. The permittee may authorize a person to act on the permittee's behalf. The Department may also initiate an application for bond release. For bond releases initiated by the Department, the Department shall undertake the notification and certification requirements of the applicant under this Section.
   2) Within 30 days after an application for bond release has been filed with the Department, the applicant shall submit a copy of an advertisement placed at least once a week for 4 successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation. The advertisement shall be considered part of any bond release application and shall contain the permit number and approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the permittee's approved reclamation plan, and the name and address of the Department to which written comments, objections, or requests for public hearings on the specific bond release may be submitted pursuant to subsection (d). In addition, as part of any bond release application, the applicant shall submit copies of letters which he or she has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. The applicant shall submit a certification of publication for such advertisement prior to the Department's final administrative decision releasing bond.
   3) The applicant shall include in the application for bond release a notarized statement which certifies that all applicable reclamation activities have been accomplished in accordance with the requirements of the State Act, the regulatory program and the approved reclamation plan. Such certification shall be submitted for each application or phase of bond release.
b) Inspection by Department.

1) Upon filing of the bond release application, the Department shall, within 30 days, or as soon thereafter as weather conditions permit, conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other factors, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of future occurrence of such pollution, and the estimated cost of abating such pollution. The surface owner, agent, or lessee shall be given notice of such inspection and may participate with the Department in making the bond release inspection. The Department may arrange with the permittee to allow access to the permit area, upon request by any person with an interest in bond release, for the purpose of gathering information relevant to the proceeding.

2) Within the later of 60 days from the filing of the bond release application, or 5 days after the expiration of the public comment period provided under subsection (d), if no public hearing is held pursuant to subsection (d)-(e), or within 30 days after a public hearing has been held pursuant to subsection (d)-(e), the Department shall notify, in writing, the permittee, the municipality and county in which the surface coal mining operation is located, the surety, or other persons with an interest in bond collateral who have requested notification under Section 1800.21(e), and the persons who either filed objections in writing or objectors who were a party to the hearing proceedings, if any, its final administrative decision to release or not to release all or part of the performance bond. The municipality and county shall be notified by certified mail.

c) The Department may release all or part of the bond for the entire permit area or incremental area if the Department is satisfied that all the reclamation or a phase of the reclamation covered by the bond or portion thereof has been accomplished in accordance with the following schedules for reclamation of Phases I, II, and III:

1) At the completion of Phase I, after the operator completes the backfilling, regrading (which includes the replacement of topsoil) and drainage control of a bonded area in accordance with the approved reclamation plan, 60% of the bond or collateral for the applicable area.

2) At the completion of Phase II, after revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, an additional amount of bond. When determining the amount of bond to be released after successful revegetation has been established, the Department shall retain that amount of bond for the revegetated area which would be sufficient to cover the cost of reestablishing revegetation...
if completed by a third party and for the period specified for operator responsibility in Section 6.08(d)(2) of the State Act for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection (c)(2) so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by Section 3.10 of the State Act and by 62 Ill. Adm. Code 1816 or 1817 or until soil productivity for prime farmland has returned to the equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to Section 2.02(a) of the State Act and 62 Ill. Adm. Code 1823. Where a silt dam is to be retained as a permanent impoundment pursuant to 62 Ill. Adm. Code 1816 or 1817, the Phase II portion of the bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the Department.

3) At the completion of Phase III, after the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility in 62 Ill. Adm. Code 1816.116 or 1817.116. However, no bond shall be fully released under this subsection until the reclamation requirements of the State Act and the permit are fully met.

d) Any person with a valid legal interest which might be adversely affected by release of the bond, or the responsible officer or head of any Federal, State, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or which is authorized to develop and enforce environmental standards with respect to such operations, shall have the right to file a written request for hearing and written objections to the proposed release from bond with the Department within 30 days after the last publication of the notice required by subsection (a)(2). If written objections are filed and a hearing is requested, the hearing shall be held in accordance with 62 Ill. Adm. Code 1847.9.

e) If the Department disapproves the application for release of the bond or portion of the bond, the Department shall notify the permittee, the surety, and any person with an interest in collateral as provided for in Section 1800.21(e), in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release. The permittee, the surety, and any person with an interest in collateral as provided for in Section 1800.21(e) may request an
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administrative hearing on the disapproval of bond release by filing a request for hearing in accordance with the procedures set forth in 62 Ill. Adm. Code 1847.3.

(Source: Amended at 27 Ill. Reg. 4683, effective February 26, 2003)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Permanent Program Performance Standards-Surface Mining Activities

2) **Code Citation**: 62 Ill. Adm. Code 1816

3) **Section Numbers**:
   - 1816.116: Adopted Action: Amended

4) **Statutory Authority**: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments**: February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) **A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.**

9) **Notice of Proposal Published in Illinois Register**: April 19, 2002; 26 Ill. Reg. 5641

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version**: None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking**:

   This Part has been amended to update the Illinois Agronomy Handbook reference from “1993-94” to “1999-2000”.
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

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

Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

The full text of the Adopted Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1816
PERMANENT PROGRAM PERFORMANCE STANDARDS – SURFACE MINING ACTIVITIES

Section
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AUTHORITY: Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].


Section 1816.116 Revegetation: Standards for Success
a) Success of Revegetation

1) Success of revegetation shall be judged in accordance with this Section and Section 1816.117.

2) Requirements

A) The period of extended responsibility for successful revegetation shall begin after the last year of augmented seeding, fertilizing, irrigation, or other work, excluding husbandry practices that are approved by the Department in accordance with subsection (a)(2)(C).

B) The period of extended responsibility shall continue for a period of not less than 5 full years, except that on lands eligible for remining, the period of responsibility (until September 30, 2004) shall be 2 full years. Vegetation parameters identified in subsection (a)(1) shall equal or exceed the approved success standard set forth in subsection (a)(3).

C) The Department shall approve selective husbandry practices, excluding irrigation or augmented seeding or augmented fertilization, without extending the period of responsibility for revegetation success and bond liability, if such practices can be expected to continue as part of the post-mining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices shall be normal conservation and land use management practices within the region for unmined lands having land uses similar to the approved post-mining land use of the disturbed area, including such practices as disease, pest, and vermin control; any pruning, reseeding and/or transplanting specifically necessitated by such actions; approved agricultural practices described in the Illinois Agronomy Handbook (1999-2000)-(1993-94); and those practices which are a part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990 (7 USC 1421 et seq.). On all lands with a postmining land use other than cropland, any areas reseeded or replanted as a part or result of a normal husbandry practice must be sufficiently small in size and limited in extent of occurrence, or part of a hay management plan which is an agricultural practice described by the Illinois Agronomy Handbook or as part of an approved conservation plan subject to the Food, Agriculture, Conservation and Trade Act of 1990, and the
reestablished vegetation must be in place for a sufficient length of time so as not to adversely affect the Department's ability to make a valid determination at the time of bond release as to whether the site has been properly reclaimed to a condition in which it will support a diverse, effective, permanent vegetative cover of the required nature and productivity. The Illinois Agronomy Handbook is published by the University of Illinois Cooperative Extension Service, Office of Agricultural Communications and Education, 69E Mumford Hall, 1301 West Gregory Drive, Urbana, Illinois 61801. Copies of the Illinois Agronomy Handbook and the Food, Agriculture, Conservation, and Trade Act of 1990 are available at the Department's Springfield office.

D) Rill and gully repair on cropland-capable reclaimed land will not be considered augmentation if a permittee has an approved erosion control plan in place in the field pursuant to 62 Ill. Adm. Code 1823.14(g) or 1825.14(f), and shortly after the first rainfall event after the repair, the Department makes the following determinations:

i) the area is a minor erosional feature;
ii) the area is small;
iii) the erosion is not expected to recur; and
iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

E) Rill and gully repair on noncropland-capable land will not be considered augmentation if, shortly after the first rainfall event after the repair, the Department makes the following determinations:

i) the area is a minor erosional feature;
ii) the area is small;
iii) the erosion is not expected to recur; and
iv) the area is stable.

The Department shall notify the permittee in writing whether or not a repair is augmentative. Such written notice shall be in the form of an inspection report or other document issued by the Department.

F) Augmentation
Wetlands shall be considered augmented when significant alterations are made to the size or character of the watershed, pumping is used to maintain water levels, or neutralizing agents, chemical treatments or fertilizers are applied to the wetland area, except that wetlands managed as wildlife food plot areas using agricultural techniques shall not be considered augmented when normal agricultural husbandry practices, such as routine liming and fertilization, are used. Water level management using permanent water control structures is considered a normal husbandry practice.

G) Other Management Practices

The Department shall approve the use of deep tillage for prime farmland and high capability land as a beneficial practice that will not restart the 5 year period of responsibility, if the following conditions are met:

i) The permittee has submitted a request to use the practice and has identified the field that will be deep tilled;

ii) One or more hay crops, or other acceptable row crops, have been grown or will be grown to dry out the subsoil prior to deep tilling the field; and

iii) The Department has determined that the use of deep tillage will be beneficial to the soil structure and long term crop production of the field and the benefits will continue well beyond the responsibility period.

The Department shall notify the permittee in writing of its decision. Such written notice shall be in the form of an inspection report or other document issued by the Department.

3) Ground cover and production shall be considered equal to the approved success standard when they are not less than 90% of the success standard. The sampling techniques for measuring success shall use a 90% statistical confidence interval (i.e., one-sided t test with a 0.10 alpha error). Vegetative ground cover shall be measured using the technique set forth in 62 Ill. Adm. Code 1816.117(d). Standards for success shall be applied in accordance with the approved post-mining land use and, at a minimum, the following conditions:

A) The vegetative ground cover for areas previously disturbed by mining operations that were not reclaimed to the requirements 62 Ill. Adm. Code 1810 through 1828 and that are remined or otherwise redisturbed by surface coal mining operations, shall not
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be less than the greater of 70% or the percentage of ground cover existing before redisturbance, and shall be adequate to control erosion during the last year of the responsibility period;

B) For areas to be developed for industrial, commercial or residential use less than 2 years after regrading is completed, the vegetative ground cover shall not be less than that required to control erosion and shall not be less than 70%;

C) For areas designated in the approved reclamation plan as cropland, except those cropland areas subject to 62 Ill. Adm. Code 1823.15, success of revegetation of cropland areas shall be determined in accordance with subsection (a)(4). Crop production shall be considered successful if it is 90% of that crop production required in subsection (a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 crop years of a 10 year period prior to release of the performance bond, except the first year of the 5 year responsibility period. During the extended 5 year responsibility period, erosion from cropland must be minimized using equivalent or better management practices than surrounding unmined cropland. The 5 year responsibility period shall begin after the last year of augmented seeding, fertilizing, or soil treatment and at the time of the planting of the crops to be grown for the productivity showing or crops grown in rotation. Crop production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. All cropland shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period;

D) For areas to be developed for fish and wildlife habitat (including shelter belts), recreation, or forest products land uses, success of revegetation shall be determined on the basis of tree and shrub populations and ground cover. The tree and shrub population and ground cover shall meet the standards described in Section 1816.117;

E) For areas designated as pasture and/or hayland or grazing land in the approved reclamation plan, except for erosion control devices and other structures (i.e., levees, ditches, waterways, impounding structures, etc.) productivity success (tons of grasses and/or legumes per acre) shall be determined in accordance with subsection (a)(4). Productivity shall be considered successful if it
is 90% of the productivity required in subsection (a)(4) with 90% statistical confidence (i.e., one-sided t test with a 0.10 alpha error) for a minimum of any 2 crop years of a 10 year period prior to release of the performance bond, except the first year of the 5 year extended responsibility period. All pasture, hayland and grazing land shall be maintained using proper management practices as set forth in subsection (a)(2)(C) until the end of the responsibility period. Production for proof of productivity purposes shall be initiated within 10 years after completion of backfilling and final grading. Ground cover shall be considered successful if it is 90% with 90% statistical confidence (i.e., one sided t test with a 0.10 alpha error) for a minimum of any 2 years of a 10 year period prior to the release of the performance bond, except the first year of the 5 year extended responsibility period. On high capability land, the Department shall allow the permittee to substitute corn production for hay production. If determined to be a proper management practice in accordance with subsection (a)(2)(C), the Department shall allow the permittee to substitute one year of crop production of an allowable crop specified in subsection (a)(4)(D) for one year of hay production on limited capability land;

F) Non-contiguous areas less than or equal to 4 acres which were disturbed from activities such as, but not limited to, signs, boreholes, power poles, stockpiles and substations shall be considered successfully revegetated if the permittee can demonstrate that the soil disturbance was minor, i.e., the majority of the subsoil remains in place, the soil has been returned to its original capability and the area is supporting its approved post-mining land use at the end of the responsibility period.

4) In order to use the Agricultural Lands Productivity Formula, Appendix A of this Part, to determine success of revegetation, the following shall apply:

A) The permittee shall submit annually, by February 15, a one inch equals 500 feet or larger scale drawing or aerial photograph delineating:

i) Field boundaries, a field numbering scheme and the total acreage for each field which will be cropped to demonstrate proof of productivity for the coming crop year. The Department shall approve such submittal if the information is correct and accurate. Once field boundaries are
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established in a submittal, the boundaries shall not be changed without recommencing the responsibility period, unless the submittal is amended in accordance with subsection (a)(4)(A)(ii); and

ii) The crop (e.g., hay, wheat, corn, soybeans, sorghum, etc.) which will be grown on each field to demonstrate proof of productivity for the coming crop year. The permittee may amend its scale drawing in accordance with 62 Ill. Adm. Code 1774.13(b)(2) until July 15 of the submittal year. Each such amendment shall contain a written explanation of changes from the original submittal and include a map reflecting the changes. A field is an area of land reclaimed by a single reclamation technique that comprises either high capability land or prime farmland or limited capability pasture land. The size of the field and its boundaries are determined by such factors which include, but are not limited to, contour, non-cropped boundaries and size of farming equipment.

B) Fields identified in subsection (a)(4)(A) to be measured for success of revegetation for cropland shall be planted annually to a single approved crop. The sampling method of Appendix A shall apply. Soil and water conservation practices approved in the permit application including but not limited to grass waterways, diversion ditches, contour grass strips, and sedimentation ponds within the boundaries of a field shall be excluded from the sampling requirements of Section 1816.Appendix A and shall remain vegetated with permanent ground cover species, where appropriate, to conserve soil and water resources. Subject to rulemaking, the Department in cooperation with the Illinois Department of Agriculture may determine if a portion of a field is a representative sample of the entire field when technology has developed to make it possible through physical and chemical agronomic testing to demonstrate success of vegetation through soil surveys or when statistically valid sampling procedures are developed for determining success of revegetation based upon cropping and sampling a representative portion of the field.

C) Adjustments for abnormal growing conditions shall be made if such adjustments are certified by a crop adjuster certified to perform adjustments by the Federal Crop Insurance Corporation.
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At the request of a permittee, the Department of Agriculture shall make arrangements for such an appraisal or adjustment review. Before any such an appraisal or adjustment shall be arranged, the permittee shall file with the Illinois Department of Agriculture an agreement to pay the full cost of any crop adjustment or appraisal so requested.

D) The crops to be grown shall include those commonly grown on surrounding unmined cropland such as corn, soybeans, hay, sorghum, wheat, or oats. The Department may approve a hay crop use where this is a common use of unmined cropland in the surrounding area. Prime farmland and other cropland areas must include a minimum of one successful year of corn and if the Department has approved its use a maximum of one successful year each of hay, wheat and oat crops.

5) Wetland revegetation shall be deemed successful when:
   A) The wetland vegetation criteria in the Corps of Engineers Wetlands Delineation Manual (Department of the Army Technical Report Y-87-1, January 1987, published by the Department of the Army, Waterways Experiment Station, Corps of Engineers, P.O. Box 631, Vicksburg, Mississippi 39180-0631) have been achieved following sampling procedures specified in that manual, which does not include any later amendments or editions and is available for inspection and copying at the Department's Springfield office; and
   B) Areas designed to support vegetation in the approved plan shall have a minimum areal coverage of 30%. The testing procedure in Section 1816.117(d)(1) through (3) shall be used to evaluate the extent of cover. Areal cover shall be determined to be present if any approved wetland species is measured at the increment. The percentage of areal cover shall be established for the area tested by taking the total number of measurements where areal cover was determined to be present.

b) The person who conducts surface mining activities shall:
   1) Conduct periodic measurements of vegetation, soils, and water prescribed or approved by the Department, to identify if remedial actions are necessary during the applicable period of liability specified in subsection (a); and
   2) Initiate a soil compaction and fertility testing plan, subject to the approval of the Department, for areas that have incurred 5 unsuccessful attempts to
meet the production required by subsection (a)(3)(C) or (E) or 62 Ill. Adm. Code 1823.15, or shall initiate deep tillage on the areas.

3) Permittees shall submit by February 15 of each year a report of reclamation activities conducted during the previous calendar year, which initiate or may alter the responsibility period or are specifically required by the Department to evaluate a normal husbandry practice, using forms provided by the Department. Examples of reclamation activities to be reported and/or evaluated include but are not limited to crops used in temporary and permanent seedings, grasses and legumes planted, trees and shrubs planted, soil amendments added, and location and type of augmentation activities. The forms shall be submitted with a copy of the approved post-mining land use and capability map depicting the location of such activities. The map shall be planned as a continuous map so the reclamation activities conducted each year may be added and indicated on the map by the dates the activities were conducted.

(Source: Amended at 27 Ill. Reg. 4690, effective February 26, 2003)
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1) **Heading of the Part:** Administrative and Judicial Review

2) **Code Citation:** 62 Ill. Adm. Code 1847

3) **Section Numbers:**
   - 1847.9: Amended

4) **Statutory Authority:** Implementing and authorized by the Surface Coal Mining Land Conservation and Reclamation Act [225 ILCS 720].

5) **Effective Date of Amendments:** February 26, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this amendment contain incorporations by reference?** No

8) A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource’s principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:** April 19, 2002; 26 Ill. Reg. 5653

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace an emergency rule currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Rulemaking:**

   This Part has been amended to correct a referenced cite.

16) **Information and questions regarding these adopted amendments shall be directed to:**
DEPARTMENT OF NATURAL RESOURCES

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Karen Jacobs
Department of Natural Resources
One Natural Resources Way
Springfield IL  62702-1271
217/782-1809

The full text of the Adopted Amendments begins on the next page:
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TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 1847
ADMINISTRATIVE AND JUDICIAL REVIEW

Section 1847.9  Bond Release Public Hearings

a) A hearing requested pursuant to 62 Ill. Adm. Code 1800.40(d) shall be held within 30 days after receipt of the request for hearing.

b) Bond release public hearings shall be held in the locality of the surface coal mining operation from which bond release is sought, at the location of the Department's office, or at the State capital, at the option of the objector.

c) Notice of hearing. All parties shall be given written notice of the hearing at least 5 working days prior to the hearing. The Department shall advertise the date, time and location of the hearing in a newspaper of general circulation in the locality of the surface coal mining operation for 2 consecutive weeks.
d) The Department shall appoint a hearing officer to conduct the hearing. The hearing officer shall be a licensed attorney or an employee of the Department. The hearing officer shall conduct a fair hearing and shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record. He or she shall have all powers necessary to these ends, including but not limited to the power to change the time and place of the hearing and adjourn the hearing from time to time or from place to place within the county of the surface coal mining and reclamation operation and to give due notice of that action consistent with the notice requirement of subsection (c).

e) The hearing shall be informal.

1) All participants in the public hearing shall have the right to be represented by counsel or by some other authorized representative.

2) The hearing officer shall allow the applicant and any interested persons to present data, views or arguments relevant to the bond release application.

3) Where necessary in order to prevent undue prolongation of the hearing, the hearing officer shall establish a time period during which the participants shall be heard. Every effort will be made to allow all persons who wish to make a statement to do so.

4) A verbatim transcript of the hearing shall be maintained by a court reporter appointed by the Department and shall constitute a part of the record. Copies of the transcript shall be furnished, at cost, upon request to the court reporter. The record shall be maintained by the Department and shall be accessible to the public at the Department's Springfield Office until final release of the applicant's reclamation performance bond.

5) The record shall remain open for additional written statements responsive to statements or other documents for 10 days following the close of the hearing, or for such other reasonable time as the hearing officer may direct.

f) If the hearing request is withdrawn, the hearing need not be held.

Record of hearing. A complete record of the hearing and all testimony shall be made by the Department and recorded stenographically. The record shall be maintained and shall be available to the public until at least 60 days after the Department's final decision on the bond release application.

h) The Department shall issue and serve, by certified mail, each party who participated in the hearing with the Department's bond release decision.

i) Any person with a valid legal interest who either filed written objections to the bond release or were a party to the public hearing may request an administrative hearing on the Department's final decision on the bond release application by
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filing a request for hearing in accordance with the procedures set forth in Section 1847.3.

(Source: Amended at 27 Ill. Reg. 4703, effective February 26, 2003)
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1) Heading of the Part: Medical Assistance Programs

2) Code Citation: 89 Ill. Adm. Code 120

3) Section Numbers: Adopted Action:
   
   120.32 Amendment
   120.60 New Section

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: February 25, 2003

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:
   
   October 18, 2002 (26 Ill. Reg. 14942)

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences Between Proposal and Final Version:

   No changes have been made to the text of the proposed rulemaking.

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

13) Will these amendments replace emergency amendments currently in effect? Yes

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

15) Summary and Purpose of Amendments:
These amendments establish eligibility standards for the KidCare Parent Coverage Waiver program which has been approved by the federal Department of Health and Human Services. Under this program, which is designed to assist families with obtaining coverage for necessary medical services, the income eligibility standard for a parent or another adult caretaker relative who is 19 years of age or older is being increased to 49 percent of the Federal Poverty Level. For families with children that meet the new income standard, the parent/caretaker relative will be eligible for coverage under the Department’s Medical Assistance Program.

This waiver will also affect the Children’s Health Insurance Program by allowing federal matching funds at 50 percent for KidCare Rebate. Currently, no federal match is provided to the State under KidCare Rebate.

Related amendments concerning the KidCare Parent Coverage Waiver are also being added at 89 Ill. Adm. Code 125 and 89 Ill. Adm. Code 140.

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

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois  62763-0002  
(217) 524-0081

The full text of the adopted amendments begins on the next page:
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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120
MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section 120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section 120.10 Eligibility For Medical Assistance
120.11 MANG(P) Eligibility
120.12 Healthy Start - Medicaid Presumptive Eligibility Program For Pregnant Women
120.20 MANG(AABD) Income Standard
120.30 MANG(C) Income Standard
120.31 MANG(P) Income Standard
120.32 **KidCare Parent Coverage Waiver Eligibility and Income Standard**
120.40 Exceptions To Use Of MANG Income Standard
120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children
120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD - MANG(AABD) and All Other Licensed Medical Facilities
120.62 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings Under 89 Ill. Adm. Code 140.643
120.63 Department of Mental Health and Developmental Disabilities (DMHDD) Approved Home and Community Based Residential Settings
120.64 MANG(P) Cases
120.65 Department of Mental Health and Developmental Disabilities (DMHDD) Licensed Community - Integrated Living Arrangements
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SUBPART D: MEDICARE PREMIUMS

Section
120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73 Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
120.74 Qualified Medicare Beneficiary (QMB) Income Standard
120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
120.76 Hospital Insurance Benefits (HIB)

SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section
120.80 Recipient Restriction Program

SUBPART F: MIGRANT MEDICAL PROGRAM

Section
120.90 Migrant Medical Program (Repealed)
120.91 Income Standards (Repealed)

SUBPART G: AID TO THE MEDICALLY INDIGENT

Section
120.200 Elimination Of Aid To The Medically Indigent
120.208 Client Cooperation (Repealed)
120.210 Citizenship (Repealed)
120.211 Residence (Repealed)
120.212 Age (Repealed)
120.215 Relationship (Repealed)
120.216 Living Arrangement (Repealed)
120.217 Supplemental Payments (Repealed)
120.218 Institutional Status (Repealed)
120.224 Foster Care Program (Repealed)
120.225 Social Security Numbers (Repealed)
120.230 Unearned Income (Repealed)
120.235 Exempt Unearned Income (Repealed)
120.236 Education Benefits (Repealed)
120.240 Unearned Income In-Kind (Repealed)
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120.245 Earmarked Income (Repealed)
120.250 Lump Sum Payments and Income Tax Refunds (Repealed)
120.255 Protected Income (Repealed)
120.260 Earned Income (Repealed)
120.261 Budgeting Earned Income (Repealed)
120.262 Exempt Earned Income (Repealed)
120.270 Recognized Employment Expenses (Repealed)
120.271 Income From Work/Study/Training Program (Repealed)
120.272 Earned Income From Self-Employment (Repealed)
120.273 Earned Income From Roomer and Boarder (Repealed)
120.275 Earned Income In-Kind (Repealed)
120.276 Payments from the Illinois Department of Children and Family Services (Repealed)
120.280 Assets (Repealed)
120.281 Exempt Assets (Repealed)
120.282 Asset Disregards (Repealed)
120.283 Deferral of Consideration of Assets (Repealed)
120.284 Spend-down of Assets (AMI) (Repealed)
120.285 Property Transfers (Repealed)
120.290 Persons Who May Be Included in the Assistance Unit (Repealed)
120.295 Payment Levels for AMI (Repealed)

SUBPART H: MEDICAL ASSISTANCE - NO GRANT

Section
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120.384 Spend-down of Assets (AABD MANG)
120.385 Property Transfers for Applications Filed Prior to October 1, 1989 (Repealed)
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120.386 Property Transfers Occurring On or Before August 10, 1993
120.387 Property Transfers Occurring On or After August 11, 1993
120.390 Persons Who May Be Included In the Assistance Unit
120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project.
120.395 Payment Levels for MANG (Repealed)
120.399 Redetermination of Eligibility
120.400 Twelve Month Eligibility for Persons under Age 19

SUBPART I: SPECIAL PROGRAMS

Section
120.500 Health Benefits for Persons with Breast or Cervical Cancer
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120.TABLE A Value of a Life Estate and Remainder Interest
120.TABLE B Life Expectancy


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SUBPART B: ASSISTANCE STANDARDS
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Section 120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard

a) A caretaker relative (see Section 120.390) who is 19 years of age or older qualifies for medical assistance when countable income is below the appropriate income standard and all MANG(C) eligibility requirements in this Part, with the exception of Sections 120.320 through 120.323, are met.

b) The appropriate income standard is 49 per cent of the Federal Poverty Income Guidelines, as published annually in the Federal Register, for the appropriate family size.

c) If income is greater than this amount, it is compared to the MANG(C) Income Standard in Section 120.30 to determine the spenddown amount.

(Source: Added at 27 Ill. Reg. 4708, effective February 25, 2003)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section 120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children

The following subsections apply to all cases other than those receiving care in licensed intermediate care facilities, licensed skilled nursing facilities, Department of Human Services (DHS) facilities, or DHS approved community based residential settings under 89 Ill. Adm. Code 140.643, or pregnant women and children under age 19 who do not qualify as mandatory categorically needy.

a) The eligibility period shall begin with:
   1) the first day of the month of application;
   2) the first day of any month, prior to the month of application, in which the client meets non-financial eligibility requirements up to three months prior to the month of application, if the client so desires; or
   3) the first day of a month, after the month of application, in which the client meets non-financial eligibility requirements.

b) Eligibility Without Spenddown for MANG
   1) For AABD MANG, if the client's nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30) and nonexempt assets are not in excess of the applicable asset disregard (Section 120.382), the client is eligible for medical assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire eligibility period.
2) For TANF MANG, if the client’s nonexempt income available during the eligibility period is equal to or below the applicable MANG standard (Sections 120.20 and 120.30), the client is eligible for medical assistance from the first day of the eligibility period. The Department will pay for covered services received during the entire eligibility period.

3) The client is responsible for reporting any changes that occur during the eligibility period which might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance. If changes in income, assets or family composition occur which would make the client a spenddown case, a spenddown obligation will be determined and subsection (c) of this Section will apply.

4) A redetermination of eligibility will be made at least every 12 months.

c) Eligibility with Spenddown for MANG

1) For AABD MANG, if the client's nonexempt income available during the applicable eligibility period is greater than the applicable MANG standard and/or nonexempt assets are over the applicable asset disregard, the client must meet the spenddown obligation determined for the eligibility period before becoming eligible to receive medical assistance. The spenddown obligation is the sum of the amount by which the client's nonexempt income exceeds the MANG standard and the amount of nonexempt assets in excess of the applicable asset disregard.

2) For TANF MANG, if the client's nonexempt income available during the applicable eligibility period is greater than the applicable MANG standard, the client must meet the spenddown obligation determined for the eligibility period before becoming eligible to receive medical assistance. The spenddown obligation is the amount by which the client's nonexempt income exceeds the MANG standard.

3) The client meets the spenddown obligation by incurring or paying for medical expenses in an amount equal to the spenddown obligation.

A) Medical expenses shall be applied to the spenddown obligation in the following order:

i) Charges for DHS Home Services and/or Community Based Services. These charges are considered incurred the first day of the month, regardless of the day the services are actually provided.

ii) Payments made for medical expenses within the previous six months. Payments are considered incurred the first day of the month of payment.
iii) Unpaid medical expenses. These are considered as of the date of service and are applied in chronological order.

B) If multiple medical expenses are incurred on the same day, the expenses shall be applied in the following order:
   i) Health insurance deductibles (including Medicare and other co-insurance charges).
   ii) All copayment charges incurred or paid on spenddown met day.
   iii) Expenses for medical services and/or items not covered by the Department's Medical Assistance Program.
   iv) Cost share amounts incurred for in-home care services by individuals receiving services through the Department on Aging (DonA DOA).
   v) Expenses incurred for in-home care services by individuals receiving or purchasing services from private providers.
   vi) Expenses incurred for medical services or items covered by the Department's Medical Assistance Program. If more than one covered service is received on the day, the charges will be considered in order of amount. The bill for the smallest amount will be considered first.

C) If a service is provided during the eligibility period but payment may be made by a third party, such as an insurance company, the medical expense will not be considered towards spenddown until the bill is adjudicated. When adjudicated, that part determined to be the responsibility of the client shall be considered as incurred on the date of service.

4) After application for medical assistance for cases eligible with a spenddown obligation who do not have a QMB or MANG(P) member, an additional eligibility determination will be made.
   A) For TANF MANG, if countable income is greater than the QMB income standard (Section 120.30 120.74), and for AABD MANG, if countable income is greater than the income standard or countable assets are greater than the QMB asset disregard (Section 120.382(d)), a person the case will not be enrolled in spenddown unless:
      i) the person case does not have a spenddown obligation for any month of the 12 twelve-month enrollment period;
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ii) medical expenses equal the spenddown obligation for at least one month of the 12 twelve-month enrollment period; or

iii) the person is on a waiting list or would be on a waiting list to receive a transplant if he or she had a source of payment.

B) Cases which meet any of these conditions will be notified, in writing, of the spenddown obligation. The client will also be notified that his or her case will be reviewed beginning in the sixth month of the 12 twelve-month enrollment period. If the client has not had medical eligibility in one of the last three months at the time of review (including the month of review), the case will terminate unless the case contains a person who is on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment. A new application will be required if the client wishes continued medical assistance.

C) When proof of incurred medical expenses equal to the spenddown obligation is provided to the local office, eligibility for medical assistance shall begin effective the first day that the spenddown obligation is met. The Department will pay for covered services received from that date until the end of the eligibility period. The client shall be responsible, directly to the provider, for payment for services provided prior to the time the client meets the spenddown obligation.

5) Cases with a spenddown obligation which do not have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will be reviewed beginning in the sixth month of enrollment to determine if they have had medical eligibility within the last three months, including the month of review. If so, enrollment will continue. If not, enrollment will be terminated and the client will be advised that if he or she wishes continued medical assistance, a reapplication must be filed. Upon reapplication, a new 12 twelve-month enrollment period will be established (assuming non-financial factors of eligibility are met). If appropriate, a new spenddown obligation will be created.

A) If the client files a reapplication prior to four months after the end of the period of enrollment, the client will be sent through a special abbreviated intake procedure making use of current case record material to verify factors of eligibility not subject to change.
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B) Cases that remain eligible in the tenth month of the enrollment period or which have a QMB, a MANG(P) member or a person on a waiting list or who would be on a waiting list to receive a transplant if he or she had a source of payment, will remain enrolled and will be redetermined once every 12 months.

6) The client is responsible for reporting any changes that occur during the enrollment period which might affect eligibility for medical assistance. If changes occur, appropriate action shall be taken by the Department, including termination of eligibility for medical assistance.

7) For AABD MANG, if changes in income, assets or family composition occur, appropriate adjustments to the spenddown obligation and date of eligibility for medical assistance shall be made by the Department. The client will be notified, in writing, of the new spenddown obligation.
A) If income decreases, or assets fall below the applicable asset disregard and, as a result, the client has already met the new spenddown obligation, eligibility for medical assistance shall be back-dated to the appropriate date.
B) If income or assets increase and, as a result, the client has not produced proof of incurred medical expenses equal to the new spenddown obligation, the written notification of the new spenddown amount will also inform the client that eligibility for medical assistance will be interrupted until proof of medical expenses equal to the new spenddown obligation is produced.

8) For TANF MANG, if changes in income or family composition occur, appropriate adjustments to the spenddown obligation and date of eligibility for medical assistance shall be made by the Department. The client will be notified, in writing, of the new spenddown obligation.
A) If income decreases and, as a result, the client has already met the new spenddown obligation, eligibility for medical assistance shall be back-dated to the appropriate date.
B) If income increases and, as a result, the client has not produced proof of incurred medical expenses equal to the new spenddown obligation, the written notification of the new spenddown amount will also inform the client that eligibility for medical assistance will be interrupted until proof of medical expenses equal to the new spenddown obligation is produced.

(Source: Amended at 27 Ill. Reg. 4708, effective February 25, 2003)
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1) **Heading of the Part:** Children’s Health Insurance Program

2) **Code Citation:** 89 Ill. Adm. Code 125

3) **Section Numbers:**
   - 125.205  Amendment
   - 125.245  Amendment
   - 125.260  Amendment

4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) **Effective Date of Amendments:** February 25, 2003

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Do these amendments contain incorporations by reference?** No

8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal Published in Illinois Register:**
    October 18, 2002 (26 Ill. Reg. 14945)

10) **Has JCAR issued a Statement of Objections to these rules?** No

11) **Differences Between Proposal and Final Version:**
    No changes have been made to the proposed text.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will these amendments replace emergency amendments currently in effect?** Yes

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

15) **Summary and Purpose of Amendments:**
These amendments relate to companion amendments establishing the KidCare Parent Coverage Waiver which has been approved by the federal Department of Health and Human Services. Under this program, which is designed to assist families with obtaining coverage for necessary medical services, the income eligibility standard for a parent or another adult caretaker relative who is 19 years of age or older is being increased to 49 percent of the Federal Poverty Level. For families with parents or caretaker relatives that meet the new income standard, the parent/caretaker relative will be eligible for coverage under the Department’s Medical Assistance Program.

The waiver will affect the Children’s Health Insurance Program by allowing federal matching funds at 50 percent for KidCare Rebate. Currently, no federal match is provided to the State under KidCare Rebate. Specific changes to Part 125 include:

- permitting families with incomes between 133 percent and 185 percent of the Federal Poverty Level with qualifying insurance to choose to receive either KidCare Rebate or KidCare Health Plan;

- the continuation of benefits during KidCare Rebate appeals if the family files a timely appeal; and

- eliminating the three-month period of non-eligibility when a family voluntarily drops its health insurance without good cause.

The Department is also adding related amendments at 89 Ill. Adm. Code 120 and 89 Ill. Adm. Code 140.

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

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois  62763-0002  
(217) 524-0081

The full text of the adopted amendments begins on the next page:
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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 125
CHILDREN'S HEALTH INSURANCE PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
125.100 General Description
125.110 Definitions

SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section
125.200 Eligibility for Children’s Health Insurance Program
125.205 Eligibility Exclusions and Terminations
125.220 Application Process
125.230 Determination of Monthly Countable Income
125.240 Eligibility Determination and Enrollment Process
125.245 Appeals
125.250 Annual Renewals
125.260 Adding Children to and Removing Children from the Program and Changes in Participation

SUBPART C: KIDCARE HEALTH PLAN

Section
125.300 Covered Services
125.305 Service Exclusions
125.310 Copayments
125.320 Premium Requirements
125.330 Non-payment of Premium
125.340 Provider Reimbursement

SUBPART D: KIDCARE REBATE
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Section 125.400 Minimum Coverage Requirements
125.420 Coverage Verification Process
125.430 Provision of Policyholder’s Social Security Number
125.440 KidCare Insurance Rebate
125.445 Rebate Overpayments

AUTHORITY: Implementing and authorized by the Children’s Health Insurance Program Act [215 ILCS 106] and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13].


SUBPART B: GENERAL ELIGIBILITY AND ENROLLMENT

Section 125.205 Eligibility Exclusions and Terminations

a) A child shall not be determined eligible for coverage under the Program if:
   1) The child is an inmate of a public institution.
   2) The child is a patient in an institution for mental diseases.
   3) The child is a member of a Family that is eligible for health benefits coverage under a State of Illinois health benefits plan on the basis of a member’s employment with a public agency.
   4) The child is in categories described in Section 125.200(e)(6) or (e)(7), and the child entered the United States on or after August 22, 1996; he or she shall not be eligible for five years beginning on the date the child entered the United States.

b) A child with significant health insurance can choose between KidCare Health Plan and KidCare Rebate. If a child is otherwise eligible for coverage under the KidCare Health Plan, described in Subpart C of this Part, and the child was previously covered under a private or employer-based insurance plan, coverage under the KidCare Health Plan shall not begin until the first day of the month following a three-month period that shall begin on the day following the last day of coverage under the private or employer-based insurance plan. The three month period of being uninsured specified in this subsection (b) does not apply if the
c) Termination of a child’s coverage under the Program shall be initiated upon the occurrence of any of the following events:

1) The child becomes ineligible due to:
   A) Losing his or her Illinois residency.
   B) Attaining 19 years of age.
   C) Becoming enrolled in Medical Assistance.
   D) Meeting the provisions of subsection (a)(1) or (a)(3) of this Section.

2) The child’s Caretaker Relative fails to pay the required premiums under the KidCare Health Plan, as specified in Sections 125.320 and 125.330.

3) A child enrolled in KidCare Rebate no longer being covered under a private or employer-based health insurance plan, except that a child may change enrollment from KidCare Rebate to the KidCare Health Plan pursuant to Section 125.260(c) when such a loss of insurance was involuntary.

4) The child’s Caretaker Relative fails to report to the Department changes in non-financial information that impacts upon the child’s eligibility for the Program.

5) The child’s Caretaker Relative makes a request to the Department to terminate the coverage.

6) The Department determines that a child enrolled under the KidCare Health Plan has other Significant Health Insurance, except that a child may change enrollment from KidCare Health Plan to KidCare Rebate pursuant to Section 125.260(d).

7) The Department determines that the child is no longer eligible based on any other applicable State or federal law or regulation.

8) The Department determines that the child’s Caretaker Relative failed to provide eligibility information that was truthful and accurate to the best of the applicant’s knowledge and belief and that affected the eligibility determination.

9) There has been a Rebate overpayment and it has not been repaid to the Department according to terms established by the Department, which may include recoupment out of future Rebate payments or a payment plan.

10) The Department determines that the child's eligibility was incorrectly determined.

11) The application was approved pending receipt of the child’s Social Security Number and it is not provided later when requested.
d) Following termination of a child’s coverage under the Program, the following action is required before the child can be re-enrolled:
   1) A new application must be completed and the child must be determined otherwise eligible;
   2) There must be full payment of premiums under the KidCare Health Plan, for periods in which a premium was owed and not paid for the child, including premiums owed when the child was, for purposes of this Part, a member of another Family;
   3) Any overpayment of Rebates paid on behalf of the child must be repaid to the Department. A Rebate overpayment shall be considered repaid if the Department can recoup the overpayment out of future Rebate payments;
   4) If the termination was the result of non-payment of premiums, the child must be out of the Program for three months before re-enrollment; and
   5) The first month’s premium must be paid if the child is eligible for KidCare Premium and the child’s Family chose to have coverage under subsection (g) of this Section when the child was initially enrolled in the Program or if there was an unpaid premium on the date the child’s previous case was canceled.

e) An application will be denied if any of the adults in the Family was a Caretaker Relative of a child during a period for which a premium was due to the Department for that child and the premium remains unpaid at the time of application. Such an application shall be denied regardless of whether the child for whom the premium remains unpaid is included in the application.

f) An application will be denied if any of the adults in the Family was a Caretaker Relative of a child during a period for which a Rebate overpayment was received or was the payee of a Rebate overpayment and the overpayment has not been repaid to the Department. Such an application shall be denied regardless of whether the child for whom the Rebate overpayment remains unpaid is included in the application.

g) A certificate of prior creditable coverage will be issued when a child’s coverage is terminated under the KidCare Health Plan.

(Source: Amended at 27 Ill. Reg. 4723, effective February 25, 2003)

Section 125.245 Appeals

a) Any individual who applies for or receives assistance under the Program shall have the right to appeal any of the following actions:
   1) Refusal to accept an application.
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2) Denial of an application or cancellation at the annual renewal including denial based on failure to meet one or more of the eligibility requirements specified in this Part. If the denial or cancellation is not upheld on appeal, coverage under the Program shall be retroactive to the date the coverage would have commenced had the application or annual determination been approved. However, if the child is eligible for KidCare Premium, it will be at the Family’s option whether coverage following a successful appeal shall be prospective only for the remainder of the 12-month period following application or retroactive to the date the coverage would have commenced had the application been approved. All premium and copayment requirements shall apply to the retroactive period.

3) Termination of coverage based on failure to continue to meet one or more of the eligibility requirements specified in this Part. Coverage shall not be continued during the appeal process. If the termination is not upheld on appeal and benefits were not continued during the appeal, coverage under the Program shall be reinstated retroactive to the termination date. However, if the child is eligible for KidCare Premium, it will be at the Family’s option whether coverage following a successful appeal shall be prospective only for the remainder of the 12-month period following application or retroactive to the date of termination. All premium and copayment requirements shall apply to any retroactive period.

4) Determination of the amount of the premium, Rebate, or copayments required. Coverage, Rebate amount and any premium or copayment requirements, as determined by the Department, shall remain in force during the appeal process.

b) In addition to the actions that are appealable under subsection (a) of this Section, individuals covered under the KidCare Health Plan shall have the right to appeal any of the following actions:

1) Termination of coverage due to non-payment of the required premium.

2) Denial of payment for a medical service or item that requires prior approval.

3) Decision granting prior approval for a lesser or different medical service or item than was originally requested.

c) The Department’s decision to deny an application due to closing of enrollment for the Program shall not be appealable.

d) Individuals may initiate the appeal process by:

1) Filing a written, signed request for a hearing directed to the Department’s Assistance Hearings Section;
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2) Calling a toll free telephone number, (800/435-0774), or as designated by the Department.

e) The request for a hearing may be filed by the individual affected by the action or by the individual's authorized representative.

f) For purposes of initiating the appeal process, a copy of a written, signed request for a hearing is considered the same as the original written, signed request.

g) The request for a hearing must be filed no later than 60 days after notice of the appealable action has been given.

h) Unless otherwise specified, KidCare Rebate coverage shall not be continued when an appeal is pending. If an appeal is initiated within ten calendar days after the notice of intended Department action and the individual specifically requests that the benefits be continued, KidCare Share and KidCare Premium benefits shall be continued at the level in effect prior to the proposed action, pending the results of the fair hearing process. All copayment obligations including premiums must be met during the period.

i) The provisions of Subpart A of the Department’s administrative rules at 89 Ill. Adm. Code 104, Practice in Administrative Hearings, shall govern the handling of appeals and the conduct of hearings under the Program.

j) An individual can, prior to a decision being rendered on the appeal, reapply for the Program.

(Source: Amended at 27 Ill. Reg. 4723, effective February 25, 2003)

Section 125.260 Adding Children to and Removing Children from the Program and Changes in Participation

a) Families may add eligible children to the Program during the 12-month eligibility period, without eligibility being reviewed by the Department. Coverage for children added shall be prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the Family’s original 12-month eligibility period and may also include any prior coverage established pursuant to Section 125.240(g).

b) Premium amounts under the KidCare Health Plan and Rebates under KidCare Rebate will be adjusted to reflect adding or removing a child from the Program.

c) A child who would otherwise be terminated from KidCare Rebate pursuant to 125.205(b)(e)(3) may change coverage to the KidCare Health Plan without eligibility being reviewed by the Department if the child involuntarily loses coverage through a private or employer-based health insurance plan if there is no unpaid Rebate overpayment. Coverage under the KidCare Health Plan shall be
prospective from the effective date determined according to Section 125.240(e) and shall continue for the remainder of the existing 12-month eligibility period. However, at the time of the change in coverage a Family may choose to have the KidCare Share or Premium coverage retroactive to the first day of the first month following the last month of coverage under the private or employer sponsored insurance if the Family refunds within 30 days after the Department’s notice that the child’s coverage has been changed to KidCare Health Plan and any Rebate payment received for a month in which there was no private or employer based insurance coverage, notwithstanding Section 125.445(c).

d) A child who would otherwise be terminated from the KidCare Health Plan pursuant to Section 125.205(c)(6) may change coverage to KidCare Rebate without eligibility being reviewed by the Department if the child obtains coverage through a private or employer-based insurance plan, returns a Rebate form within 30 days after the Department’s notice that the Family’s coverage under KidCare Health Plan is being terminated and there are no unpaid premiums owed to the Department. Coverage under KidCare Rebate shall be prospective from the effective date determined according to Section 125.240(e) following receipt by the Department of a completed Rebate Form and shall continue for the remainder of the existing 12-month eligibility period.

(Source: Amended at 27 Ill. Reg. 4723, effective February 25, 2003)
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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

3) Section Numbers: Adopted Action:

   160.15 Amendment
   160.45 Amendment
   160.60 Amendment
   160.61 Amendment
   160.65 Amendment
   160.70 Amendment
   160.80 Repeal
   160.88 Amendment


5) Effective Date of Amendments: February 25, 2003

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

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:

   October 4, 2002 (26 Ill. Reg. 14488)

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences Between Proposal and Final Version:

   No substantive changes have been made to the proposed text.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
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13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

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15) Summary and Purpose of Amendments:

These amendments to the Department=s administrative rules on child support enforcement (CSE) affect a number of program areas.

The revisions to Section 160.15 change the IV-D Non-TANF application fee for CSE to $.01, to be paid out of State funds. These changes are permissible under federal regulations which require a flat fee of up to $25 or a sliding scale fee based on income, capped at $25. Federal regulations also allow the State to pay the fees. The Department is electing to reduce the application fee amount and assume responsibility for payment to improve customer service by eliminating the time delay involved in receiving and processing the client=s fee before action is taken to begin case handling.

Section 160.45 is being amended to add technical language to suspend CSE activities related to establishing paternity and support until a final administrative decision has been made regarding a claim of good cause not to pursue CSE activities.

In Section 160.60, the following changes are being made:

- to add provisions for restricted delivery to the methods of being served a notice;
- in accordance with the requirements of P.A. 92-0374, to add changes requiring that each administrative support order entered by the Department on or after January 1, 2002, contain a statement that unpaid support accrues interest at the rate of nine percent beginning 30 days after the support payment was due; and to strike out-dated text in subsection (d)(7)(C) which refers to an earlier, now obsolete, administrative registration process under which the Department entered its own administrative support order with the same terms as another state=s order registered for enforcement. Under legislation contained in P.A. 92-0463, the Department, as a tribunal under the Uniform Interstate Family Support Act, may administratively register another state=s support order for enforcement. The process for registration of another state's support order for enforcement under the
Uniform Interstate Family Support Act does not provide for entry of a separate support order by the registering state's tribunal.

Section 160.61 is being amended to provide clarifications on the current process under the law for voluntary acknowledgment of paternity and to strike technical language related to the administrative paternity process. The changes also strike text in subsection (c)(3) to reflect changes in Section 10-17.7 of the Illinois Public Aid Code [305 ILCS 5/10-17.7] under P.A. 90-790.

Section 160.65 is being amended in response to P.A. 90-18, which removed the Department’s requirement for attempting to obtain employment information from the child support obligor before seeking the information from his or her employer. The changes align the rule with changes in the law under Section 10-3.1 of the Illinois Public Aid Code [305 ILCS 5/10-3.1].

Section 160.70 is being revised to clarify the Department’s authority and responsibility to provide Notices of Lien or Levy. The federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (October 1, 1996), requires state IV-D agencies to automatically identify, initiate and monitor enforcement of child support orders using liens. The changes add clarifications that the Department shall send Notice of Lien or Levy to the owner of the personal property upon which a lien will be served and to any to any person or entity indebted to or holding personal property of the responsible relative, or that may be liable for payment of money in connection with a claim or cause of action. This clarification specifies that the Department may serve a lien against personal property other than accounts in financial institutions including upon others who may hold the personal property of the non-custodial parent, or upon a person or entity that may be liable for payment of money to the non-custodial parent resulting from the proceeds or an award from a lawsuit. Section 160.70 is also being revised to add a definition of qualified child relative to enforcement of support orders.

Section 160.80 is being repealed to reflect the repeal of 305 ILCS 5/10-21.

In accordance with legislative changes under P.A. 92-0463, the changes at Section 160.88 relate to the Department’s State Case Registry, IV-D cases and non-IV-D cases. The amendments clarify what information each party to a child support order must provide for inclusion in the State Case Registry. The amendments also specify that the information filed by the parties for inclusion in the State Case Registry is not a public record and must be treated as confidential and subject to disclosure only in accordance with Illinois law regarding the State Case Registry and Title IV-D of the Social Security Act.
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NOTICE OF ADOPTED AMENDMENTS

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

        Joanne Scattoloni  
        Office of the General Counsel, Rules Section  
        Illinois Department of Public Aid  
        201 South Grand Avenue East, Third Floor  
        Springfield, Illinois  62763-0002  
        (217) 524-0081  

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NOTE: CAPITALIZATION DENOTES STATUTORY LANGUAGE.

SUBPART A: GENERAL PROVISIONS
Section 160.15 Application Processing Fee for IV-D Non-TANF Cases

In IV-D non-TANF cases where an application for child support services is required, the Department shall charge an application fee of one cent for each applicant and pay the fee out of State funds.

a) For the purposes of this Section, the following definitions apply:
   1) "Family unit" means all persons living in a household who are related by blood or marriage.
   2) "Poverty line" means the non-farm income official poverty line applicable to Illinois, as determined by the federal Office of Management and Budget and revised annually in accordance with 42 U.S.C. 9902.
   3) "Gross monthly income" means the total of all monthly income from all sources, excluding child support and maintenance.

b) Commencing with the effective date of this Section, in IV-D non-TANF cases where an application for child support services is required, the Department shall charge the applicant an application processing fee as follows:
   1) $25 where the gross monthly income of the applicant's family unit is at least 133 percent of the poverty line applicable to families of the same size; or
   2) $15 where the gross monthly income of the applicant's family unit is at least equal to the assistance standard but less than 133 percent of the poverty line applicable to families of the same size; or
   3) One cent where the gross monthly income of the applicant's family unit is less than the assistance standard applicable to families of the same size, except that the one cent fee shall be paid by the Department out of State funds.

c) The application processing fee shall be non-refundable and shall be paid prior to the commencement of child support enforcement services.

(Source: Amended at 27 Ill. Reg. 4732, effective February 25, 2003)

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section 160.45 Suspension of Child Support Enforcement Upon a Claim Finding of Good Cause

a) Upon receiving notice from the local office that an applicant or recipient has claimed good cause, the Division of Child Support Enforcement will suspend all activities to establish paternity or secure child support until notified by the local office of a final administrative decision regarding the claim of the applicant or recipient determination by the local office.
b) The Division of Child Support Enforcement shall not undertake to establish paternity or secure child support in any case for which it has received notice that there has been a finding of good cause pursuant to Section 160.35(c).

(Source: Amended at 27 Ill. Reg. 4732, effective February 25, 2003)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section 160.60 Establishment of Support Obligations

a) Definitions

1) "FSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.

2) "Service" or "Served" means notice given by personal service, certified mail, restricted delivery, return receipt requested, or by any method provided by law for service of summons. (See Sections 2-203 and 2-206 of the Code of Civil Procedure Practice Law [735 ILCS 5/2-203 and 2-206].)

3) "Support Statutes" means the following:
   A) Article X of The Illinois Public Aid Code [305 ILCS 5/Art. X];
   B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
   C) The Non-Support Punishment Act [750 ILCS 16];
   D) The Uniform Interstate Family Support Act [750 ILCS 22];
   E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and
   F) Any other statute in another state which provides for child support.

4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.

5) "Child's needs" means the cost of raising a child as detailed by either:
   A) the custodial parent's statement of the associated costs including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or
   B) the Department's standard for the costs of raising a child taking into account average actual costs of providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care in a manner consistent with health and well being as set forth in this Part.

b) Responsible Relative Contact

1) Timing and Purpose of Contact
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A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.

B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.

2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:

   A) the Title IV-D case name and identification number;
   B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
   C) that the responsible relative has a legal obligation to support the named persons;
   D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
   E) that the responsible relative should bring specified information regarding his income and resources to the interview.

3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.

c) Determination of Financial Ability

1) In cases handled under subsection (d) of this Section, the Family Support Specialist shall determine the amount of child support and enter an administrative support order on the following basis:

<table>
<thead>
<tr>
<th>Number of Responsible Children</th>
<th>Percent of Responsible Relative's Net Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>20%</td>
</tr>
<tr>
<td>2</td>
<td>25%</td>
</tr>
<tr>
<td>3</td>
<td>32%</td>
</tr>
<tr>
<td>4</td>
<td>40%</td>
</tr>
<tr>
<td>5</td>
<td>45%</td>
</tr>
<tr>
<td>6 or more</td>
<td>50%</td>
</tr>
</tbody>
</table>

A) "Net Income" is the total of all income from all sources, minus the following deductions:
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i) Federal income tax (properly calculated withholding or estimated payments);

ii) State income tax (properly calculated withholding or estimated payments);

iii) Social Security (FICA payments);

iv) Mandatory retirement contributions required by law or as a condition of employment;

v) Union dues;

vi) Dependent and individual health/hospitalization insurance premiums;

vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;

viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;

ix) Medical expenditures necessary to preserve life or health; and

x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.

2) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

<table>
<thead>
<tr>
<th>Number of Responsible Children</th>
<th>Percent of Relative's Net Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>20%</td>
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<tr>
<td>2</td>
<td>25%</td>
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<tr>
<td>3</td>
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A) "Net Income" is the total of all income from all sources, minus the following deductions:

i) Federal income tax (properly calculated withholding or estimated payments);
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ii) State income tax (properly calculated withholding or estimated payments);

iii) Social Security (FICA payments);

iv) Mandatory retirement contributions required by law or as a condition of employment;

v) Union dues;

vi) Dependent and individual health/hospitalization insurance premiums;

vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;

viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;

ix) Medical expenditures necessary to preserve life or health; and

x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

B) The deductions in subsections (c)(2)(A) (viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.

C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:

i) the financial resources and needs of the child;

ii) the financial resources and needs of the custodial parent;

iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;

iv) the physical and emotional condition of the child, and his educational needs; and

v) the financial resources and needs of the non-custodial parent.

D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
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3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].

4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health insurance coverage is not being furnished by the responsible relative to a child to be covered by a support order, the Department shall enter administrative, or request the court to enter support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

5) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection (c) and regardless of the amount of the responsible relative's net income, order the responsible relative to pay child support of at least $10.00 per month.

6) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section.

7) The final order in all cases shall state the support level in dollar amounts.

8) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the responsible relative to notify the Department, within seven days:
   A) of any new address of the responsible relative;
   B) of the name and address of any new employer or source of income of the responsible relative;
   C) of any change in the responsible relative's Social Security Number;
   D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
   E) if so, the policy name and number and the names of persons covered under the policy.

10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.

11) The Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support when appropriate.
   A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).
   B) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.
C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].

d) Administrative Process

1) Use of Administrative Process

A) Unless otherwise directed by the Department, the FSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:

i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;

ii) alleged paternity and support is sought from the mother;

iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;

iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and

v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.

B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:

i) that the responsible relative may be required to pay retroactive support as well as current support; and

ii) that in its initial determination of child support under subsection (c) of this Section, the Department will only consider factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and

iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and

iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b)
of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and

v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order, at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and

vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and

vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.

2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section.

3) Failure to Appear

A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in
subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.

B) The FSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:
   i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
   ii) income exceeds that reported by the relative.

C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.

D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the FSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.

4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].

5) An administrative support order shall include the following:
   A) the Title IV-D case name and identification number;
   B) the names and birthdates of the persons for whom support is ordered;
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C) the beginning date, amount and frequency of support;
D) any provision for health insurance coverage ordered under subsection (c)(4) of this Section;
E) the total retroactive support obligation and the beginning date, amount (which shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (which shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;
G) a provision requiring that support payments be made to the State Disbursement Unit;
H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art III]; and
I) except where the order was entered as a result of a decision after a de novo hearing, a statement that the order was based upon the factors listed in subsection (c)(1)(A) of this Section and that in order to have the Department consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.
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6) Every administrative support order entered on or after July 1, 1997, shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.

7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:

A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or an affidavit of delivery signed by the Department=s representative shall be sufficient for purposes of notice to that person.

B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.

C) service in the case of registration of the support orders of another state. A copy of such state's orders shall be served with those of the Department.

8) In any case where the administrative support process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.

9) In any case in which an administrative support order is entered to establish and enforce an arrearage only, and the responsible relative=s current support obligation has been terminated, the administrative support order shall require the responsible relative to pay a periodic amount equal to the terminated current support amount until the arrearage is paid in full.

e) Judicial Process

1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when in those wherein the court has acquired jurisdiction previously and in instances described in
subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.

2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:
   A) intervene;
   B) modify;
   C) change payment path;
   D) establish an order for support;
   E) establish retroactive support;
   F) establish past-due support;
   G) establish parentage;
   H) obtain a rule to show cause;
   I) enforce judicial and administrative support orders; and
   J) combinations of the above.

3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].

(Source: Amended at 27 Ill. Reg. 4732, effective February 25, 2003)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

a) Definitions
   1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another (unrelated random) man from the same racial background.
   2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.
   3) "Service" or "Served" means notice given by personal service, certified mail, restricted delivery, return receipt requested, or by any method provided by law for service of a summons. (See Sections 2-203 and 2-206
of the Code of Civil Procedure Practice Law [735 ILCS 5/2-203 and 2-206]).

4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.

5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.

6) "Presumed father", shall have the meaning ascribed to that term in the Illinois Parentage Act of 1984 [750 ILCS 45].

b) Uncontested Administrative Paternity Process

1) Except as otherwise determined, the Department shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
   A) a non-marital child and support is sought from the alleged father;
   B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
   C) presumed paternity as set forth in Section 5 (a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5 (a)(1) and (2)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.

2) Contact with Responsible Relatives

   A) Following the IV-D client interview, the Department shall contact and interview:
      i) alleged fathers to establish paternity and support obligations; and
      ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.

   B) The purpose of contact and interview shall be to obtain relevant facts including information concerning the child's paternity and responsible relative income information (for example, paycheck stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.
3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support is sought, by ordinary mail, a notice of alleged paternity and support obligation, which notice shall contain the following:
A) the Title IV-D case name and identification number;
B) the name and birthdate of the non-marital child;
C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
E) that the alleged father should bring specified information regarding his income and resources to the interview;
F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and
G) that the alleged father may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child.

4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child=s mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:
A) the Title IV-D case name and identification number;
B) the name and birthdate of the non-marital child;
C) that the mother has a legal obligation to support the child;
D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
E) that the mother should bring specified information regarding her income and resources to the interview;
F) that the mother may be ordered to pay current support, and retroactive support, and to provide health insurance coverage for the child;
G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
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H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
   i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and
   ii) the Department may enter an order finding the alleged father to be the father of the child.

5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:
   A) the Title IV-D case name and identification number;
   B) the name and birthdate of the non-marital child;
   C) that the mother has a legal obligation to support the child;
   D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
   E) that the mother should bring specified information regarding her income and resources to the interview;
   F) that the mother may be ordered to pay current support, retroactive support, and to provide health insurance coverage for the child;
   G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
   H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
      i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and
      ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.

6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the Department
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shall send a notice to the presumed father which shall contain the following:
A) the Title IV-D case name and identification number;
B) the child's name and birthdate;
C) the name of the child's mother;
D) that the man to whom the notice is directed has been identified as the child's presumed father;
E) that another man has been alleged to be the child's father, and the name of that alleged father;
F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);
G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and
H) that counsel may accompany the presumed father to the interview.

7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.

8) In cases involving a non-marital child:
A) The Department shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and responsibilities of child support, retroactive support, health insurance coverage, custody, visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing.
B) The Department shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed
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by the client or relative or an affidavit of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:

i) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1;

ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;

iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;

iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1;

v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;

vi) the presumed father fails to appear in response to the Department's notice to presumed father served upon him, and the alleged father and the child's mother have voluntarily signed an acknowledgment that the alleged father is the father of the child after being provided with information concerning the legal implications of signing such an acknowledgment;
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vi) the presumed father fails to appear in response to the department's notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1; or

vii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.

C) The Department shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.

9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.

10) A party aggrieved by entry of an administrative paternity order, pursuant to subsection (b)(8) of this Section, may have the order vacated if, within 30 days after being served with the order, the party appears in person at the office to which he or she was given notice to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The Department shall then proceed with the establishment of paternity under this Section. A party may obtain relief under this subsection (b) only once in any proceeding to establish paternity.

11) The child's mother or the alleged father may void the presumption of paternity created by voluntarily signing an acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12] by signing a rescission of paternity and filing it with the Department by the earlier of:
A) 60 days after the date the acknowledgment of paternity was signed; or
B) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.
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12) If the mother or alleged father signs a rescission of paternity, the Department shall process the case under this subsection (b).

c) Contested Paternity Hearing Officers

1) Except as otherwise directed by the Department or provided for in this Part, cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity. The Department shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.

2) Notice shall be given to all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.

3) The Department shall enter default paternity determinations in contested administrative cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(2)(6) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsections (d) (1) through (9) of this Section, except that the notice was served by publication; the notice of default paternity determination shall not include the mother's and father's Social Security numbers, and shall include a statement of the following in lieu of a statement that the order is a final and binding administrative decision:

A) that the man determined to be the child's father may bring a petition in the circuit court for relief from the administrative paternity determination on the same grounds provided for relief
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from judicial judgments under Section 2-1401 of the Code of Civil Procedure [735 ILCS 5/2-1401];

B) that such a petition must be filed no later than two years after the notice of default paternity determination was published; and

C) that allegations made in such a petition without reasonable cause that are found to be untrue by the circuit court may subject the petitioner or his attorney, or both, to the payment of reasonable costs and attorney’s fees incurred by the Department in defending against the petition.

4) The Department shall not proceed to establish paternity administratively under subsection (c) of this Section in those cases wherein the court has acquired jurisdiction previously or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.

4)(5) In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the paternity determination case shall remain in the original county of venue unless a transfer to another county of proper venue is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process.

d) An administrative paternity order, whether entered under subsection (b) or subsection (c) of this Section, shall include the following:
1) the Title IV-D case name and identification number;
2) the name and birthdate of the child for whom paternity is determined;
3) the alleged father's name and his Social Security number, if known;
4) the mother's name and her Social Security number, if known;
5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);
6) except in cases in which paternity is administratively determined under subsection (b) (8)(B)(ii), (b)(8)(B) (v) or (b)(8)(B) (viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that each has 30 days after from the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;
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7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (b)(8)(B)(v) or (b)(8)(B)(viii) of this Section, a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10) of this Section; and

8) a statement that more than 30 days after entry of an administrative paternity order, a party aggrieved by entry of the administrative paternity order may petition the Department for release from the order under the provisions of subsection (e) of this Section; and

9) in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

e) Petitions For Release - Extraordinary Remedies

1) Notwithstanding the statements required by subsection (d) of this Section, more than 30 days after entry of an administrative paternity order under subsection (b) or (c) of this Section, a party aggrieved by entry of an administrative paternity order may petition the Department for release from the order.

2) Petitions under this subsection (e) must:
   A) Cite a meritorious defense to entry of the order.
   B) Cite the exercise of due diligence in presenting that defense to the Department.
   C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:
      i) time during which the person seeking relief is under legal disability;
      ii) time during which the person seeking relief is under duress; and
      iii) time during which the ground for relief is concealed from the person seeking relief.
   D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.

3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of the administrative paternity order.
f) When the paternity of a child has been administratively established under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60.

g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.

h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.

i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated below occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:

1) the Department enters a final administrative determination of paternity; or

2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act [410 ILCS 535/12]; or

3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12].

j) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:

1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer;

2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;

3) where the court has acquired jurisdiction previously; or

4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 500 to 1, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section.

(Source: Amended at 27 Ill. Reg. 4732, effective February 25, 2003)
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a) Definitions

1) "Order for support" means any court or administrative order establishing the level of child support due to a child from the responsible relative.

2) "Income Withholding Notice" means the notice served on a payor, pursuant to entry of a court or administrative order for support, that directs the payor to withhold a part of a responsible relative's income for payment of child support.

3) "Assignment of support" has the meaning set forth in Section 160.5.

4) "Assignment of medical support" has the meaning set forth in Section 160.5.

5) "Health insurance" means health insurance or health plan coverage for the dependent child for whom support is sought.

6) "Review" means the FSS comparison of the responsible relative's current financial ability to the existing order for support, as described in subsection (f) of this Section.

7) "Quantitative Standard for Review" means the current financial ability of the responsible relative, as determined through modification review, is at least 20 percent above or below the existing order for support and the change is an amount equal to at least $10 a month.

b) Review and Modification of Support Orders

1) The Department, beginning October 13, 1993, shall review child support orders in Title IV-D cases at 36 month intervals after establishment, modification or the last review, whichever was the last to occur, unless:

   A) In a case in which there is an assignment of support or an assignment of medical support, the Department determines, in accordance with subsection (b)(3) of this Section, that a review would not be in the best interests of the child and neither parent has requested a review; or

   B) In a case in which there is no assignment of support or assignment of medical support, neither parent has requested a review; or

   C) In a case in which there is an assignment of medical support but no assignment of support, the order for support requires health insurance for the child covered by the order and neither parent has requested a review.

2) Prior to the expiration of the 36 month period:

   A) The Department, in a case in which there is an assignment of support or an assignment of medical support, shall review the order if:

      i) an order for withholding has been served on the responsible relative's payor, and payments have been received by the
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Department within the 90 days prior to selection for review; and

ii) the order for support does not require the responsible relative to provide health insurance for the child covered by the order; and

iii) the Department has not determined that a review would not be in the best interests of the child.

B) The Department, in a case in which there is no assignment of support or assignment of medical support, shall review orders as set forth in subsection (b)(2)(A) of this Section, but only with the consent of the client.

C) The Department may review any order for support, unless it has determined that a review would not be in the best interests of the child, whenever a change in financial circumstances of the responsible relative becomes known through representations of the relative or of the client or from independent sources, and such change would materially affect ability to support.

3) The Department shall determine that a review of an order for support would not be in the best interests of the child if there has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.

c) Notice of the Right to Request a Review

1) In each Title IV-D case the Department shall provide notice not less than once every three years to each parent subject to an order for support in the case. The notice may be included in the order and shall inform the parent of the right to request a review of the order, where to request a review and the information which must accompany a request.

2) The Department shall use the broadcast or print media at least twice a calendar year to publicize the right to request a review as part of the child support enforcement program, and include notice of this right as part of the information on IV-D services contained in its brochures, pamphlets and other printed materials describing the program.

d) Notice of Review

1) The Department shall notify the client and responsible relative that a review will be conducted at least 30 days before commencement of the review.

2) The notice of review shall:

A) Require completion of a form financial affidavit and return of the affidavit to the Department within 15 calendar days after the date the client or relative received the notice; and
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B) State that if, as a result of the review, action is taken to modify the order for support, the Department will order or request the court to order the responsible relative to provide health insurance. However, in cases where the client is not receiving medical assistance the notice shall state that health insurance may be ordered or requested only with the client's consent, as provided in Section 160.60(c)(7).

e) Information Gathering and Employer Contact

1) The Department shall capture all available responsible relative financial information from existing federal and State sources (for example, Illinois Department of Employment Security) through electronic data searches on all IV-D cases.

2) The responsible relative fails to return a completed financial affidavit within 15 calendar days after the relative receives the notice of review, the Department may send a notice to the responsible relative's employer, in accordance with Section 10-3.1 of the Illinois Public Aid Code [305 ILCS 5/10-3.1]. The notice shall:
   A) require the disclosure of responsible relative employment information, including but not limited to:
      i) the period of employment;
      ii) the frequency of wage payments;
      iii) gross wages, net pay and all deductions taken in reaching net pay;
      iv) the number of dependent exemptions claimed by the responsible relative; and
      v) health insurance coverage available to the responsible relative through the employer.
   B) require employer compliance within 15 calendar days after the employer's receipt of the notice.

3) If the responsible relative fails to return a completed financial affidavit within 15 calendar days after receipt of the notice of review, and the relative's employer is unknown, the Department may use available means for obtaining the relative's financial information, e.g., service of a subpoena upon the responsible relative.

f) Review of the Order for Support

1) The FSS shall review any financial information concerning the responsible relative. Where the responsible relative's information is not verified through an employer, wage stubs or income tax returns, the FSS shall seek other verification, e.g., subpoena of the responsible relative's income tax return.
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2) The FSS shall determine the responsible relative's current financial ability in accordance with the guidelines contained in Section 160.60(c).

3) The FSS shall compare the responsible relative's current financial ability to the amount of the existing order for support and determine if the Quantitative Standard for Review has been met.

4) The FSS shall determine if health insurance is being provided for the child under the order for support or whether the child's health care needs are being met through other means. In no event shall the FSS consider a child's eligibility for, or receipt of, medical assistance to meet the need to provide for the child's health care needs.

g) Notice of Review Results

The Department shall inform the client and responsible relative of the results of the review and provide a copy of the FSS calculation comparing the responsible relative's current financial ability to the amount of the existing order within 14 days after the review results are determined. The client and responsible relative will be advised whether or not the Department will take action to modify the existing order for support and of the right to contest the determination.

1) When the review indicates the Quantitative Standard for Review has not been met, the client and responsible relative, in both judicial and administrative cases, are advised as follows:

A) The Department will not take action to modify the order for support; or

B) The Department will only take action to modify the order to require health insurance for the child covered by the order.

C) Either parent may request a redetermination within 30 calendar days after the date of the notice by:

   i) signing and returning the request for a redetermination to the Department; and

   ii) providing financial documentation or information concerning the child's health care needs not furnished previously, which will substantiate the request.

2) When the review indicates the Quantitative Standard for Review has been met, the client and responsible relative will be advised that:

A) The Department will take action to modify the existing order for support in accordance with the review results.

B) In cases involving the judicial process, each parent will be informed 30 calendar days in advance of the hearing date and will have the opportunity to contest the review results at that time.

C) In cases where an administrative order for support is entered in accordance with subsection (h) of this Section:
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i) The client and responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the administrative order for support in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102. The client will be further advised that he or she may provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.

ii) Where both the client and the responsible relative request a hearing, the two requests shall be merged and shall be disposed of simultaneously by the hearing proceeding. The parties shall be advised of the right to present evidence at the hearing, including the client's right to provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.

iii) Where the responsible relative requests a hearing and the client does not the client shall again be advised of the right to present evidence at the hearing.

iv) Where the client requests a hearing and the responsible relative does not, the responsible relative shall again be advised of the right to present evidence at the hearing.

3) For purposes of calculating the 30 calendar day period in which to petition the Department for release from or modification of the administrative order for support or to request redetermination of the review results, the day immediately subsequent to the mailing of the order or determination shall be considered the first day and the day such request is received by the Department shall be considered as the last day.

h) Further Actions Taken by the Department

1) The Department shall take the following action when the FSS has determined in accordance with subsection (f) of this Section that the Quantitative Standard for Review has been met or when the Quantitative Standard for Review has not been met, but there is a determination that the order for support needs to be modified to require provision of health insurance:

A) In a case involving an order for support entered by the court, the FSS shall:

i) prepare a petition to modify, and obtain or affix appropriate signature thereto;
ii) refer the case for legal action to modify the order for support pursuant to Section 510 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510]; and

iii) provide the client and responsible relative with the notice described in subsection (g)(2)(B) of this Section.

B) In a case involving an administrative order for support established under Section 160.60(d), or modified under this Section rule, the FSS shall enter an administrative order for support incorporating the results of the review and containing the information specified in Section 160.60(d)(5). Any order for health insurance shall be entered in accordance with Section 160.60(c)(7).

i) The FSS shall effect income withholding in accordance with Section 160.60(d)(6).

ii) The FSS shall provide to the client and responsible relative copies of the administrative order for support together with the notice described in subsection (g)(2)(C) of this Section.

2) Upon receipt of a petition for a release from or modification of an administrative order for support as described in subsection (g)(2)(C)(ii) of this Section within 30 calendar days after the date of mailing of such order, the Department will provide a hearing in accordance with 89 Ill. Adm. Code 104.102. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) of this Section.

3) Upon receipt of a request for a redetermination as set forth in subsections (g)(1)(C) and (g)(2)(C)(i) of this Section within 30 calendar days after the date of mailing of the notice, the Department shall conduct such redetermination. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) of this Section.

i) Timeframes for Review and Modification

1) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine within 15 calendar days after of October 13, 1993, or the date the order is 36 months old, whichever is later, whether a review should be conducted as provided in subsection (b)(1) of this Section.

2) Subsequent determinations about whether to review an order for support in a case in which there is an assignment of support or an assignment of medical support shall be made by the Department in accordance with subsection (b)(1) of this Section, at 36 month intervals based upon:

A) the date the order for support was modified; or

B) the date an order was entered determining that the order for support would not be modified; or
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C) the date the period expired for requesting redetermination of the Department's review decision not to seek modification of the order for support.

3) Within 15 calendar days after receipt of a request for a review, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1) of this Section.

4) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall:
   A) send the notice of review in accordance with subsection (d) of this Section;
   B) conduct a review of the order in accordance with subsection (f) of this Section;
   C) send the notice of review results in accordance with subsection (g) of this Section; and
   D) conclude any action to modify the order for support.

j) Interstate Review and Modification
   1) Initiating Cases
      A) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine, within 15 calendar days after October 13, 1993, or the date the order for support is 36 months old, whichever date occurs later, whether a review should be conducted, as required under subsection (b)(1) of this Section, and whether the review should be conducted by the Department or another state.
      B) Subsequent determinations about whether to conduct a review shall be made in accordance with subsection (b)(1) of this Section, at 36 month intervals based upon:
         i) the date the order for support was modified; or
         ii) the date an order was entered determining that the order for support would not be modified; or
         iii) the date the period expired for requesting redetermination of a review decision not to seek modification of the order for support.
      C) Within 15 calendar days after receipt of a request for a review, the Department shall determine whether a review should be conducted, as required under subsection (b)(1) of this Section, and whether the review should be conducted by the Department or another state.
      D) Prior to the expiration of the 36 month period the Department:
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i) shall review or request another state to review an order for support under the circumstances set forth in subsections (b)(2)(A) and (B) of this Section; and
ii) may review or request another state to review an order for support as provided in subsection (b)(2)(C) of this Section.

E) The Department shall determine in which state a review should be conducted after considering all relevant factors, including but not limited to:
   i) the location of existing order(s);
   ii) the present residence of each party; and
   iii) whether a particular state has jurisdiction over the parties.

F) In any case coming under the provisions of subsections (j)(1)(A), (B) and (C) of this Section, in which the Department has determined to request a review of an order for support in another state, the Department shall:
   i) send a request for review to that state within 20 calendar days after receipt of sufficient information to conduct the review and provide that state with sufficient information on the requestor of review to act on the request; and
   ii) send to the parent in Illinois, a copy of any notice issued by the responding state in connection with the review and modification of the order, within five working days after receipt of such notice by the Department.

2) Responding Cases
   A) Within 15 calendar days after receipt of a request for a review of an order for support in Illinois as the responding state, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1) of this Section.
   B) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall take the actions specified in subsection (i)(4) of this Section.

(Source: Amended at 27 Ill. Reg. 4732, effective February 25, 2003)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

a) Definitions
1) The definitions contained in Section 160.60(a) are incorporated herein by reference.

2) A Qualified child means a child who is a minor or who, while a minor, was determined to be disabled under Title II or XVI of the Social Security Act, and for whom a support order is in effect.

b) Income Withholding
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].

c) Federal and State Income Tax Refunds and Other Payments
1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due such relatives.

2) The Department shall submit past-due support amounts to:
   A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
      i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than $150 which has been in arrears for three months or longer; and
      ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a qualified or for a minor child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than $500.
   
   B) the Comptroller to intercept State income tax refunds and other State payments as follows:
      i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or $150, whichever is less;
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ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and

iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.

3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
   A) the IV-D case name and identification number;
   B) the past-due support amount which will be submitted for intercept;
   C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
      i) a redetermination by the Department or, after such redetermination,
      ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
   D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.

4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.

5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:
   A) a hearing by the Department within 30 days from the date of mailing of the notice; or
   B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
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6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after of the responsible relative's request. The Department shall be bound by the decision of the state with the order.

7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

8) The Department shall notify:
   A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
   B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
   C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and
   D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.

9) The Department shall:
   A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
   B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.

10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection (c) only against the past-due support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) of this Section above and shall promptly apply:
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A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and

B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.

11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:

A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;

B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

d) Unemployment Insurance Benefits

1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one month support obligation.

2) The Department shall take the following action:

A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.

B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.

C) establish the amount to be deducted by data entry to the DES's computer file, which amount shall be the lesser of:

i) the amount of the income withholding order; or

ii) fifty percent of the Unemployment Insurance Benefit.

D) receive amounts deducted direct from DES.

E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.

F) post each collection to the Department's payment record.

G) apply each collection to the current support obligation, then to past-due obligations.

H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction.
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and, where indicated, make adjustments and refund improperly deducted amounts.

3) The Department of Employment Security shall take the following action:
   A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
   B) pay all amounts deducted direct to the Department.

e) Contempt of Court and Other Legal Proceedings

1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one month support obligation, except as set forth in subsection (e)(2) of this Section below.

2) Contempt proceedings shall not be used in the following instances:
   A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
      i) receiving public assistance;
      ii) mentally or physically disabled;
      iii) incarcerated;
      iv) out-of-the-country;
      v) deceased; or
      vi) otherwise situated making such action unproductive.
   B) other legal or administrative remedies are more appropriate under the circumstances.

3) Contempt and other legal proceedings shall be used to:
   A) establish the amount of past-due support;
   B) obtain a judgment for purposes of:
      i) imposition of a lien against real estate,
      ii) levy upon real estate and personal property, or
      iii) registration in another state;
   C) secure an order for lump sum or periodic payment of the past-due support or judgment;
   D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
   E) obtain full or partial payment of past due support through incarceration;
   F) ascertain the responsible relative's source and amount of income or location and value of assets;
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G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
H) secure other enforcement relief; and
I) obtain any combination of the above.

4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].

5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].

f) Liens Against Real Estate and Personal Property - Judicial Enforcement of Order for Support
1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].

2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
   A) the past-due amount is at least $10,000; and
   B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.

3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).
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4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity which is not less than $10,000 in excess of any statutory exemption.

g) Liens Against Real Estate and Personal Property - Administrative Enforcement of Order for Support

1) Liens against real estate

A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
   i) the amount of past-due support is at least $10,000; and
   ii) the responsible relative has an interest in real estate against which a lien may be claimed.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
   i) the name and address of the responsible relative;
   ii) a legal description of the real estate to be levied;
   iii) the amount of past-due support to be satisfied by the levy;
   iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
   v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.

C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).

D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
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E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

F) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than $10,000 in excess of any statutory exemption.

2) Liens against personal property

A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:
   i) the amount of past-due support is at least $1,000;
   ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
   iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of at least $300.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, and either the financial institution in which the account of the responsible relative is located, or the sheriff of the county in which goods or chattels the personal property of the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or which may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:
   i) the name and address of the responsible relative;
   ii) a description of the account or personal property to be levied;
   iii) the amount of past-due support to be satisfied by the levy;
   iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;
   v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the
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past-due support amount in full or by contesting the
determination that past-due support is owed or the amount
of past-due support by requesting a hearing within 15 days
after the date of mailing of the Notice of Lien or Levy; and

vi) the right of a joint owner to prevent levy upon his or her
share of the account or other personal property or to seek a
refund of his or her share of the account or other personal
property already levied, by requesting, within 15 days after
the date of mailing of the Notice of Lien or Levy to the
joint owner, a hearing by the Department to determine his
or her share of the account or other personal property. A
joint owner who is not provided with a Notice of Lien or
Levy by the Department may request a hearing by the
Department within 45 days after the date of levy of the
account or other personal property.

C) In addition to the information to be included in the Notice of Lien
or Levy under subsection (g)(2)(B), the Notice of Lien or Levy
provided to a financial institution shall:

i) state that the lien is subordinate to any prior lien or prior
right of set-off that the financial institution may have
against the assets, or in the case of an insurance company
or benefit association only in the accounts as defined in
Section 10-24 of the Illinois Public Aid Code [305 ILCS
5/10-24];

ii) state that upon being served with the Notice of Lien or
Levy that the financial institution shall encumber the assets
in the account, and surrender and remit such assets within
five days after being served with a Notice to Surrender
Assets by the Department;

iii) state that the financial institution may charge the
responsible relative=s account a fee of up to $50, and that
the amount of any such fee be deducted from the account
before remitting any assets from the account to the
Department; and

iv) include a form, Response to Notice of Lien or Levy, to be
completed by the financial institution and returned to the
Department within 30 days after receipt of the Notice of
Lien.
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D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:
   i) the amount of assets in the responsible relative=s account;
   ii) the amount of the fee to be deducted from the account;
   iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;
   iv) the name and address of any joint owners of the account; and
   v) the amount of assets surrendered and remitted to the Department.

E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (g).

F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative=s written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner=s written request for a hearing.

H) The Department, upon determining a joint owner=s share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner=s share. If the Department=s determination of the joint owner=s share occurs after the personal property or account has been levied, the Department shall refund the joint owner=s share of the personal property or account.

I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to
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a responsible relative whose personal property may be subject to lien or levy under this subsection (g).

h) Security, Bond or Other Guarantee of Payment
1) Except as provided in subsections (h)(2) and (3) of this Section below, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].

2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.

3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

i) Past-Due Support Information to Consumer Reporting Agencies
1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:
   A) the name, last known address and Social Security Number of the responsible relative; and
   B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:
   A) the IV-D case name and identification number;
   B) the past-due support amount which will be reported;
   C) the date past-due support will be reported; and
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D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:
   A) a request for:
      i) a redetermination, or
      ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
   B) payment in full of the amount of the past-due support stated in the:
      i) advance notice, or
      ii) notice of redetermination or hearing results.

6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

j) High-Volume Automated Administrative Enforcement in Interstate Cases

1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.

2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.

3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
   A) Include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.
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B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.

4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.

5) The Department shall maintain records of:
   A) The number of such requests for assistance received by the Department.
   B) The number of cases for the which the Department collected support in response to such a request and the actual amount(s) of such support collected.

k) Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
   1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or to another state=s IV-D agency for administrative enforcement where the responsible relative has property in the other state.

   2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
      A) past-due support is owed for a child or for a child and the parent with whom the child is living;
      B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;
      C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
      D) the responsible relative is not deceased.

   3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:
      A) the IV-D case name and identification number;
      B) the past-due support amount which will be submitted for collection;
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C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and

D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.

4) Factors for a satisfactory repayment plan will include, but are not limited to:
   A) the amount of past-due support owed;
   B) the amount to be paid toward the past-due amount;
   C) the amount of current child support obligations; and
   D) the individual's ability to pay.

5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
   A) name;
   B) Social Security Number
   C) IV-D identification number; and
   D) the past-due support amount.

6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.

7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.

8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.

9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.

10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

11) The Department shall:
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A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or

B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.

1) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports

1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds $5,000:

A) the name, last known address and Social Security Number of the responsible relative; and

B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:

A) the IV-D case name and identification number;

B) the past-due support amount which will be certified;

C) the date past-due support will be certified; and

D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:

A) a request for;

i) a redetermination, or
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ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or

B) payment in full of the amount of the past-due support stated in the:
   i) advance notice, or
   ii) notice of redetermination or hearing results.

6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.

m) Other Remedies
The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended at 27 Ill. Reg. 4732, effective February 25, 2003)

Section 160.80 Amnesty - 20% Charge (Repealed)

a) The definitions of "responsible relatives", "IV-D cases" and "support statutes" contained in 89 Ill. Adm. Code 103.10, 160.10(a) and 160.60(a), respectively, are incorporated herein by reference.

b) The Department, in accordance with the support statutes, shall impose a one-time charge of 20% of the amount of past-due child support owed on July 1, 1988, by responsible relatives in active IV-D cases, which has accrued under a support order entered by a court or administrative body of this or any other state, on behalf of resident or non-resident persons. The one-time charge shall be imposed for the purpose of restoring lost purchasing power (reduced capacity to buy) and shall be deemed to be interest.

c) The Department shall send each responsible relative in each IV-D case, which is active and has a past-due account receivable balance between January 1 and July 1, 1988, a notice that a 20% charge shall be imposed upon any amount past-due as of July 1, 1988.

d) The Department shall provide the responsible relative with a notice at least 30 days prior to imposing the charge, which advance notice shall inform the relative of the following:
   1) the IV-D case name and identification number;
   2) the past-due child support owed on July 1, 1988 before any charges for the month of July are added thereto;
   3) the amount of the charge that will be imposed;
   4) the date the charge will be imposed; and
   5) the right, prior to the stated date of imposition:
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A) to prevent imposition of the charge by payment of the past-due child support owed in full; or

B) to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

e) The Department shall provide the responsible relative with notice of the results of the redetermination and of the right to contest the results of the redetermination by requesting a hearing within 30 days from the date of mailing of the notice.

f) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

g) The Department shall be stayed from imposing the charge when either of the following occur before the date for imposition stated in the advance notice described in subsection (d) above:
   1) a request for a redetermination; or
   2) payment in full of the amount of the past-due support stated in the advance notice.

h) The amount subject to the charge shall be that amount past-due as of July 1, 1988, that remains past-due as of the date for imposition of the charge stated in the advance notice described in subsection (d) above, shall include unpaid portions of judgments and shall exclude any amounts not yet due under a payment plan established by court or administrative order prior to the date of the advance notice.

i) The Department shall impose the charge when the responsible relative has failed to request a redetermination and has failed to make payment of the past-due amount in full as described in subsection (g) or when notice is given of the results of the redetermination as described in subsection (e).

j) The Department shall apply all payments first to current, then to past-due and finally to future support obligations. Any amount applied toward the responsible relative’s future support obligations at the time the family ceases to receive IV-D services shall be applied to the 20% charge.

k) The Department shall distribute the proceeds of the charge collected in each case to the family.

l) The Department shall seek court enforcement of unpaid charges under the support statutes only in connection with other action to enforce an unmet support obligation.

m) The Department shall publicize the Amnesty program through public service announcements and by other means in a manner calculated to inform as many obligees and obligors as possible of the existence of the program for the purpose of collecting maximum support for children.
Section 160.88 State Case Registry

a) Pursuant to Section 10-27 of the Illinois Public Aid Code [305 ILCS 5/10-27], the Department shall establish an automated State Case Registry to contain records concerning child support orders for:
   1) all IV-D cases; and
   2) all other cases entered or modified on or after October 1, 1998, and pursuant to Sections 10-10 and 10-11 of the Illinois Public Aid Code [305 ILCS 5/10-10 and 10-11], and pursuant to the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5], the Non-Support of Spouse and Children Act [750 ILCS 15], the Uniform Interstate Family Support Act [750 ILCS 22] or the Illinois Parentage Act of 1984 [750 ILCS 45].

b) For IV-D cases, the Department shall maintain in the Registry the following information (and any such updated information) that is filed with the Department, or filed with a clerk of the circuit court and provided by the clerk to the Department:
   1) the names of the custodial and non-custodial parents, and of the child or children covered by the order;
   2) the dates of birth of the custodial and non-custodial parents, and of the child or children covered by the order;
   3) the Social Security Numbers of the custodial and non-custodial parents and, if available, of the child or children covered by the order;
   4) the residential and mailing addresses for the custodial and non-custodial parents;
   5) the telephone numbers for the custodial and non-custodial parents;
   6) the driver's license numbers for the custodial and non-custodial parents;
   7) the name, address, and telephone number of each parent's employer or employers;
   8) the case identification number;
   9) the court docket number and county, for those cases with an order for support entered or modified by the circuit court; and
   10) any other information that may be required under Title IV, Part D of the Social Security Act or regulations promulgated thereunder.

c) The Department shall maintain the following payment information in the Registry on IV-D cases:
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10) the amount of monthly or other periodic support owed under the order and other amounts, including arrearages, interest or late payment penalties, and fees, due or overdue under the order;

11) any amounts described in subsection (b)(10) (c)(1) of this Section that have been collected;

12) the distribution of the collected amounts; and

13) the amount of any lien imposed with respect to the order pursuant to Section 10-25 or Section 10-25.5 of the Public Aid Code [305 ILCS 5/10-25 and 10-25.5]; and

14) any other information that may be required under Title IV, Part D, of the Social Security Act or by the federal Department of Health and Human Services.

c) For all other cases with an order for support entered or modified on or after October 1, 1998, the Department shall maintain in the Registry the following information (and any such updated information) that is filed with the Department, or filed with a clerk of the circuit court and provided by the clerk to the Department:

1) the names of the custodial and non-custodial parents, and the child or children covered by the order;

2) the dates of birth of the custodial and non-custodial parents, and of the child or children covered by the order;

3) the Social Security Numbers of the custodial and non-custodial parents, and of the child or children covered by the order;

4) the mailing addresses for the custodial and non-custodial parents;

5) the court docket number and county in which the order for support was entered;

6) any other information that may be required under Title IV, Part D, of the Social Security Act or by the federal Department of Health and Human Services.

d) When an order for support is entered or modified by the circuit court for all cases described in subsection (a) of this Section, the Department shall obtain the data identified in subsection (b) of this Section and the name of the county where the order was entered from the circuit clerk within five business days after entry of the order.

e) When an order for support is entered or modified by the circuit court in a IV-D case, the Department shall obtain the data identified in subsection (b) of this Section and the following data from the circuit clerk within five business days after entry of the order:
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1) the amount of monthly or other periodic support owed under the order and other amounts, including arrearages, interest or late payment penalties, and fees, due or overdue, under the order;

2) any amounts described in subsection (e)(1) of this Section that have been received by the clerk; and

3) the distribution of the amounts received by the circuit clerk.

f) When the Department enters or modifies an administrative order for support in a IV-D case under Section 10-8.1 or Section 10-11 of the Illinois Public Aid Code [305 ILCS 5/10-8.1 and 10-11], it shall obtain from the custodial parent and the non-custodial parent the information identified in subsections (b) and (c) of this Section for inclusion in the Registry.

d) The Department shall establish, update, maintain and monitor IV-D case records in the Registry on the bases of:

1) information on administrative actions, administrative and judicial proceedings and orders relating to paternity and support;

2) information obtained from comparison with federal, state, and local sources of information;

3) information on support collections and distribution; and

4) any other relevant information.

e) Information contained in the Registry shall be subject to all federal and State confidentiality laws and regulations pursuant to 42 USC 654(26); 45 CFR 205.50 and 303.21; 42 CFR 431, Subpart F; 305 ILCS 5/11-9, 11-10, and 11-12; and Illinois Rules of Court.

f) The Department shall exchange data with other federal, state, and local agencies and other sources of information as necessary to maintain the Registry and with the agencies that administer Section IV, Part A, and Title XIX of the Social Security Act, and any other agency as may be required under Section IV, Part D of the Social Security Act, or regulations promulgated thereunder.

g) The Department shall provide to the Federal Case Registry the case information required by the Department of Health and Human Services.

(Source: Amended at 27 Ill. Reg. 4732, effective February 25, 2003)
1) **Heading of the Part:** Certificates of Title, Registration of Vehicles

2) **Code Citation:** 92 Ill. Admin. Code 1010

3) **Section Numbers:**
   - 1010.420 Amendment
   - 1010.421 Amendment

4) **Statutory Authority:** Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

5) **Effective Date of Rule Amendments:** February 27, 2003

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

7) **Does this amendment contain incorporations by reference?** No.

8) **A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

9) **Notice(s) of Proposal Published in Illinois Register:** October 11, 2002, 26 Ill. Reg. 14765

10) **Has JCAR issued a Statement of Objections to these rules?** No.

11) **Difference(s) between proposal and final version:** The comments made by JCAR have been incorporated into the amendments. These comments were stylistic only. No other changes have been made.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes.

13) **Will this amendments replace an emergency amendment currently in effect?** No.

14) **Are there any amendments pending on this Part?** No.

15) **Summary and Purpose of Amendments:** With an earlier rulemaking the Secretary of State implemented a new Temporary Registration Permit plate program. The earlier
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rulemaking allowed use the TRP plates on a trial basis by some TRP issuers, while allowing others to continue issuing the prior window display cards. All issuers of TRPs have now converted to issuance of the TRP plates. Therefore, this rulemaking deletes references in the rules to the issuance of the window display cards. The rulemaking also clarifies certain rights and obligations of issuing entities.

16) Information and questions regarding this adopted rule (amendment, repealer) shall be directed to:

   Name:      Nathan Maddox
             Assistant General Counsel
   Address:   Howlett Building, Room 298
             Springfield, IL 62756
   Telephone: (217)785-3094

The full text of the Adopted Amendments begins on the next page:
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TITLE 92: TRANSPORTATION

CHAPTER II: SECRETARY OF STATE

PART 1010
CERTIFICATES OF TITLE, REGISTRATION OF VEHICLES

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APPENDIX B International Registration Plan

AUTHORITY: Implementing Chapter 3 and authorized by Section 2-104(b) of the Illinois Vehicle Title & Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 3 and 2-104(b)].

SUBPART E: SPECIAL PERMITS AND PLATES

Section 1010.420 Temporary Permit Pending Registration In Illinois

a) General Provisions

1) For the purpose of this Part, Illinois Temporary Registration Permit (hereinafter referred to as Temporary Permit) shall refer to a temporary
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eard or plate, issued or provided by the Secretary of State, which allows the operation of a vehicle after proper application has been made and fees received, until the receipt of registration plates and/or sticker.

2) The Secretary of State shall determine whether Temporary Permits are to be issued in the form of Temporary Permit cards or Temporary Permit plates or both, and shall prescribe the form and content of the Temporary Permit card and plate. If Temporary Permit plates are utilized, they shall include both a standard size plate and a reduced size plate for use on motor driven cycles or motorcycles. The Secretary of State shall issue the Temporary Permit and no other document shall be deemed a valid Temporary Permit. This provision shall in no way be construed as restricting the provisions of Section 3-401 of the Illinois Vehicle Code.

3) Entities authorized to issue Temporary Permit Plates pursuant to Section 1010.421 of this Part shall have the necessary computer hardware, software and communication devices for accessing the Secretary of State’s Internet site for the registration of Temporary Permit plates.

4) The Temporary Permit shall not be valid for more than 90 days from the date of issuance, unless extended or reduced at the discretion of the Secretary of State. In exercising that discretion, the Secretary of State shall take into consideration the following factors:

A) The nature and type of application;

B) The availability of the registration plates and/or stickers applied for;

C) The processing time for the application;

D) Other relevant matters affecting the issuance thereof.

In any event, once the applied-for registration plates and/or stickers have been issued to and received by the applicant, the Temporary Permit is void.
5) The Temporary Permit plate shall be securely attached to the rear of the vehicle in the space designed for the permanent registration plate, consistent with the provisions of Section 3-413(b) of the Illinois Vehicle Code. The Temporary Permit card or plate must be displayed on the vehicle for which it is issued as follows:

A) The Temporary Permit card may be displayed in the lower left corner of the back window;

B) The Temporary Permit card may be displayed in the lower left corner of the front window;

C) The Temporary Permit card may be displayed in the lower right corner of the front window;

D) The Temporary Permit plate shall be securely attached to the rear of the vehicle in the space designed for the permanent registration plate, consistent with the provisions of Section 3-413(b) of the Illinois Vehicle Code.

6) The Temporary Permit must be removed upon receipt of the registration plates and/or sticker. The Temporary Permit is not transferable from one person to another, nor from vehicle to vehicle.

b) Newly Acquired Vehicles

A Temporary Permit to operate a newly acquired vehicle for which a valid application for title and registration has been filed, accompanied with the proper fees, may be issued by or for the Secretary of State to the buyer of such vehicle, pending action upon the said application.

c) Renewal Registrations

In the event that an individual fails to renew a registration plate or sticker upon expiration, a Temporary Permit may be issued only by a Secretary of State facility, or remittance agent, and only under the following circumstances:
1) The applicant presents proof of ownership of the vehicle through a title, preprinted application, I.D. Card, or through verification of ownership by the records of the Secretary of State.

2) The applicant presents payment of all fees due.

3) The renewal registration plates and/or stickers are not readily available at a financial institution, as defined in Section 1010.240 of this Part.

4) The appropriate registration stickers or registration plates are not immediately available at a facility.

d) Miscellaneous Provisions

The Secretary of State may also issue Temporary Permits only at official State of Illinois facilities in any of the following situations:

1) If an individual has made application for registration, either renewal or otherwise, prior to expiration and does not receive the registration by the expiration date. The individual must present proof thereof acceptable to the Secretary of State;

2) Any situation where the individual makes proper application for title and registration, or registration alone, and the Secretary of State is unable to issue the appropriate registration at that time.

(Source: Amended at 27 Ill. Reg. 4790, effective February 27, 2003)

Section 1010.421 Issuance of Temporary Registration Permits by Persons or Entities Other Than the Secretary of State

a) In addition to the issuance of Temporary Permits to specific applicants, the Secretary of State may supply, upon request, Temporary Permit cards or Temporary Permit plates to the following for issuance by them, provided they have the necessary computer hardware, software and communication devices for accessing the Secretary of State’s Internet site for the registration of Temporary Permit plates:
1) Licensed vehicle dealers registered and in good standing with the Secretary of State. Each dealer may issue Temporary Permits only to persons purchasing vehicles from that dealer and only after application for title and registration has been completed. The Secretary shall, upon determination by any court proceeding or at an administrative hearing, decline to issue such Permits to any dealer or demand return of unused Permits for violating any provision of the Illinois Vehicle Code, or any administrative rule adopted pursuant to the Vehicle Code, for the failure to keep records or make computer entries as required by this Section, or for any other violation relating to the use or issuance of Temporary Permits. Secretary of State personnel may initiate an action against a dealer by filing a complaint with the Secretary of State’s Administrative Hearings Department. Thereafter, a notice of hearing shall be issued to the dealer specifying the alleged violations. The dealer shall be entitled to an administrative hearing pursuant to Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118] and regulations promulgated thereunder. All dealers receiving such Temporary Permits shall maintain records reflecting the information required for completion of the Temporary Permit card or the receipt form for a Temporary Permit plate. Failure to do so could result in the denial, revocation, or suspension of a dealer's license under Section 5-501 of the Illinois Vehicle Code.

2) Licensed remittance agents registered and in good standing with the Secretary of State. Each remittance agent may issue Temporary Permits only to persons whose applications the remittance agent accepts for transmittal to the Secretary of State. The Secretary shall, upon determination by any court proceeding or at an administrative hearing, decline to issue such Permits to any remittance agent or demand return of unused Permits for violating any provision of the Illinois Vehicle Code, or any administrative rule adopted pursuant to the Vehicle Code, for the failure to keep records or make computer entries as required by this Section, or for any other violation relating to the use or issuance of Temporary Permits. Secretary of State personnel may initiate an action against a remittance agent by filing a complaint with the Secretary of State’s Administrative Hearings Department. Thereafter, a notice of hearing shall be issued to the remittance agent specifying the alleged violations. The remittance agent shall be entitled to an administrative hearing pursuant to Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118] and regulations promulgated thereunder. All Remittance Agents receiving such
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Temporary Permits shall maintain records reflecting the information required for completion of the Temporary Permit card or the receipt form for a Temporary Permit. Failure to do so could result in the denial, revocation, or suspension of a Remittance Agent's license under Sections 3-906 and 3-907 of the Illinois Vehicle Code.

3) Currency Exchanges licensed by, and in good standing with, the Department of Financial Institutions. Currency Exchanges shall complete and submit an application in a manner prescribed by the Secretary of State to be eligible to receive Temporary Permits. Each Currency Exchange may issue Temporary Permits only to persons whose applications the Currency Exchange accepts for transmittal to the Secretary of State. A Temporary Permit may only be issued in connection with an application for title and registration or registration only, but may not be issued in connection with an application for renewal of a registration. All Currency Exchanges receiving Temporary Permits shall maintain records of their issuance reflecting the information required for completion of the Temporary Permit card or the receipt form for a Temporary Permit plate. The Secretary shall, upon determination by any court proceeding or at an administrative hearing, decline to issue Temporary Permits to any Currency Exchange that has committed any violation of the Illinois Vehicle Code, or any administrative rule adopted pursuant to the Vehicle Code for failure to keep records or make computer entries as required by this Section, or for any other violation relating to the use or issuance of Temporary Permits. Secretary of State personnel may initiate an action against a Currency Exchange by filing a complaint with the Secretary of State’s Administrative Hearings Department. Thereafter, a notice of hearing shall be issued to the Currency Exchange specifying the alleged violations. The Currency Exchange shall be entitled to an administrative hearing pursuant to Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118] and regulations promulgated thereunder.

b) Issuers of Temporary Permits must be in compliance with the following:

1) Within two business days after receipt of Temporary Permit plates from the Secretary of State the issuer shall access the Secretary of State’s Internet site for the registration of Temporary Permit plates and acknowledge receipt of the plates. The issuer shall store the Temporary Permit plates in a secure location to prevent theft, loss or misuse of the
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Temporary Permit plates shall be issued in numerical sequence as received from the Secretary of State. Temporary Permit plates shall be issued only in conjunction with applications for vehicle registration and all required information regarding the Temporary Permit plate shall be completed on the vehicle registration application form.

2) Contemporaneous with the issuance of a Temporary Permit plate, the issuer shall access the Secretary of State’s Internet site for the registration of Temporary Permit plates and enter all requested information with regard to the vehicle for which the Temporary Permit plate was issued and the individual(s) or entity to which the Temporary Permit plate was issued. When accessing the Secretary of State’s Internet site and entering information, issuers shall comply with all protocols provided by the Secretary of State, including, but not limited to, user identification procedures and passwords.

3) Prior to delivering a Temporary Permit plate to the applicant or attaching a Temporary Permit plate to a vehicle, the issuer shall lift the clear overlay covering the expiration date area, blacken in with a permanent black marker the month and year during which the Temporary Permit will expire, making certain to blacken in the entire box including the portion of the silver hologram strip running through the box designating the month, and remove the white backing from the overlay and apply the overlay securely over the expiration date area.

4) Temporary Permit plates issued for motor driven cycles or motorcycles shall be of the reduced size designed for motor driven cycles or motorcycles.

5) Temporary Permit plates shall be issued only by the Dealer, Remittance Agent, or Currency Exchange that received the Temporary Permit from the Secretary of State.

6) Temporary Permit cards and Temporary Permit plate receipt forms shall contain all of the information requested, where applicable. The original of the plate receipt form shall be given to the applicant and the copy shall be maintained by the issuer.
SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENTS

7) Temporary Permit cards and Temporary Permit plate receipt forms shall bear the name of the issuing entity and the signature of the issuing employee.

8) Issuers of Temporary Permits shall reimburse the Secretary of State $50 per Temporary Permit for lost, missing, stolen, or destroyed Temporary Permits. The Secretary of State shall have the discretion to waive this fee upon satisfactory proof that the Temporary Permits were destroyed by fire or flood, or stolen in connection to a theft of the premises. In the decision to waive the fee, the Secretary of State shall consider whether an insurance claim or police report was filed, or other evidence suggesting that the issuer's loss is the result of fire, flood, or theft of the premises.

9) Issuers shall maintain copies of all Temporary Permit cards and receipt forms for all Temporary Permit plates issued for a period of 3 years.

10) When the issuer is no longer engaged in the business of issuing Temporary Permits, the issuer shall return all Temporary Permit books for which Temporary Permits were issued and all unissued Temporary Permit cards and/or plates to the Secretary of State. Issuer shall bear risk of loss until all Temporary Permits are received by the Secretary of State.

c) The Secretary of State shall have free access to the offices and places of business to examine fully all Temporary Permit books and other business records, documents, and files of the issuer to determine whether such issuer is complying with the provisions of this Section.

d) The issuer is responsible for acts or omissions of issuer's employees while engaged in the distribution of Temporary Permits.

(Source: Amended at 27 Ill. Reg. 4790, effective February 27, 2003)
DEPARTMENT OF HUMAN SERVICES  
NOTICE OF REQUEST FOR EXPEDITED CORRECTION  

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER b: ASSISTANCE PROGRAMS  

PART 121  
FOOD STAMPS  

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121.220 Work Requirement Components (Repealed)
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121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

DEPARTMENT OF HUMAN SERVICES

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SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.59  Asset Disregards

a) Households which are categorically eligible, as defined in Section 121.76, do not have to meet the asset limits in this Section.

b) $3,000 for all households with a qualifying member, as defined in Section 121.61, disabled member or one or more members 60 years of age or older.

c) $2,000 for all other households.

(Source: Expedited Correction at 27 Ill. Reg. _____, effective _____________)


The following second notices were received by the Joint Committee on Administrative Rules during the period of February 25, 2003 through March 3, 2003 and have been scheduled for review by the Committee at its April 8, 2003 meeting in Springfield. 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.

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ILLINOIS REGISTER

EXECUTIVE ORDERS

2003-7

Executive Order to Reorganize Agencies by the
Abolishment of Certain Entities of the Executive Branch

WHEREAS Article V, Section 11 of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that “Reorganization” includes “the abolition of the whole or any part of any agency which does not have, or upon the taking effect of reorganization will not have, any functions;” and

WHEREAS, this Executive Order abolishes those agencies directly responsible to the Governor that either no longer serve a necessary function or serve functions that can be more efficiently served by another agency; and

WHEREAS, this abolishment decreases agency bureaucracy, streamlines the Executive Branch, and dissolves inactive or duplicative agencies;

THEREFORE, I hereby order that the following agency reorganization shall be executed:

I. Abolishment:
The agencies listed under Part II of this Executive Order and all accompanying administrative units, boards, councils, advisory bodies, or related entities of these agencies are abolished. The corresponding terms of appointed members on these agencies are also terminated, and their appointed offices are subsequently abolished. These agencies may be temporarily reorganized or reconstituted, if necessary, under the Department of Central Management Services or another appropriate agency to facilitate the termination of their administration. In connection with winding up the affairs of the terminated agencies, the Director of Central Management Services shall determine whether consolidation of any functions of the terminated agencies with another agency is appropriate.

II. Affected Entities and Corresponding Enabling Authorities:
The entities listed in this Part II are abolished. The rights, powers, duties, and functions vested by law in these entities, or any office, division, council, committee, bureau, board, commission, officer, employee, or associated individual, person, or entity by the following Executive Orders, Acts, or Sections of the Acts, and all rights, powers, and duties incidental to these provisions including funding mechanisms, are also abolished:

A. Alcoholism and Other Drug Dependency Board, Interagency, 20 ILCS 301/10-40, 10-45, 10-50.
B. Anti-Crime Advisory Council, 20 ILCS 3910/1, 5.
E. Furniture Fire Safety Advisory Board, 425 ILCS 45/1005.
ILLINOIS REGISTER 4813

EXECUTIVE ORDERS

G. Governor’s Health and Physical Fitness Advisory Committee, 20 ILCS 3950/4.
H. Governor’s Scholars, Board of Sponsors, 110 ILCS 940/1.
I. Necropsy Service to Coroners, Advisory Board, 20 ILCS 5/5-565, 5/5-605.

III. Savings Clause:
A. The rights, powers, duties, and functions of the entities abolished by this Executive Order shall be vested in and shall continue to be exercised by the Department of Central Management Services or another appropriate agency to the extent necessary to effectuate the termination or winding up of affected administrative affairs. Each act done in the exercise of these rights, powers, and duties shall have the same legal effect as if done by the former agencies, and by the officers and employees of those agencies.

B. Every person shall be subject to the same obligations and duties and to the associated penalties, if any, and shall have the same rights arising from the exercise of these obligations and duties as if exercised subject to the former agency or the officers and employees of that agency.

C. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person or entity, then those requirements shall be waived or, if completed, then those reports and notices shall be delivered, immediately after the effective date of this Executive Order.

D. This Executive Order shall not affect any act undertaken, ratified or cancelled or any right occurring or established or any action or proceeding commenced in an administrative, civil, or criminal case before this Executive Order takes effect, but these actions or proceedings may be prosecuted and continued by the Department of Central Management Services in cooperation with another agency, if necessary.

E. This Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order, which rules have been duly adopted by the pertinent agencies. If necessary, however, the affected agencies shall propose, adopt, or repeal rules, rule amendments, and rule recodifications as appropriate to effectuate this Executive Order. These rule modifications shall coincide with, if applicable, the termination and winding up of the abolished agencies’ affairs.

F. Whenever any provision of any previous Executive Order or any Act provides for membership of an individual (or a designee) from an agency abolished by this Executive Order on any board, commission, authority, or other entity, the Director of Central Management Services, the head of another appropriate agency, or a Director’s designee shall serve in that place, if necessary. If more than one such agency member is required by law to serve on any board, commission, authority, or other entity, then an equivalent number of representatives of the Department of Central Management Services or another appropriate agency shall so serve, if
necessary.

G. Any employees of agencies abolished by this Executive Order are transferred to the Department of Central Management Services or to another appropriate agency as determined by the Director of Central Management Services. All employees engaged in the performance of a function or in the administration of a law transferred by this Executive Order are transferred to the Department of Central Management Services. Personnel exercising rights, power, and duties in the abolished agencies are now transferred to the Department of Central Management Services. The rights of the employees, the State, and the transferring agencies under the Personnel Code or any collective bargaining agreement, or under any pension, retirement, or annuity plan, shall not be affected by this Executive Order. Personnel employed by the abolished agencies to perform functions that are not clearly classifiable within the areas referred to in this Executive Order shall be assigned and transferred to appropriate departments by the Director of Central Management Services.

H. All personnel records, documents, books, correspondence, papers, real and personal property, and other associated items in any way pertaining to the rights, powers, duties, and functions of the abolished agencies shall be delivered and transferred to the Department of Central Management Services, another appropriate agency, or the State Archives.

I. All pending business and affairs in any way pertaining to the rights, powers, duties, and functions of the abolished agencies shall be transferred to the Department of Central Management Services or to another appropriate agency for continuation, modification, winding up, or termination, as appropriate.

J. The unexpended balances of any appropriations or funds, grants, donations, or other moneys available for use by the abolished agencies shall be transferred to the Department of Central Management Services or other appropriate agency and shall be expended for similar purposes for which the appropriations, funds, grants, or other moneys were originally made or given to those entities. If those purposes are no longer feasible, then the remaining balances shall be deposited into the General Revenue Fund.

IV. Severability:
If any provisions of this Executive Order or its application to any person or circumstance is held invalid, then the invalidity of that provision or application does not affect other provisions or applications of this Executive Order that can be given effect without the invalid provision or application.

V. Filing:
This Executive Order shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate. In addition, this Executive Order shall be filed with (i) the Secretary of State for publishing in the Illinois Register and (ii) the Legislative Reference Bureau for preparation of a revisory bill effectuating these provisions.
VI. Further action:  
The abolishment of these entities does not foreclose further action in that the Governor may review additional executive entities for abolishment and effectuate that abolishment by Executive Order.

VII. Effective Date:
With respect to the agencies identified in Items F and K of Section II hereof, this Executive Order is effective immediately. With respect to the remaining agencies identified in Section II hereof, this Executive Order is effective 60 days after delivery to the General Assembly, which delivery is executed by filing copies of the document with Clerk of the House of Representatives and the Secretary of the Senate.

Issued by the Governor February 27, 2003
Filed by the Secretary of State February 27, 2003
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PUBLICATION ERROR

1) Heading of the Part: Dietetic and Nutrition Services Practice Act

2) Code Citation: 68 Ill. Adm. Code 1245

3) Register citation of adopted rulemaking and other pertinent action:
   27 Ill Reg. 3121. February 21, 2003

4) Explanation: In publication of the above mentioned adopted rulemaking, several strikethroughs and underscores were added and published. The file pages reflect the correct reading as shown below:

   a. In 68 Ill. Adm. Code 1245, Subpart A: Definitions, Section 1245.10, 27 Ill. Reg. 3125 it reads:

   “Licensed dietitian nutritionist” means a person who, beginning November 1, 2003 pursuant to P.A. 92-0642, is licensed under the Act to practice dietetics and nutrition services, including medical nutrition therapy. Activities of a licensed dietitian nutritionist do not include the medical differential diagnosis of the health status of an individual.

   "Licensed dietitian" means a person licensed by the Department until October 31, 2003, to practice dietetics as defined in Section 10 of the Act. Dietetics includes all aspects of nutrition care for individuals and groups, including, but not limited to, nutrition assessment, nutrition counseling, nutrition education, nutrition services and medical nutrition care. Activities of a licensed dietitian do not include the medical differential diagnoses of the health status of an individual.

   "Licensed nutrition counselor" means a person licensed by the Department until October 31, 2003, to provide nutrition services as defined in Section 10 of the Act. Nutrition services to individuals and groups include, but are not limited to, nutrition assessments, nutrition education and nutrition counseling and nutrition care. Activities of a licensed nutrition counselor do not include medical nutrition care and do not include the medical differential diagnoses of the health status of an individual.

The Correct Reading is:
“Licensed dietitian nutritionist” means a person who, beginning November 1, 2003 pursuant to P.A. 92-0642, is licensed under the Act to practice dietetics and nutrition services, including medical nutrition therapy. Activities of a licensed dietitian nutritionist do not include the medical differential diagnosis of the health status of an individual.

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b. In 68 Ill Adm. Code 1245, Subpart C: Nutrition Counselor, Section 1245.210: Application for Examination/Licensure, Page 3135 it reads:

c) An applicant who has filed a completed application with the Department may work under direct supervision as defined in Section 1245.10 of this Part.

The Correct Reading is:

c) An applicant who has filed a completed application with the Department may work under direct supervision as defined in Section 1245.10 of this Part.

c. In 68 Ill Adm. Code 1245, Subpart C: Nutrition Counselor, Section 1245.130: Approved Programs of Nutrition Counselors, Page 3136 it reads:
a) The Department of Professional Regulation shall approve a program if it meets the following minimum criteria:

The Correct Reading is:

a) The Department of Professional Regulation shall approve a program if it meets the following minimum criteria:

d. In 68 Ill Adm. Code 1245, Subpart C: Nutrition Counselor, Section 1245.250: Endorsement, Page 3138 it reads:

c) The applicant shall have the license issued or be notified in writing of the reason for denying the application.

The Correct Reading is:

c) The applicant shall have the license issued or be notified in writing of the reason for denying the application.

e. In 68 Ill Adm. Code 1245, Subpart C: Nutrition Counselor, Section 1245.260: Restoration, Page 3139 it reads:

a) Any nutrition counselor whose license has expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 1245.305 and providing proof of meeting continuing education requirements of Section 1245.290 of this Part during the 2 years prior to restoration.

The Correct Reading is:

a) Any nutrition counselor whose license has expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 1245.305 and providing proof of meeting
DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PUBLICATION ERROR

continuing education requirements of Section 1245.290 of this Part during the 2 years prior to restoration.
### ILLINOIS ADMINISTRATIVE CODE

#### Issue Index

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Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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**SECOND NOTICES RECEIVED**

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**EXECUTIVE ORDERS AND PROCLAMATIONS**

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**NOTICES REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER**

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Processing fee for credit cards purchases, if applicable: $1.50

TOTAL AMOUNT OF ORDER $ ____________

Check Make Checks Payable To: Secretary of State

VISA Master Card Discover (There is a $1.50 processing fee for credit card purchases.)

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