

# 2005

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



Volume 29 Issue 48  
November 28, 2005  
Pages 18977-19321

Index Department  
Administrative Code Div.  
111 East Monroe Street  
Springfield, IL 62756  
(217) 782-7017  
<http://www.cyberdriveillinois.com>

Printed on recycled paper

## TABLE OF CONTENTS

November 28, 2005 Volume 29, Issue 48

### PROPOSED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF Acquisition, Management and Disposal of Real Property 44 Ill. Adm. Code 5000 .....	18977
Conditions of Employment 80 Ill. Adm. Code 303 .....	19000
COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF High Technology School-To-Work Program 14 Ill. Adm. Code 110 .....	19006
CORRECTIONS, DEPARTMENT OF Rules of Conduct 20 Ill. Adm. Code 120 .....	19009
DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND COUNCIL OF ILLINOIS Drycleaner Environmental Response Trust Fund Act 35 Ill. Adm. Code 1500 .....	19017
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF Hospital Services 89 Ill. Adm. Code 148 .....	19043
LABOR, DEPARTMENT OF Prevailing Wage Hearing Procedures 56 Ill. Adm. Code 100 .....	19064
Rules of Procedure in Administrative Hearings 56 Ill. Adm. Code 120 .....	19082
Six Day Week Law 56 Ill. Adm. Code 220 .....	19106
Victims' Economic Security and Safety Act 56 Ill. Adm. Code 280 .....	19118
RACING BOARD, ILLINOIS Pick (N) Pools 11 Ill. Adm. Code 308 .....	19125
Racing Rules 11 Ill. Adm. Code 1318 .....	19130
REVENUE, ILLINOIS DEPARTMENT OF Payment of Taxes by Electronic Funds Transfer 86 Ill. Adm. Code 750 .....	19134
Electronic Filing of Returns or Other Documents 86 Ill. Adm. Code 760 .....	19141
Telefile Program 86 Ill. Adm. Code 770 .....	19147
TREASURER, OFFICE OF THE College Savings Pool	

23 Ill. Adm. Code 2500 .....	19151
<b>ADOPTED RULES</b>	
COMMERCE COMMISSION, ILLINOIS	
Administration of Funds Created by the Wireless Emergency Telephone Safety Act	
83 Ill. Adm. Code 729 .....	19153
Registration of Rail Carriers	
92 Ill. Adm. Code 1501 .....	19174
Report of Railroad Accidents/Incidents	
92 Ill. Adm. Code 1515 .....	19178
Hazardous Materials	
92 Ill. Adm. Code 1605 .....	19183
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Residential Mortgage License Act of 1987	
38 Ill. Adm. Code 1050 .....	19187
TRANSPORTATION, ILLINOIS DEPARTMENT OF	
Special Training Requirements	
92 Ill. Adm. Code 380 .....	19208
Safety Fitness Procedures	
92 Ill. Adm. Code 385 .....	19216
Minimum Levels of Financial Responsibility for Motor Carriers	
92 Ill. Adm. Code 387 .....	19222
Motor Carrier Safety Regulations: General	
92 Ill. Adm. Code 390 .....	19227
Qualification of Drivers	
92 Ill. Adm. Code 391 .....	19251
Driving of Commercial Motor Vehicles	
92 Ill. Adm. Code 392 .....	19256
Parts and Accessories Necessary for Safe Operation	
92 Ill. Adm. Code 393 .....	19260
Hours of Service of Drivers	
92 Ill. Adm. Code 395 .....	19264
Inspection, Repair and Maintenance	
92 Ill. Adm. Code 396 .....	19271
Transportation of Hazardous Materials; Driving and Parking	
92 Ill. Adm. Code 397 .....	19275
<b>EMERGENCY RULES</b>	
COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF	
High Technology School-To-Work Program	
14 Ill. Adm. Code 110 .....	19279
Technology Advancement and Development Act Programs (Repeal)	
14 Ill. Adm. Code 545 .....	19284
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Transfer of Creditable Service Time from IMRF to Article 3 Police Pension Fund	

50 Ill. Adm. Code 4403 .....	19296
TREASURER, OFFICE OF THE College Savings Pool 23 Ill. Adm. Code 2500 .....	19308
<b>SECOND NOTICES RECEIVED</b>	
JOINT COMMITTEE ON ADMINISTRATIVE RULES Second Notices Received.....	19313
<b>NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT</b>	
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF Medical Payment 89 Ill. Adm. Code 140 .....	19314
RACING BOARD, ILLINOIS Pick (N) Pools 11 Ill. Adm. Code 308 .....	19315
<b>EXECUTIVE ORDERS AND PROCLAMATIONS</b>	
PROCLAMATIONS	
Solar Energy Day 2005-374.....	19316
Science Teacher Days 2005-375.....	19316
Solar Energy Day (Revised) 2005-374.....	19317
Human Rights Day 2005-376.....	19317
Geography Awareness Week and Geographic Information Science Day 2005-377.....	19318
International Education Week 2005-378.....	19319
Courageous Kid Recognition Week 2005-379.....	19319
Courageous Kid Recognition Week (Revised) 2005-379.....	19320

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Acquisition, Management & Disposal of Real Property
- 2) Code Citation: 44 Ill. Adm. Code 5000
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
5000.900	Amendment
5000.901	Amendment
5000.902	Amendment
5000.910	Amendment
5000.920	Amendment
5000.930	Amendment
5000.940	Amendment
5000.950	Amendment
5000.960	Amendment
5000 Appendix B	Amendment
- 4) Statutory Authority: Implementing Section 7.1 of the State Property Control Act [30 ILCS 605/7.1], implementing and authorized by Sections 5-675, 405-215, 405-300, 405-305, 405-310 and 405-315 of the Civil Administrative Code of Illinois [20 ILCS 5/5-675 and 20 ILCS 405/405-215, 405-300, 405-305, 405-310, 405-315] and authorized by Section 6 of the State Property Control Act [30 ILCS 605/6] and the Illinois Procurement Code [30 ILCS 500].
- 5) A Complete Description of the Subjects and Issues Involved: Language relating to Special Events and Exhibits in buildings is being amended to remove a prohibition on the promotion of religious or political philosophies, in order to bring this Section into compliance with Constitutional requirements. Other changes have been made to generally update the Part for clarity.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 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.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson  
Illinois Department of Central Management Services  
720 Stratton Office Building  
Springfield, Illinois 62706

217/785-1793

OR

Chad Walker  
Legal Counsel  
Illinois Department of Central Management Services  
4-400 James R. Thompson Center  
100 West Randolph Street  
Chicago, Illinois 60601

312/814-2322

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any organization that may utilize a State-owned building for displays and/or exhibits will be affected.
  - B) Reporting, bookkeeping or other procedures required for compliance: There are no additional procedures required to comply with the proposed changes.
  - C) Types of professional skills necessary for compliance: No additional staffing will be necessary to comply with the proposed changes.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2005

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY MANAGEMENT

## SUBTITLE D: PROPERTY MANAGEMENT

## CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## PART 5000

## ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY

## SUBPART A: GENERAL

## Section

5000.100	Authority
5000.110	Policy
5000.120	Applicability

## SUBPART B: LEASED SPACE ACQUISITION POLICY

## Section

5000.200	General Policy and Responsibility
5000.210	Requests for Space/Agency Responsibilities
5000.220	Acquisition Authority
5000.230	General Acquisition Procedures
5000.231	Acquisition of Leases by RFI
5000.232	Leases Acquired by Other Methods
5000.233	Renewal or Extension of Lease in Effect Prior to July 1, 1998
5000.234	Renewal of Leases Entered into After July 1, 1998
5000.235	Purchase Options
5000.240	Lease Administration
5000.250	Emergency Lease Procurement

## SUBPART C: BUILDING STANDARDS

## Section

5000.300	Scope
5000.310	Area Measurement
5000.320	Space Planning Assistance
5000.330	Open Space
5000.340	Space Allowance and Standards
5000.350	Office Furnishing
5000.360	Handicapped Accessibility

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 5000.370 Vending Facilities/Blind Operators
- 5000.380 Improvements

## SUBPART D: ASSIGNMENT AND MANAGEMENT OF SPACE

## Section

- 5000.400 Assignment and Management by DCMS
- 5000.410 Assignment by Agencies
- 5000.420 Reviews and Appeal of Space Assignment Actions
- 5000.430 Services Provided
- 5000.440 Alterations
- 5000.450 Local Requirements

SUBPART E: UTILIZATION OF SPACE  
(STATE-OWNED AND LEASED PROPERTIES)

## Section

- 5000.500 Space Inspections and Surveys
- 5000.510 Responsibility of Agencies
- 5000.520 Release of Space Not Fully Utilized
- 5000.530 Notice to DCMS of Relinquishment or Termination of Space

## SUBPART F: EXCESS REAL PROPERTY

## Section

- 5000.600 Excess Real Property Defined
- 5000.610 Reports of Excess Real Property
- 5000.620 Utilization of Excess Real Property
- 5000.630 Charges for Use of Excess Property
- 5000.640 Temporary Occupancy
- 5000.650 Disputes
- 5000.660 Non-State Use

## SUBPART G: SURPLUS REAL PROPERTY

## Section

- 5000.700 Surplus Real Property Defined
- 5000.710 Declaration of Surplus
- 5000.720 Reporting Surplus Real Property
- 5000.730 Notice of Availability to State Agencies

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

5000.740	State Agency Requests for Surplus Real Property
5000.750	Transfer Decisions
5000.760	Transfer Procedures
5000.770	Transfer to Department of Central Management Services
5000.780	Subsequent Disposal
5000.790	Sale of Surplus
5000.800	Notice of Sale to Local Governments
5000.810	Local Government Offer to Purchase
5000.820	Public Sale
5000.830	Public Sale Procedures
5000.840	Non-State Interim Use

## SUBPART H: USE OF OFFICE BUILDING

## Section

5000.900	Applicability
5000.901	Building Access and Security
5000.902	Security
5000.910	Definitions
5000.920	Business Hours and Public Access
5000.930	Prohibited Activities
5000.940	Demonstrations
5000.950	Exhibits and Special Events
5000.960	Distribution of Leaflets <del>and Solicitations of Funds, Voter Registration and Signatures</del>
5000.970	Severability
5000.APPENDIX A	Space Standards
5000.APPENDIX B	Rental Fees

AUTHORITY: Implementing Section 7.1 of the State Property Control Act [30 ILCS 605/7.1], implementing and authorized by Sections 5-675, 405-215, 405-300, 405-305, 405-310 and 405-315 of the Civil Administrative Code of Illinois [20 ILCS 5/5-675 and 20 ILCS 405/405-215, 405-300, 405-305, 405-310, 405-315] and authorized by Section 6 of the State Property Control Act [30 ILCS 605/6] and the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 6 Ill. Reg. 12984, effective October 13, 1982; emergency amendment at 7 Ill. Reg. 3743, effective March 18, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 7825, effective June 22, 1983; emergency amendment at 8 Ill. Reg. 13444, effective July 17, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 19345; amended at 10 Ill. Reg. 636,

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

effective December 31, 1985; amended at 17 Ill. Reg. 1006, effective January 19, 1993; emergency amendment at 17 Ill. Reg. 2361, effective February 5, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 10753, effective July 1, 1993; amended at 18 Ill. Reg. 1886, effective January 21, 1994; emergency amendment at 17 Ill. Reg. 15653, effective September 9, 1993, for a maximum of 150 days; amended at 19 Ill. Reg. 585, effective January 9, 1995; amended at 20 Ill. Reg. 15002, effective November 7, 1996; emergency amendment at 22 Ill. Reg. 12569, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20545, effective November 16, 1998; emergency amendment at 25 Ill. Reg. 15438, effective November 16, 2001, for a maximum of 150 days; emergency expired April 14, 2002; amended at 26 Ill. Reg. 8083, effective May 17, 2002; amended at 27 Ill. Reg. 2105, effective January 27, 2003; emergency amendment at 29 Ill. Reg. 15686, effective November 17, 2004, for a maximum of 150 days; emergency expired April 15, 2005; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART H: USE OF OFFICE BUILDING

**Section 5000.900 Applicability**

This Subpart is applicable to the use of the Peoria Regional Office Building, Springfield Regional Office Building, Champaign Regional Office Building, Marion Regional Office Building, Kenneth Hall Regional Office Building, East St. Louis, Rockford Regional Office Building, [Michael A. Bilandic State of Illinois Building](#), Office and Laboratory Building, Central Computer Facility, Elgin Office Building, James R. Thompson Center ([commonly referred to as the JRTC](#)), Chicago Medical Center, E.J. "Zeke" Giorgi Center, Rockford, Suburban North Facility and the Communications Center pursuant to 20 ILCS 405/405-315.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.901 Building Access and Security**

- a) The Director of Central Management Services or a designated Associate Director or Assistant Director of the Department of Central Management Services may suspend all or a portion of this Subpart when deemed necessary to ensure the continuation of State business and the protection of State property, as well as the health and safety of the public, State employees and elected officials. During [thesueh](#) suspension, the Director may establish (and reasonably change) policies without notice and limit or prohibit access to facilities. Any [sueh](#)-suspension shall be reconsidered on a monthly basis and shall be lifted when, in the discretion of the Director, the suspension is no longer necessary to ensure the continuation of State business or to protect State property, health or safety as provided [in this](#)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

[subsection above](#).

- b) Persons or groups wishing to appeal [thesueh](#) suspension may appeal directly in writing to the Director of Central Management Services at [thehis](#) office in either Springfield or Chicago. The Director shall respond to all such appeals within two business days after receipt. Suspensions of access or activities made under this Subpart shall not apply to fee schedules and space allocations except as to a suspension to rent/allocate space grounded in security concerns.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.902 Security**

- a) Persons seeking entrance to CMS facilities must display the following to [Security Personnel](#)~~security personnel~~:
- 1) State issued identification;
  - 2) Picture identification; persons furnishing picture identifications may also be required to sign in and out;
  - 3) Other acceptable credentials such as military or law enforcement identification.
- b) All vehicles using parking at a facility may be subject to search as a condition of parking.
- c) All parcels, bays, delivery mail and other items may be [subjects](#)~~subjected~~ to search or screening.
- d) [Persons](#) ~~When deemed necessary, persons~~ entering buildings may be [subjects](#)~~subjected~~ to metal, explosive or other screening.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.910 Definitions**

"Authorized Representative" means an employee of the Department authorized by the Director to act on his behalf.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

"Building" or "Buildings" means the buildings named in Section 5000.900 of this Subpart.

"Building Manager" means the resident manager or engineer of the facility who is responsible for day to day operations of the Facility.

"Commercial Activity" means an activity whose primary purpose is to obtain a profit for the benefit of an individual or business entity organized for profit.

"Demonstration" means a public expression of a point of view that could be in the form of protestingdemonstrating, picketing, marching, rallying, ~~selling non-commercial printed matter or materials, moving in procession,~~ holding of vigils, and all other forms of public expressiondemonstrative activity that involve oralthe communication or ~~expression orally or by~~ conduct expressing a particular viewof views or grievancegrievances engaged in by one or more persons, the conduct of which has the effect, intent, or propensity to draw a crowd of onlookers within 100 feet of the buildings named in Section 5000.900 of this Subpart.

Demonstration shall also mean protestingdemonstrating, parading, picketing, public speakingsspeechmaking, holding of vigils, sit-ins or other activities conducted for the purpose of voicingdemonstrating approval or disapproval of governmental policies or practices (or the lack thereof), expressing a view on public issues or bringing into public notice any issue or other matter. However, nothing herein shall be construed to govern lobbyists or lobbying as defined by the Lobbyist Registration Act [25 ILCS 170](Ill. Rev. Stat. 1991, ch. 63, par. 171, et seq.) nor shall a demonstration mean the peaceful contact or discussions by one or more persons with elected representatives or with executive branch officials concerning their view on public or personal issues. Demonstration shall not include conduct that is obscene, indecent, violent or otherwise punishable by law.

"Department" means the Department of Central Management Services (CMS).

"Director" means the Director of the Department of Central Management Services (CMS).

"Exhibits" means a stationary array orstatic display of material including, but not limited to art work, books, photographs, charts, graphs, ~~or~~ historical depictions or promotional items presented for informational purposesdisplays.

"Grounds" shall mean the grass area, garden areas, outside areas of the building and all parking areas of the building.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

"Interfere" or "interference" shall mean the type of conduct ~~that~~<sup>which</sup> by its nature tends to hinder, disrupt or obstruct the orderly function of the official enterprises being carried on in the building.

"Security Personnel" means ~~the CMS Police~~, contractual security guards, local, county or Illinois State Police.

"Special Events" means ~~an~~ Commercial Activity, reception, conferences, production, performance, ceremony, gala, or any after-hours activity conducted by an activity involving a non-state entity, including but not limited to State agencies, corporations, not-for-profit organizations, private individuals or groups ~~and takes place after normal business hours or on weekends or holidays. State agency functions other than normal duties and State agency sponsored functions are also considered special events.~~

"Structure" shall mean anything built by any person or persons of any material for purposes of display, residence or as part of a demonstration. This term shall not refer to anything built pursuant to a State contract for construction, remodeling, or repair of any State property or a building defined in Section 5000.900.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.920 Business Hours and Public Access**

- a) The public business hours of the ~~JRTC State of Illinois Center (SOIC)~~ are 6:30 a.m. to ~~6:00~~ 6:00 p.m. Monday through Friday, ~~and 10 a.m. to 4 p.m. Saturday, Sunday and holidays.~~ The public business hours of the other Buildings are 7 a.m. to 6 p.m. Monday through Friday, except holidays declared by the Governor pursuant to ~~Section 18 of~~ the Civil Administrative Code of Illinois ~~[20 ILCS 5/5-635](Ill. Rev. Stat. 1991, ch. 127, par. 18).~~
- b) Entrance to any ~~Building~~ ~~building during~~ other than ~~during~~ the times stated in subsection (a) of this Section is prohibited, except for the following persons who shall be admitted to office areas assigned to them for their use in carrying out their official duties:
- 1) members of the General Assembly;
  - 2) employees of the General Assembly;

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 3) employees of the executive departments whose offices are in the ~~Building~~building;
  - 4) any authorized maintenance, repairer, contractor or other service employee, while performing duties ~~that~~which have been arranged for by the Department ~~of Central Management Services~~; and
  - 5) any person who is specially requested to enter into any ~~Building~~building or office by an authorized individual listed in subsection (b)(1) to (4) of this Section.
- c) Proper identification of all persons, such as a press pass, government identity card, a driver's license or other document which shows the identity of the person, may be demanded by ~~Security personnel~~security personnel, and all persons will be required to sign in and out of a ~~Building~~building after 6 p.m. and before 7 a.m. Only one entrance shall be open after the public business hours. Factors to be considered in which identification may be requested include, but are not limited to: the security guard does not recognize the individual; the behavior of the individual and accessibility to office areas, work areas and restricted access areas.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.930 Prohibited Activities**

- a) No animals, except guide dogs to assist handicapped persons, shall be permitted in the ~~Buildings~~buildings.
- b) No person or organization shall camp, erect a tent, monument (except as authorized by the Department to commemorate a deceased public official or a historical event), structure, portable toilet, platform, sign or similar device on the ~~Grounds~~grounds of or within the ~~Buildings~~buildings except as provided in subsection (f) of this Section.
- c) No person or organization shall block, obstruct, or impede any doorway, stairway, corridor, escalator, elevator, convenience or facility in the ~~Building~~building.
- d) No posters or signs may be carried above the first floor of the Buildings except with written permission of the Building Manager or ~~Security Personnel~~security personnel. Permission will be granted only if the posters or signs will not

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

interfere with State business. No sticks, poles or laths may be used to carry any sign or placard into the ~~Buildings~~buildings. No chains or ropes may be carried into the ~~Buildings~~buildings, except by authorized workers and State employees, without the written permission of the Building Manager.

- e) No person or group of persons shall use any electronic loudspeaker, bullhorn or other amplifying device within the ~~Buildings~~buildings or ~~Grounds~~grounds, unless prior permission is granted pursuant to Section 5000.940(d).
- f) No signs, posters, stickers or decals for ~~Demonstration~~demonstration purposes may be affixed in any way to the walls, railings, floors or ceilings of the ~~Buildings~~buildings. No ~~displays or Structures~~structures (including tents) in the ~~Buildings~~buildings or on the ~~Grounds~~grounds may be erected without the written permission of the Department pursuant to Section 5000.940. Permission shall be granted only if the:
  - 1) ~~display Structure~~structure is part of symbolic expression in the exercise of free speech guaranteed by the First Amendment to the United States Constitution and Article I, Sections 4 and 5 of the 1970 Illinois Constitution; and
  - 2) signs, posters, stickers or decals will not deface or damage the walls, railings, floors or ceilings of the ~~Buildings~~buildings.
- g) The display of commercial signs, placards, or other forms of advertisement, or the sale, display, or vending of commercial products or articles in the ~~Buildings~~buildings or on the ~~Grounds~~grounds is prohibited, except pursuant to contract with the State.
- h) The noise level from demonstrators, picketers, and protesters of any group or groups, or as individuals within the Building shall not exceed a decibel level of 85dB(A). If the noise level from these persons exceeds this limit, the Building Manager or other ~~Authorized Representatives~~authorized representatives shall direct all persons to decrease the noise or to reduce the numbers of people within the Building to lower the noise level to the specified level, which shall not exceed 85dB(A).
- i) No person or organization shall damage, destroy, remove, deface, defile, tarnish, or injure in any way State property within the ~~Buildings~~buildings or on the ~~Grounds~~grounds thereof. All persons and organizations engaging in this type of

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

prohibited activity will be responsible for all costs, expenses, damages, and liability resulting from their own actions or the actions of persons or organizations controlled or directed by them at the time of the damage to State property.

- j) Any violation of the prohibited activities listed in subsections (c) through (i) of this Section or failure to follow requests of ~~Security Personnel~~security personnel may result in individuals or groups being removed from the premises.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.940 Demonstrations**

- a) ~~Any Demonstration~~The holding or conducting of any demonstration, public meeting, gathering, or parade on or in near the Buildings~~buildings or on the Grounds~~their grounds is prohibited unless a permit for ~~such~~such activity is issued by the Department or its ~~Authorized Representatives~~authorized representatives. Demonstrations are prohibited in the Buildings. A written request addressed to the Building Manager must be submitted at least 48 hours in advance of such an event, unless the requester can show by the preponderance of the evidence, that the cause or reason for the ~~requested Demonstration~~demonstration, meeting, gathering or parade was not known, contemplated, reasonably foreseeable, or resulted from changed circumstances, not in existence within those 48 hours. No ~~such~~ request shall take precedence over an activity ~~that~~which was previously scheduled and approved by the Department, unless approved by the Department. The Department or Building Manager will employ the following elements in evaluating whether another event may be permitted: whether the facility needs to be used for governmental purposes or whether the new request can be accommodated without disruption to the previously scheduled event. Notwithstanding the foregoing, events may be canceled in cases involving natural disaster, public health or safety concerns (e.g., floods, civil disturbance, ~~riots~~public health, etc.).
- b) The written request shall state the name of the individual, ~~or~~ organization, ~~corporation, association, society, fraternity, sorority, club, or group of whatever kind or nature~~ seeking to use ~~the building or the Grounds~~grounds. The request shall also list the names and addresses of all officers or leaders ~~of the organization~~, the ~~particular facility~~Grounds desired to be used, ~~the purpose of the Demonstration~~, the dates and times sought, equipment to be used or supplied, and the estimated number of the participants. Only the requesting individual or organization is permitted to use the Grounds for a Demonstration. No State

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

agency or State employee may sponsor or make a request on behalf of any organization or individual.

- c) Any group seeking a permit ~~hereunder~~ that will have 100 or more participants at any ~~Demonstration~~ demonstration shall have one marshal per 25 participants. Marshals will be identified by insignia supplied by the Building Manager or ~~Security Personnel~~ security personnel. The marshals' duties shall include making certain, to the best of his/her ability under the circumstances, that the conditions of the permit are met, that compliance with the rules occurs, that the ~~Demonstrations~~ demonstrations remain peaceful and orderly and the participants remain within the physical boundaries of the permit.
- d) The Department or its ~~Authorized Representatives~~ authorized representatives will issue a permit to an applicant unless they find that the intended activity will:
- 1) Unreasonably interfere with the movement of vehicular traffic in the parking lots of the ~~Buildings~~ buildings, loading docks or persons within the ~~Buildings~~ buildings or on the ~~Grounds~~ grounds;
  - 2) Not occur in the area designated and will create or cause a health and/or safety hazard and will impede substantially the performance of ~~State~~ public business or the retail businesses in the ~~JRTC SOIC to be conducted in the area~~ area;
  - 3) Endanger the health and safety of the ~~public permit applicants or other persons~~ persons;
  - 4) Be a ~~Commercial Activity~~ commercial activity; ~~or~~
  - 5) Conflict in date, time, and place with a previously scheduled activity of another applicant or a government agency unless approved by the Building Manager; ~~or~~
  - 6) Create an unreasonable risk of damage to State property, ~~buildings or grounds~~ grounds.
- e) A permit issued by the Department ~~of Central Management Services~~ to hold a ~~Demonstration~~ demonstration at a building does not allow the individuals or groups to engage in activity prohibited by Section 5000.930. Failure to cease a prohibited activity may result in individuals or groups being removed from the

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

premises by ~~Security Personnel~~security personnel.

- f) Applicants denied a permit may modify their request to meet the objection and concerns of the Building Manager and may resubmit their application for consideration.
- g) A written request in letter form addressed to the Building Manager shall be considered an application. A written response from the Department or its ~~Authorized Representative~~authorized representative approving part or all of the application shall be considered the permit. The written response shall state, if applicable, the reasons for denying, in whole or in part, the request. The Department or its ~~Authorized Representative~~authorized representative is required to show that an unreasonable interference or prohibited activity will occur or is occurring when they deny the request in whole or in part.
- h) A person or organization denied a permit, in whole or in part, may appeal the denial to the Director ~~of the Department of Central Management Services~~. The appeal must be submitted at least 24 hours prior to the time of the requested ~~Demonstration~~demonstration, to allow the Director time within which to consider and decide the appeal. The Director's decision shall be in writing, and shall be made at least 2 hours prior to the requested ~~Demonstration's~~demonstration's starting time ~~of starting~~.
- i) Demonstrations ~~on~~at the ~~Grounds~~buildings listed in Section 5000.900 may only be held during normal business hours. ~~No demonstrators will be allowed in the building before it is open to the public and all~~ All participants must disperse and Structures~~demonstrators and material~~ must be removed at the close of the business day. Failure to vacate the premises will be grounds for ~~Security Personnel~~security personnel to remove all participants and Structures from the Grounds~~demonstrators and their material from the building~~.
- j) Violations of the provisions of the permit issued by the Department ~~of Central Management Services~~ will also be grounds for removal from the premises. Any requested exemption from the provisions of this Section must be approved by the Director.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 5000.950 Exhibits and Special Events

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- a) All organizations or individuals that are permitted to use the Buildings~~buildings specified in Section 5000.900 of this Subpart~~ shall be required to execute an agreement to indemnify and hold harmless the State from any injury or damage caused by their members' or participants' negligence or willful misconduct. ~~The members or participants who cause the damage or injury are primarily responsible.~~ Such organization or individual shall ~~also~~ restore the used areas to their pre-use appearance and condition, less reasonable wear and tear, and the Building Manager shall be the final decision-maker on the clean-up of the used area. Only the requesting organization or individual is permitted to rent space in the Buildings for a Special Event or Exhibit. No State agency or State employee may sponsor or make a request on behalf of any organization or individual.~~This subsection only applies to those organizations receiving permission from the Department to use the specified buildings for meetings or parties.~~
- b) Special Events and Exhibit~~exhibits~~ at the Buildings~~buildings~~ may be requested up to two years in advance of the date for the Special Events~~special event~~ or Exhibit~~exhibits~~. Requests must be in writing and submitted to the Special Events Office or Building Manager. All requests for Special Events~~special events~~ and Exhibit~~exhibits~~ will be filled on a first-come first-served basis. A letter of confirmation or rejection will be issued within 10 working days from receipt of the request.
- c) The areas available for Special Events at the JRTC are located on the concourse level, atrium level, assembly hall, outdoor plaza and covered arcade, second floor conference/hearing rooms and State agency office areas upon prior written permission from~~of~~ the respective State agency. Exhibits are allowed only in the atrium lobby level of the JRTC unless permission is granted to use another part of the JRTC~~building~~ by the Department. ~~Exhibits may not promote religious philosophies or political candidates or philosophies.~~
- d) Organizations wishing to use the Buildings~~buildings~~ should contact the Special Events Office or Building Manager for the applicable fee for the space they intend to use at a Building~~building~~. Minimum and maximum rental fee ranges and conditions for the JRTC~~James R. Thompson Center~~ and all other Buildings~~Department facilities~~ are in Appendix B of this Part. An increase/reduction from the minimum/maximum rental rate may be required or granted, based on the following factors: whether the scheduled event is conducted during government business hours or with another event; relative anticipated safety considerations of the scheduled activity; and market prices for competing facilities in the nearby metropolitan areas~~area(s)~~. The Building Manager or office

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

will maintain a fee schedule for the ~~Building~~building. All payments are due prior to the ~~Special Event~~event or ~~Exhibit~~exhibit, with the exception of clean-up fees ~~that~~which are due within 10 ~~calendar~~working days after billing, unless prior permission is granted by the Special Events Office ~~or~~of Building Manager. All requests for delayed payment must be submitted in writing on the requesting organization's ~~or company's~~ letterhead. All payments shall be made to the Office of the Building or Special Events Office within 10 days after the event. If payment for services is not received within 10 days after the event, or within the specified time as outlined in the lease agreement, a reminder notice will be sent to the event sponsor ~~and the client will lose reservation privileges until full payment is received~~. If after the reminder notice, payment has not been received, the CMS Legal Department will be notified and legal action ~~will~~may be taken to secure full payment for services.

- e) Film crews and photographers for commercial purposes are permitted at the JRTC with permission of the Special Events Office.
- f) Any ~~non-State~~ user (excluding State agencies) conducting a Special Event must provide prior to the Special Event an estimated number of attendees and a certificate of insurance in the minimum amount group sponsoring an event after building hours must provide an insurance binder or assurance on the letterhead of the issuing company of coverage for the scheduled event and anticipated attendance of \$1,000,000 identifying to the Department as an additional insured. Failure to provide proof of insurance is cause shall serve as grounds for termination of the lease agreement. Further information on any insurance requirement is available from the Special Events Office or Building Manager.
- g) Any user (excluding State agencies) shall provide evidence of insurance coverage prior to an Event or Exhibit, if requested by the Building Manager. A signed copy of the lease agreement, evidence of insurance coverage, if requested for an Event or Exhibit, and base rental fee at the JRTC with the base rental fee is due prior to the ~~Special Event~~event or ~~Exhibit~~Exhibit. All leasing arrangements shall be confirmed by the JRTC Office. Confirmation shall be by letter, fax or telephone call, a copy of which will be maintained by the Office.
- h) A minimum of one planning meeting, either by phone or in person, must be held with the Building Manager or the Manager's representative at least one week prior to the ~~Special Event~~event.
- i) All food and beverage services for Special Events conducted in the JRTC special

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~events~~ must be provided in accordance with the terms of the Department's commercial ~~space master~~ lease with its master tenant. Further information is available from the Office of the Building. Food and beverage service at ~~the Buildings~~other buildings must be coordinated with the Building Manager.

- j) ~~Exhibits~~Displays may not exceed 8 feet in height or block entrances, fire exits and hallways and must comply with all fire code ~~and~~ regulations. ~~Exhibits also~~They may not obscure the view of Atrium Mall shops at the JRTC during business hours.
- k) The State does provide some audio/visual equipment. This service is available on a first-come, first-served basis. Rental fee will vary based on the type of equipment requested. Limited set-up assistance is provided. The State accepts no responsibility for loss or damage to any part of an ~~Exhibit~~exhibit.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 5000.960 Distribution of Leaflets ~~and Solicitations of Funds, Voter Registration and Signatures~~**

- a) No organization ~~or individual, including charitable organizations and political parties or candidates,~~ shall distribute leaflets to, ~~register voters, obtain signatures or solicit and collect funds from~~ persons entering ~~or in the Buildings~~buildings ~~without written permission from the Department~~specified in Section 5000.900, ~~except from public sidewalks.~~
- b) No such distribution or solicitation shall be allowed in any automobile parking area under the control of the Department within business areas in the ~~Buildings~~buildings specified in Section 5000.900 of this Subpart. Leaflet distribution is only permissible on the Grounds, unless leaflets are being distributed as part of an Exhibit in the Building.
- ~~e) Activities included in subsection (a) of this Section shall not be allowed without the written permission of the Department.~~
- ~~c~~d) All requests to engage in such activity must be submitted in writing at least 48 hours in advance of the activity to the Building Manager, unless the criteria for requests within less than the 48 hours set forth in Section 5000.940 of this Subpart are met. The Department shall consider the factors listed in Section 5000.940(d)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

to determine whether permission shall be granted to distribute leaflets on the Grounds.

de) A Organizations requesting authorization for activities listed in subsection (a) must put the request in writing per subsection (d) of this Section. The request shall include state the name of the organization, estimated number of distributors, amount of time needed, and beginning and ending dates of the activity. The request must also include a copy of the leaflet to be distributed.

ef) The organization must provide a sign 12" by 12" posted at the table, identifying the organization and that there is no affiliation with the State of Illinois. Each person engaged in activities approved by the Department must wear a badge containing the individual and organization names. The organization and its members agree they will not approach, harass, or attempt to compel the public in any activity approved by the Department under subsection (a) of this Section, unless the person consents to being approached for the purpose of receiving a leaflet. They also agree to stay in the area designated by the Department and shall not interfere with the business being conducted at the Buildingbuilding. The organization and its members shall not engage in any partisan activity, nor shall they advocate for a political party, candidate or issue. No material shall be distributed by the organization, unless granted a demonstration permit pursuant to Section 5000.940. Deviations from the requirements of this subparagraph must be approved in advance of the activity by the Department. Failure to follow the rules may result in the organization or individual being removed from the premises and permission being denied to continue the activity.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

**Section 5000.APPENDIX B Rental Fees**

All non-State user groups must show proof of \$1,000,000 of liability insurance coverage for after building hours events.

FEE SCHEDULE  
JAMES R. THOMPSON CENTER

<u><b>Private/Corporate Organizations</b></u>	<u><b>Not-For-Profit Organizations</b></u>
<u><b>Concourse &amp; Atrium Level Special Events:</b></u>	<u><b>Concourse &amp; Atrium Level Special Events:</b></u>
<u>Base Rent: \$2,500 minimum for 250 people or less.</u>	<u>Base Rent: \$1,300 minimum for 250 people or less.</u>
<u>Additional Charge: \$2 per each person over 250</u>	<u>Additional Charge: \$2 per each person over 250</u>
<u>Monday – Friday 6:00 p.m. to 1:00 a.m.</u>	<u>Monday – Friday 6:00 p.m. to 1:00 a.m.</u>
<u>Weekends/Holidays 8:00 a.m. to 1:00 a.m.</u>	<u>Weekends/Holidays 8:00 a.m. to 1:00 a.m.</u>
<u><b>Atrium Exhibits:</b></u>	<u><b>Atrium Exhibits:</b></u>
<u>Base Rent: \$250 per day</u>	<u>Base Rent: \$125 per day</u>
<u>Maximum Period: 1 week</u>	<u>Maximum Period: 1 week</u>
<u>Monday – Friday 8:00 a.m. to 6:00 p.m.</u>	<u>Monday – Friday 8:00 a.m. to 6:00 p.m.</u>
<u><b>Assembly Hall:</b></u>	<u><b>Assembly Hall:</b></u>
<u>Base Rent: (2 hour minimum)</u>	<u>Base Rent: (2 hour minimum)</u>
<u>Monday – Friday</u>	<u>Monday – Friday</u>

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

<p><u>8:00 a.m. to 6:00 p.m.</u>  <u>\$200 per hour</u>  <u>Maximum of \$1000 per day</u></p> <p><u>Weekends/Holidays</u>  <u>8:00 a.m. to 1:00 a.m.</u>  <u>\$300 per hour</u>  <u>Maximum of \$1500 per day</u></p> <p><b><u>Outdoor Plaza/Covered Arcade:</u></b></p> <p><u>Base Rent: \$750</u></p> <p><u>Monday – Friday</u>  <u>8:00 a.m. to 9:00 p.m.</u></p>	<p><u>8:00 a.m. to 6:00 p.m.</u>  <u>\$175.00 per hour</u>  <u>Maximum of \$500 per day</u></p> <p><u>Weekends/Holidays</u>  <u>8:00 a.m. to 1:00 a.m.</u>  <u>\$250 per hour</u>  <u>Maximum of \$500 per day</u></p> <p><b><u>Outdoor Plaza/Covered Arcade:</u></b></p> <p><u>Base Rent: \$300</u></p> <p><u>Monday – Friday</u>  <u>8:00 a.m. to 9:00 p.m.</u></p>
--	---

<b>Private/Corporate Organizations</b>	<b>Professional Associations</b>	<b>Not for profit Organizations</b>
<p><b>Concourse/Atrium Levels:</b></p> <p>Base Rent: \$2,500 minimum for 250 people or less.</p> <p>Additional Charge: \$2.00 per each person over 250 attending events.</p> <p>Hours: 6:00 p.m. to 1:00 a.m. Monday through Friday.</p> <p>All day to 1:00 a.m. on weekends and holidays.</p> <p>Set-up/Take down: A three hour set up and three hour take down period is allowed at no extra charge.</p> <p><b>Assembly Hall:</b> (600 seat capacity)</p> <p>Base Rent: 2 Hour Minimum</p> <p>Monday – Friday:              8:00 a.m. to 5:00 p.m. \$200.00/hr              Max. \$1000.00</p> <p>Weekends/Holidays              8:00 a.m. to 1:00 a.m. \$300.00/hr              Max. \$1500.00 per day</p> <p>Set up/Take down: A one hour set up period and one hour take down period</p>	<p><b>Concourse/Atrium Levels:</b></p> <p>Base Rent: \$1,700 minimum for 250 people or less.</p> <p>Additional Charge: \$2.00 per each person over 250 attending events.</p> <p>Hours: 6:00 p.m. to 1:00 a.m. Monday through Friday.</p> <p>All day to 1:00 a.m. on weekends and holidays.</p> <p>Set-up/Take down: A three hour set up and three hour take down period is allowed at no extra charge.</p> <p><b>Assembly Hall:</b> (600 seat capacity)</p> <p>Base Rent: 2 Hour Minimum</p> <p>Monday – Friday:              8:00 a.m. to 5:00 p.m. \$200.00/hr              Max. \$600.00</p> <p>Weekends/Holidays              8:00 a.m. to 1:00 a.m. \$250.00/hr              Max. \$750.00 per day</p> <p>Set up/Take down: A one hour set up period and one hour take down period is</p>	<p><b>Concourse/Atrium Levels:</b></p> <p>Base Rent: \$1,300 minimum for 250 people or less.</p> <p>Additional Charge: \$2.00 per each person over 250 attending events.</p> <p>Hours: 6:00 p.m. to 1:00 a.m. Monday through Friday.</p> <p>All day to 1:00 a.m. on weekends and holidays.</p> <p>Set-up/Take down: A three hour set up and three hour take down period is allowed at no extra charge.</p> <p><b>Assembly Hall:</b> (600 seat capacity)</p> <p>Base Rent: 2 Hour Minimum</p> <p>Monday – Friday:              8:00 a.m. to 5:00 p.m. \$175.00/hr              Max. \$500.00</p> <p>Weekends/Holidays              8:00 a.m. to 1:00 a.m. \$250.00/hr              Max. \$500.00 per day</p> <p>Set up/Take down: A one hour set up period and one hour take down</p>

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

is allowed at no extra charge.	allowed at no extra charge.	period is allowed at no extra charge.
<b>Equipment Rental Rates:</b>	<b>Equipment Rental Rates:</b>	<b>Equipment Rental Rates:</b>
¾" overhead video projector \$100.00	¾" overhead video projector \$100.00	¾" overhead video projector \$100.00
½" overhead video projector \$100.00	½" overhead video projector \$100.00	½" overhead video projector \$100.00
35 mm slide projector \$75.00	35 mm slide projector \$75.00	35 mm slide projector \$75.00
Portable video/monitor \$75.00	Portable video/monitor \$75.00	Portable video/monitor \$75.00
Overhead projector \$75.00	Overhead projector \$75.00	Overhead projector \$75.00
Baby Grand Piano \$100.00	Baby Grand Piano \$100.00	Baby Grand Piano \$100.00
Other equipment is available on request.	Other equipment is available on request.	Other equipment is available on request.
<b>Outdoor Plaza/Covered Arcade:</b>	<b>Outdoor Plaza/Covered Arcade:</b>	<b>Outdoor Plaza/Covered Arcade:</b>
Base Rent: \$750.00	Base Rent: \$500.00	Base Rent: \$300.00
Hours: 8:00 a.m. to 1:00 a.m.	Hours: 8:00 a.m. to 1:00 a.m.	Hour 8:00 a.m. to 1:00 a.m. 5+
<b>Displays, Exhibits, Promotions:</b>	<b>Displays, Exhibits, Promotions:</b>	<b>Displays, Exhibits, Promotions:</b>
Maximum period: 2 weeks	Maximum period: 1 week	Maximum period: 1 week
Base Rent: \$250.00 per day.	Base Rent: Exhibits—no charge. Displays, promotions—\$250.00 per day.	Base Rent: Exhibits—no charge. Displays, promotions—\$125.00 per day.
<b>Retail Business Fairs:</b>	<b>Retail Business Fairs:</b>	<b>Retail Business Fairs:</b>
Maximum period: 3 days	Maximum period: 3 days	Maximum period: 3 days
Base Rent: \$300.00 per day	Base Rent: \$300.00 per day	Base Rent: \$300.00 per day

FEE SCHEDULE  
OTHER STATE BUILDINGS

PRIVATE/CORPORATE:

Auditorium	\$50.00/\$57.50 per hour
Dining Room and/or Patio**	\$300.00/\$345.00 maximum
Large Conference Room	
Small Conference Room	\$25.00/\$28.75 per hour \$125.00/\$143.75 maximum

STATE AGENCIES:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Auditorium	No charge
Dining Room and/or Patio	
Large Conference Room	
Small Conference Room	

EQUIPMENT AVAILABLE:

Overhead Projector (2)	<del>\$10.00</del>
52" TV & VCR	<del>\$10.00</del>
35 mm Slide Projector	<del>\$10.00</del>
55 Cup Coffee Maker (2)	No Charge
	User supplies full coffee service

All equipment must be returned in same condition received.  
State agencies are not charged for equipment use.

\*\*Additional ~~\$100.00~~/~~\$115.00~~ fee for this space when attendance exceeds 200.

CLEANING

All after hours user groups will be charged a cleaning fee based on attendance, should the condition of the space used require it.

Under 100	<del>\$25.00</del> /\$28.75
100-200	<del>\$50.00</del> /\$57.50
Over 200	<del>\$75.00</del> /\$86.25

PROCEDURES AND REGULATIONS

A tentative hold may be placed on space via telephone.

Permanent hold on space must be done by letter of request from user group.

All non-State user groups must show proof of \$1,000,000 liability insurance coverage for after hours events.

EVENT HOURS:

Monday - 5:00 p.m. - 1:00 a.m.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Friday:

Saturday & 8:00 a.m. - 1:00 a.m.

Sunday:

FINALIZING EVENT:

Meeting between building staff and user group to take place 1 month prior to event.

Signed contract, certificate of insurance, and check for full amount due 2 weeks prior to event.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Ill. Adm. Code 303
- 3) Section Number: 303.175      Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the Disaster Service Volunteer Leave Act [5 ILCS 335/3] and the Personnel Code [20 ILCS 415].
- 5) A Complete Description of the Subjects and Issues Involved: As result of Public Act 93-893, this amendment is necessary to conform to the language of the statute. The amendment adds the Illinois Emergency Management Agency as a requestor of disaster leaves and also extends the scope of covered disasters to include all those within the United States and its territories.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
303.112	Amendment	29 Ill. Reg. 3403; 03/11/05
- 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: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson  
Legal Office  
Department of Central Management Services  
720 Stratton Office Building  
Springfield, Illinois 62706

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

217/785-1793

OR

Jeff Shuck  
Legal Office  
Department of Central Management Services  
720 Stratton Office Building  
Springfield, Illinois 62706  
217/782-5778

- 12) Initial Regulatory Flexibility Analysis: N/A
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: It may be necessary to address issues regarding timekeeping relative to overtime, benefits and/or eligibility to participate.
- C) Types of professional skills necessary for compliance: None (existing staff will perform personnel-related functions).
- 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 changes were erroneously omitted.

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

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 303  
CONDITIONS OF EMPLOYMENT

## SUBPART A: GRIEVANCE PROCEDURE

Section	
303.10	Definition of a Grievance
303.20	Procedure
303.30	Grievance Committee
303.45	Representation

## SUBPART B: LEAVE OF ABSENCE

Section	
303.90	Sick Leave
303.100	Accumulation of Sick Leave
303.102	Payment in Lieu of Sick Leave
303.105	Reinstatement of Sick Leave
303.110	Advancement of Sick Leave
303.112	Sick Leave Bank
303.115	Veterans Hospital Leave
303.125	Leave for Personal Business
303.130	Maternity/Paternity and Adoption Leave
303.135	On-The-Job-Injury – Industrial Disease
303.140	Leaves of Absence Without Pay
303.142	Leave to Attend Union Conventions
303.145	Disability Leave
303.148	Family Responsibility Leave
303.149	Organ Donor Leave
303.150	Employee Rights After Leave
303.153	Failure to Return
303.155	Leave to Take Exempt Position
303.160	Military and Peace Corps Leave
303.170	Military Reserve Training and Emergency Call-Up
303.171	Leave for Military Physical Examinations

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 303.175 Disaster Service Leave With Pay
- 303.176 Disaster Service Leave With Pay – Terrorist Attack
- 303.180 Attendance in Court
- 303.190 Authorized Holidays
- 303.200 Holiday Observance
- 303.215 Payment for Holidays
- 303.220 Holiday During Vacation
- 303.225 Eligibility for Holiday Pay
- 303.250 Vacation Eligibility
- 303.260 Prorated Vacation for Part-Time Employees
- 303.270 Vacation Schedule and Loss of Earned Vacation
- 303.290 Payment in Lieu of Vacation
- 303.295 Vacation Benefits on Death of Employee

SUBPART C: WORK HOURS AND SCHEDULES

- Section
- 303.300 Work Schedules
- 303.310 Emergency Shut-Down
- 303.320 Overtime
- 303.330 Overtime Payable Upon Death
- 303.340 Attendance Records
- 303.350 Notification of Absence
- 303.355 Review of Attendance Records

SUBPART D: UNDATED OR INCOMPLETE FORMS

- Section
- 303.360 Undated Forms
- 303.370 Incomplete Forms

SUBPART E: EMPLOYEE SEPARATIONS

- Section
- 303.380 Reason for Separation
- 303.385 Repayment of Benefit Time

SUBPART F: TUITION REIMBURSEMENT

- Section

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

## 303.390 Tuition Reimbursement

**AUTHORITY:** Implementing and authorized by the Personnel Code [20 ILCS 415] and the Organ Donor Leave Act [5 ILCS 327].

**SOURCE:** Filed May 29, 1975; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; amended at 3 Ill. Reg. 26, p. 199, effective July 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 70, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; codified at 7 Ill. Reg. 13209; emergency amendment at 8 Ill. Reg. 329, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7788, effective May 23, 1984; amended at 14 Ill. Reg. 3433, effective February 27, 1990; emergency amendment at 15 Ill. Reg. 5076, effective March 20, 1991, for a maximum of 150 days; emergency expired August 17, 1991; amended at 15 Ill. Reg. 5214, effective April 2, 1991; amended at 15 Ill. Reg. 14067, effective September 12, 1991; amended at 16 Ill. Reg. 8368, effective May 21, 1992; amended at 17 Ill. Reg. 5587, effective March 29, 1993; amended at 19 Ill. Reg. 8130, effective June 7, 1995; amended at 19 Ill. Reg. 11775, effective August 7, 1995; emergency amendment at 21 Ill. Reg. 11291, effective July 22, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15454, effective November 24, 1997; amended at 23 Ill. Reg. 13815, effective November 4, 1999; emergency amendment at 24 Ill. Reg. 16694, effective October 27, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 4847, effective March 19, 2001; emergency amendment at 25 Ill. Reg. 12429, effective September 14, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1138, effective January 18, 2002; amended at 27 Ill. Reg. 9008, effective May 23, 2003; emergency amendment at 28 Ill. Reg. 9677, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; emergency amendment at 28 Ill. Reg. 13795, effective October 1, 2004, for a maximum of 150 days; emergency expired February 27, 2005; amended at 28 Ill. Reg. 16308, effective December 3, 2004; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: LEAVE OF ABSENCE

**Section 303.175 Disaster Service Leave With Pay**

Any employee, ~~except~~excepting those in temporary, emergency or per diem status, who is a certified disaster service volunteer of the American Red Cross or volunteers for assignment to the Illinois Emergency Management Agency in accordance with the Illinois Emergency Management Agency Act [20 ILCS 3305], the Emergency Management Assistance Compact Act [45 ILCS 151] or applicable administrative rules, may be granted leave with pay for up to 20 working days in any 12-month period for disasters within the United States or its

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

territories~~Illinois~~. The leave may be granted upon request of the American Red Cross or the Illinois Emergency Management Agency for employees to participate in specialized disaster relief services for the American Red Cross or for the Illinois Emergency Management Agency. ~~and~~ Leaves under this Section are subject to approval of the employee's agency considering operating needs. Disasters must be disasters designated at a Level III and above. The American Red Cross and the Illinois Emergency Management Agency shall coordinate requests for services outside of Illinois through the Illinois State Emergency Operations Center.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: High Technology School-to-Work
- 2) Code Citation: 14 Ill. Adm. Code 110
- 3) Section Number: 110.170                      Proposed Action:  
Amendment
- 4) Statutory Authority: Implementing and authorized by the High Technology School-to-Work Act [20 ILCS 701].
- 5) A Complete Description of the Subjects and Issues Involved The goal of the High Technology School-to-Work Program is to improve education and to prepare Illinois' students to transition from school to high skilled, high paying jobs in the areas of science, mathematics, and advanced technology. Increasing the number of trained students entering technology occupations will help meet the workforce demand of Illinois' high technology businesses.

The School-to-Work Program also provides funding for Project Lead the Way which promotes pre-engineering courses for high school students. This initiative forms partnerships with public schools, higher education institutions and the private sector to increase the quantity and quality of engineers and engineering technologist graduating from schools. The program exposes students to the rigor and content of a pre-engineering curriculum to interest more students in engineering careers and promote greater success in collegiate programs.

The change to the current rule is needed to administer the duties outlined in Section 40 of the High Technology School-to-Work Act. Under the law, the Department has a duty to:

*"Periodically identify high technology industries and occupations for which training programs may be developed pursuant to the requirements of this Act" (20 ILCS 701/40).*

AND

*"Coordinate the administration of the High Technology School-to-Work Program, including targeting of projects, with the Department's technology related planning and economic development initiatives" (20 ILCS 701/20).*

One of the economic development initiatives that the Department administers is the Project Lead the Way Program. This initiative was developed in Fiscal Year 2004 – before the creation of the School-to-Work Program rules. The Project Lead the Way

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF PROPOSED AMENDMENT

initiative was initially projected to be a one-year pilot project. However, it has been determined that continued funding is needed to support and expand Project Lead the Way. The initiative is part of Opportunity Returns, and is aligned with the Statewide economic development goals of the Department.

The Department changing *Section 110.170*. The competitive grant process does not provide the DCEO Director with the flexibility needed to continue funding existing School to Work projects. Change is needed to ensure that the current projects have the resources to continue operating the program.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any proposed amendments pending on the Part? No
- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Jolene Clarke  
Department of Commerce and Economic Opportunity  
620 E. Adams Street  
Springfield, Illinois 62701

Phone: 217/557-1820  
Fax: 217-782-0038  
e-mail: Jolene\_Clarke@commerce.state.il.us
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses and small municipalities affected: These amendments clarify and update operation of the programs and have no material effect on these entities.

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF PROPOSED AMENDMENT

- B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping, financial management, program administration and reporting of approved grants.
- C) Types of professional skills necessary for compliance: Grantees would already possess the skills necessary for compliance

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the Department did not anticipate the need for this change when the 2 next recent agendas were published.

The full text of the proposed amendment is identical to the text of the emergency rulemaking found in this issue of the *Illinois Register* on page 19279.

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Rules of Conduct
- 2) Code Citation: 20 Ill. Adm. Code 120
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.10	Amend
120.20	Amend
120.30	Amend
120.40	Amend
120.50	Amend
120.60	Amend
120.70	Amend
120.80	Amend
120.90	Amend
120.95	New
120.100	Amend
- 4) Statutory Authority: Implementing Section 3-2-2 and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-1] and Sections 5/15, 10-10, 10-15, and 20-70 of the State Officials and Employees Ethics Act [5 ILCS 430/5-15, 10-10, 10-15, and 20-70] and Section 922 of the Federal Gun Control Act [18 USC 922] and Section 5/24-3.1(4) of the Illinois Criminal Code of 1961 [720 ILCS 5/24-3.1(4)].
- 5) A Complete Description of the Subjects and Issues Involved: To comply with the Ethics Act, this rulemaking sets forth language prohibiting political activities on State property or during compensated time other than benefit time such as vacation, personal, holiday, compensatory, or equivalent earned time; requiring employees to cooperate with investigations; and prohibiting employees from accepting gifts prohibited by the statute. To comply with the Federal Gun Control Act and the Criminal Code for Unlawful Possession of a Firearm and Ammunition, this rulemaking requires employees who are authorized to carry a weapon and been admitted as an inpatient in a mental hospital to report the hospitalization and clarify that they are prohibited from receiving a weapon or ammunition for 5 years and that failure to obtain a court order or ISP waiver shall result in termination. Additionally, the rulemaking clarifies the Department's current policies regarding driving under the influence, domestic violence, orders of protection, felony convictions, giving false information, confidentiality of information, and secondary employment.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporation by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments during the 45-day First Notice Period which commences on the issue date of this publication of the *Illinois Register* to:

Beth Kiel, Rules Coordinator  
Illinois Department of Corrections  
1301 Concordia Court  
P. O. Box 19277  
Springfield, Illinois 62794-9277

Phone: (217) 522-2666, extension 6511

All written comments received after 45 days from the date of this publication will be considered, time permitting.

- 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 on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the rulemaking was not anticipated.

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

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
 CHAPTER I: DEPARTMENT OF CORRECTIONS  
 SUBCHAPTER a: ADMINISTRATION AND RULES

PART 120  
 RULES OF CONDUCT

Section	
120.10	Applicability
120.15	Responsibilities
120.20	Definitions
120.30	Conduct of Individuals
120.40	Compliance with Laws and Regulations
120.50	Socializing with Committed Persons
120.60	Bribes, Gifts, and Gratuities
120.70	Trading or Trafficking
120.80	Conflicts of Interest
120.90	Information to be Reported
<a href="#">120.95</a>	<a href="#">Giving False Information</a>
120.100	Violation of Rules

AUTHORITY: Implementing Section 3-2-2 and authorized by Section 3-7-1 of the Unified Code of Corrections [730 ILCS 5/3-2-2 and 3-7-1] and Sections 5/15, 10-10, 10-15, and 20-70 of the State Officials and Employees Ethics Act [5 ILCS 430/5-15, 10-10, 10-15, and 20-70] and Section 922 of the Federal Gun Control Act [18 U.S.C. 922] and Section 5/24-3.1(4) of the Illinois Criminal Code of 1961 [720 ILCS 5/24-3.1(4)].

SOURCE: Adopted at 11 Ill. Reg. 11517, effective July 1, 1987; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

### Section 120.10 Applicability

This Part applies to all persons who provide personal services or delivery of services, including Department of Corrections (Department) employees, contractual employees, and volunteers; to any persons who have business dealings with the Department; and to any other persons, except ~~offender's committed person's~~ visitors, who are admitted to Department facilities. ~~Offender's visitors~~ Visitors of committed persons shall comply with the rules set forth in 20 Ill. Adm. Code 525.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

**Section 120.20 Definitions**

"~~Offender~~~~Committed person~~" means any person committed to the custody of the Department, including those persons released on parole or mandatory supervised release.

"Department" means the Department of Corrections.

"Employee" for this Part, means persons who provide personal services or delivery of services, including Department employees, contractual employees, and volunteers; persons who have business dealings with the Department; and other persons, except offender's visitors, who are admitted to Department facilities.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.30 Conduct of Individuals**

~~Employees~~~~Individuals~~ shall conduct themselves in a manner ~~that~~~~which~~ will not reflect unfavorably on the Department and shall not engage in conduct ~~that~~~~which~~ is unbecoming of an employee or that may reflect unfavorably on or impairs the operations of the Department.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.40 Compliance with Laws and Regulations**

- a) ~~Employees~~~~Individuals~~ shall obey all federal, State, and local laws and applicable court decisions and orders related to the performance of their services to the Department.
- b) Employees shall verbally report as soon as possible and~~Individuals~~ shall submit a written report within five working days of any:
  - 1) ~~Arrest~~~~arrest~~, indictment or conviction for a felony or a misdemeanor, other than a minor traffic offense such as a parking ticket, to their immediate supervisor~~the Chief Administrative Officer of the facility or program~~. Driving under the influence is a reportable offense. The report shall specify the facts forming the basis for the arrest, indictment, or conviction and the caption of the case.

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

- A) Any employee who is convicted after March 1, 1998 of a domestic violence crime as defined in the Federal Gun Control Act and who may be required to possess, transport, or receive a weapon or ammunition in the performance of his or her duties shall be terminated from employment. Any employee who failed to report a conviction of a domestic violence crime prior to March 1, 1998 and who may be required to possess, transport, or receive a weapon or ammunition in the performance of his or her duties may be terminated from employment.
- B) Any employee who is charged and convicted of a felony shall be terminated from employment.
- 2) Order of protection against any employee. The report shall specify the facts for the order of protection and include a caption of the case and the length of the order.
- A) Any employee who has an order of protection against him or her shall provide a copy of the order of protection or emergency or amended order of protection with his or her written report.
- B) Any employee who has an order of protection against him or her that prohibits the possession or use of a firearm shall not be issued a weapon for the duration of the order.
- C) Employee's whose order of protection prohibits the possession or use of firearms and is for a length of time exceeding 90 days and who may be required to possess, transport, or receive a weapon or ammunition in the performance of his or her duties shall be terminated from employment.
- 3) Admission as an inpatient in a mental hospital if the employee is authorized to carry a firearm.
- A) Any employee who has been admitted as an inpatient in a mental health hospital in the last five years is prohibited from receiving a firearm or ammunition.

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

- B) Following an admission as an inpatient in a mental health hospital, employees authorized to carry a firearm shall submit either a court order or waiver from the State Police pursuant to 430 ILCS 65/10 (c) lifting the prohibition from Unlawful Possession of a Firearm and Firearms Ammunition or be terminated.
- c) Employees~~Individuals~~ shall comply with departmental rules, written procedures, bulletins and written or verbal orders issued by proper~~Department~~ authorities.
- d) Employees~~Individuals~~ shall ~~not~~ utilize State equipment, property, or services only as authorized by the job assignment~~without authorization or for personal use.~~
- e) Employees~~Individuals~~ shall have a valid driver's license and, at minimum, be covered by liability insurance prior to transporting offender~~seemitted persons~~ in vehicles.
- f) Employees shall cooperate with any investigation conducted by internal investigators and other investigative authorities including the Office of the Executive Inspector General.
- g) Employees shall respect the confidentiality of information and shall be prohibited from accessing or disclosing information such as, but not limited to, investigations, offender records, and personnel issues, except to the extent required in the performance of their job duties.
- h) Employees shall not intentionally perform any prohibited political activity during any compensated time other than benefit time such as vacation, personal, holiday, compensatory, or equivalent earned time. Employees shall not intentionally misappropriate any State property or resources by engaging in prohibited political activity for the benefit of any campaign for elective office or any political organization.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.50 Socializing with Committed Persons**

- a) Employees~~Individuals~~ shall not knowingly socialize with or engage in business transactions with any offender or releasee~~committed person~~, or a relative or known close associate of an offender or releasee~~a committed person~~, except in the performance of an assignment or as approved in writing by the Director. However, employees~~individuals~~ shall be permitted to purchase products of

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

~~offenderseommitted persons~~, such as arts, crafts, books, etc. ~~thatwhich~~ are offered through the ~~facility'sinstitutional~~ commissaries or offered to the general public in a public market place or forum.

- b) In determining whether to grant approval, the Director shall consider factors such as whether the ~~employeeindividual~~ has direct custodial responsibility for the ~~offendereommitted person~~; the nature of the business activity to be conducted; the nature of the relationship or association; the criminal and behavioral history of the ~~offendereommitted person~~; and employee history and conduct.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.60 Bribes, Gifts, and Gratuities**

- a) ~~EmployeesIndividuals~~ shall not accept or request bribes as an inducement to perform or not to perform any act related to their dealings with the Department.
- b) ~~EmployeesIndividuals~~ shall not accept any gifts or gratuities or offers of the same from ~~offenders or releaseeseommitted persons~~, persons who are known to the ~~employeeindividuals~~ to be ~~a relative, close associate,relatives~~ or ~~friendfriends~~ of ~~offenders or releaseeseommitted persons~~, or from anyone who has or expects to have business dealings with the Department.
- c) ~~Employees~~ shall not intentionally solicit or accept any gift from any prohibited source in accordance with 5 ILCS 430/10. This ban applies to spouses of and immediate family living with employees.
- d)e) Such offers shall be reported immediately in writing to ~~the employee's supervisorthe Director~~.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.70 Trading or Trafficking**

Individuals shall not trade or ~~traffictraffiek~~ with, or aid, ~~abet~~, or solicit unauthorized actions by, ~~offenders or releasees-committed persons~~.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.80 Conflicts of Interest**

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED AMENDMENTS

- a) ~~Employees~~Individuals providing services to the Department shall not engage in conduct ~~that~~which impairs their ability to perform their duties and responsibilities in an impartial manner. ~~Employees~~Individuals shall notify ~~their supervisor~~the Chief Administrative Officer of the facility or program when their job duties may give rise to or be construed as a conflict of interest.
- b) Employees' positions at the Department shall be considered primary employment. Employees shall not accept secondary employment unless the request is approved by the Department.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.90 Information to be Reported**

- a) ~~Employees~~Individuals shall immediately report to ~~their supervisor~~the Chief Administrative Officer any information indicating a violation or attempted violation of criminal laws, or a threat to the safety and security of the facility, its property or any person, including information regarding a potential escape.
- b) Reports shall be made verbally, and if requested ~~by the Chief Administrative Officer~~ or if required by other applicable rules, reports shall be made in writing in the manner directed by ~~the employee's supervisor~~the Chief Administrative Officer.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Sections 120.95 Giving False Information**

Employees who knowingly provide false information shall be subject to disciplinary action, including termination of employment.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.100 Violation of Rules**

Failure to comply with any of the foregoing rules of conduct may result in discipline, termination of services, or restriction from entering all or some Department facilities.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Drycleaner Environmental Response Trust Fund Act
- 2) Code Citation: 35 Ill. Adm. Code 1500
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1500.40	Amendment
1500.50	Amendment
1500.55	Amendment
1500.60	Amendment
1500.70	Amendment
- 4) Statutory Authority: Implementing and authorized by the Drycleaner Environmental Response Trust Fund Act. [415 ILCS 135/20(a)]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments clarify the insurance program coverage and benefits, define new green drycleaning solvents, and amend the policies for prioritization of remedial program benefits.
- 6) Published studies or reports, and sources of data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

H. Patrick Eriksen  
Drycleaner Environmental Response Trust Fund Council of Illinois  
PO Box 7380  
Bensenville, IL 60106-7380

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

(630) 741-0022

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Drycleaning operators that are small businesses will be affected by the definition of new green solvents, the amended insurance coverage and the proposed change to the prioritization regulations. The addition of new green solvents may favorably impact small drycleaning operators by reducing the amount of solvent tax they are currently paying. Small municipalities and not for profit corporations are not affected by this Act.
  - B) Reporting bookkeeping or other procedures required for compliance: Small business drycleaner operators must timely submit cost proposals for remedial action if their remedial claim is prioritized.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the Council did not anticipate revising these rules at the time of publication of the most recent regulatory agenda.

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

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: DRYCLEANER ENVIRONMENTAL RESPONSE  
TRUST FUND COUNCIL OF ILLINOIS  
SUBTITLE N: DRYCLEANING  
CHAPTER V±: DRYCLEANER ENVIRONMENTAL RESPONSE  
TRUST FUND COUNCIL OF ILLINOIS

PART 1500  
GENERAL PROGRAM

Section

1500.10	General
1500.20	Definitions
1500.30	Drycleaning Facility License
1500.40	Drycleaner Remedial Account
1500.50	Drycleaner Facility Insurance Account
1500.55	Drycleaning Solvent Tax
1500.60	Appeals
1500.70	Forms

AUTHORITY: Implementing and authorized by the Drycleaner Environmental Response Trust Fund Act [415 ILCS 135/20].

SOURCE: Emergency rule adopted at 24 Ill. Reg. 307, effective January 1, 2000, for a maximum of 150 days; emergency expired May 29, 2000; adopted at 24 Ill. Reg. 10162, effective June 26, 2000; amended at 28 Ill. Reg. 9051, effective June 21, 2004; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1500.40 Drycleaner Remedial Account**

The Council shall have the authority *to provide reimbursement to eligible claimants for remedial action associated with the release of drycleaning solvents from the claimant's drycleaning facility.* (Section 40(a) of the Act)

- a) *The following claimants are eligible for reimbursement from the remedial action account:*
  - 1) *The owner or operator of an inactive drycleaning facility who was also the owner or operator of that drycleaning facility when it was an active drycleaning facility.*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 2) *The owner or operator of an active drycleaning facility which is licensed by the Council under the Drycleaner Environmental Response Trust Fund Act at the time of application for remedial action benefits. (Section 40(b) of the Act)*
- b) To be eligible for reimbursement, a claimant must demonstrate that drycleaning solvent contaminated soil, groundwater or both exceeds Illinois Environmental Protection Agency (Agency) tiered approach to corrective action objectives and all of the following:
- 1) *The source of the release is from the claimant's drycleaning facility. (Section 40(c)(1) of the Act)*
  - 2) *At the time the release was discovered, the claimant and the drycleaning facility were in compliance with all the Agency reporting and technical operating requirements. (Section 40(c)(2) of the Act)*
  - 3) *The claimant reported the release in a timely manner to the Agency in accordance with the Illinois Emergency Planning and Community Right to Know Act [430 ILCS 100]. (Section 40(c)(3) of the Act)*
  - 4) *The claimant has not filed for bankruptcy on or after the date of the discovery of the release. (Section 40(c)(4) of the Act)*
  - 5) *The release must have been discovered on or after July 1, 1997 and before July 1, 2006. (Section 40(c)(7) of the Act)*
  - 6) *The claimant must submit a completed application form as provided by the Council (see Section 1500.70(c)) by June 30, 2005. (Section 40(d) of the Act)*
  - 7) *If the claim is for reimbursement of remedial action expenses at an active drycleaning facility, the claimant must demonstrate continuous financial assurance for environmental liability coverage in the amount of at least \$500,000 beginning the date of award of benefits under the Act or July 1, 2000, whichever is earlier. An uninsured drycleaning facility that has filed an application for insurance with the Fund by January 1, 2004, obtained insurance through that application, and maintained that*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

*insurance coverage continuously shall be considered to have conformed with the requirements of this subsection (b)(7). To conform with this requirement, the applicant must pay the equivalent of the total premiums due for the period beginning June 30, 2000 through the date of application plus a 20% penalty of the total premiums due for that period and the claimant must provide to the Council proof of implementation and maintenance of the following pollution prevention measures: (Section 40(c)(5) and (6) of the Act)*

- A) *Management of all drycleaning solvent wastes in accordance with applicable State waste management laws and rules in accordance with the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 722. (Section 40(c)(5)(A) of the Act)*
- B) *A prohibition on the discharge of wastewater from drycleaning machines or of drycleaning solvent from drycleaning operations to a sanitary sewer or septic tank or to the surface or to groundwater. (Section 40(c)(5)(B) of the Act)*
- C) *Installation of a containment dike or other containment structure around each machine which is capable of containing a capacity of 110 percent of the drycleaning solvent in the largest tank or vessel in the machine for any leak, spill, or release of drycleaning solvent from that machine.*
- D) *Installation of a containment dike or other containment structure around each item of equipment or drycleaning area in which any drycleaning solvent is utilized, which shall be capable of containing a capacity of 100 percent of the drycleaning solvent capacity of each item of equipment or area for any leak, spill, or release of drycleaning solvent from that item. (Section 40(c)(5)(C)(I))*
- E) *Installation of a containment dike or other containment structure around each portable waste container in which any drycleaning solvent is utilized, which shall be capable of containing a capacity of 100 percent of the drycleaning solvent capacity of the largest portable waste container, or at least 10 percent of the total volume of the portable waste containers stored within the containment*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

*device, whichever is greater, for any leak, spill, or release of drycleaning solvent from that item. The portable waste container and containment dike should be located within the drycleaning facility. If the portable waste container is not located within the drycleaning facility, then the portable waste container and the containment device must be located in a structure designed to prevent unauthorized access and prevent exposure to natural elements and provide safety to human health and the environment. (Section 40(c)(5)(C)(I) of the Act)*

- F) *Petroleum underground storage tank systems that are upgraded in accordance with USEPA upgrade standards pursuant to 40 CFR 280 (1998) for the tanks and related piping systems and use a leak detection system approved by USEPA or the Agency are exempt from this secondary containment requirement. (Section 40(c)(5)(C)(I) of the Act)*
  - G) *All diked floor surfaces on which a drycleaning solvent may leak, spill or otherwise be released must be sealed or otherwise rendered impervious to drycleaning solvents. (Section 40(c)(5)(C)(II) of the Act)*
  - H) *Chlorine-based drycleaning solvents shall be delivered to the drycleaning facility by means of closed, direct-coupled delivery and vapor recovery systems. (Section 40(c)(5)(D) of the Act)*
  - I) *All petroleum based drycleaning solvents shall be delivered to the drycleaning facility by means of a direct-coupled delivery system with proper vent lines for receiving the product.*
- c) *Subject to Fund limitations, eligibility requirements, prioritization and reimbursement limitations, the Council may reimburse up to but not to exceed \$300,000 per active drycleaning facility and \$50,000 per inactive drycleaning facility. (Section 40(f)(1) of the Act)*
  - d) *An eligible claimant submitting a claim for an active drycleaning facility is responsible for the first \$5,000 of eligible focused site investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release and is only eligible for reimbursement for costs that exceed those*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

*amounts, subject to any other limitations of the Act. (Section 40(e)(1) of the Act)*

- e) *An eligible claimant submitting a claim for an inactive drycleaning facility is responsible for the first \$10,000 of eligible focused site investigation costs and for the first \$10,000 of eligible remedial action costs incurred in connection with the release from that drycleaning facility, and is only eligible for reimbursement for costs that exceed those amounts, subject to any other limitations of the Act. (Section 40(e)(2) of the Act)*
- f) For the purpose of claimant reimbursement, eligible expenses are limited subject to the following:
- 1) For remedial action activities that occurred on or after July 1, 1999, only those costs that are pre-approved by the Council are eligible for reimbursement unless an emergency exists. In the case of an emergency, the Council may reimburse reasonable expenses for remediation services required to mitigate the emergency conditions.
  - 2) For remedial action activities that occurred prior to July 1, 1999, the Council may reimburse costs that the Council determines were reasonable and necessary.
  - 3) To be pre-approved for reimbursement, remedial action activities must be required under the site remediation program. Only services required to obtain a no further remediation letter for the drycleaning solvent of concern, based upon continued land use as a drycleaning facility, are reimbursable.
  - 4) *A contract in which one of the parties to the contract is a claimant, for goods or services that may be payable or reimbursable from the Council, is void and unenforceable unless and until the Council has found that the contract terms are within the range of usual and customary rates for similar or equivalent goods or services within this State and has found that the goods or services are necessary for the claimant to comply with Council standards or with the site remediation program. (Section 40(f)(2) of the Act)*
  - 5) *The Council may require a claimant to obtain and submit 3 bids and may require that the bids contain specific terms and conditions consistent with*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

the requirements of the site remediation program and the site specific characteristics of the drycleaning facility for which budget approval is requested. Approval of a bid will be both price and scope specific. (Section 40(f)(4) of the Act)

- 6) *If a claimant has pollution liability insurance coverage other than coverage provided by the insurance account under the Act, that coverage shall be primary. Reimbursement from the remedial account shall be limited to the deductible amounts under the primary coverage and the amount that exceeds the policy limits of the primary coverage, subject to the deductible amounts of the Act. If there is a dispute between the claimant and the primary insurance provider, reimbursement from the remedial action account may be made to the claimant after the claimant assigns all of his or her interests in the insurance coverage to the Council.* (Section 40(f)(9) of the Act)
- 7) Reimbursement of any amount from the Fund for remedial action shall be subject to the Council acquiring by subrogation the rights of any claimant or other person to recover the costs of remedial action for which the Fund has compensated the claimant.
- 8) If, for any reason, the Council determines that an excess payment has been paid from the Fund, the Council may take steps to collect the excess amount.
- 9) *Cost recovery; enforcement.*
  - A) *The Council may seek recovery from a potentially responsible party liable for a release that is the subject of a remedial action and for which the Fund has expended moneys for remedial action. The amount of recovery sought by the Council shall be equal to all moneys expended by the Fund for and in connection with the remediation, including but not limited to reasonable attorneys' fees and costs of litigation expended by the Fund in connection with the release.* (Section 50(a) of the Act)
  - B) *Except as provided in subsections (f)(9)(C) and (D):*
    - i) *The Council shall not seek recovery for expenses in*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

*connection with remedial action for a release from a claimant eligible for reimbursement except for any unpaid portion of the deductible. (Section 50(b)(1) of the Act)*

- ii) *A claimant's liability for a release for which coverage is admitted under the insurance account shall not exceed the amount of the deductible, subject to the limits of insurance coverage. (Section 50(b)(2) of the Act)*
- C) *Notwithstanding subsection (f)(9)(B), the liability of a claimant to the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (f)(9)(A), if the claimant has not complied with the Environmental Protection Act [415 ILCS 5] and its rules or with the Act and its rules. (Section 50(c) of the Act)*
- D) *Notwithstanding subsection (f)(9)(B), the liability of a claimant to the Fund shall be the total costs of remedial action incurred by the Fund, as specified in subsection (f)(9)(A), if the claimant received reimbursement from the Fund through misrepresentation or fraud, and the claimant shall be liable for the amount of the reimbursement. (Section 50(d) of the Act)*
- E) *Upon reimbursement by the Fund for remedial action under the Act, the rights of the claimant to recover payment from a potentially responsible party are assumed by the Council to the extent the remedial action was paid by the Fund. A claimant is precluded from receiving double compensation for the same injury. A claimant may elect to permit the Council to pursue the claimant's cause of action for an injury not compensated by the Fund against a potentially responsible party, provided the Attorney General or his or her designee determines the representation would not be a conflict of interest. (Section 50(e) of the Act)*
- F) *This subsection (f)(9) does not preclude, limit, or in any way affect any of the provisions of or causes of action pursuant to Section 22.2 of the Environmental Protection Act [415 ILCS 5/22.2]. (Section 50(f) of the Act)*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 10) Upon receipt of a signed, written request from the claimant and verification that the applicable deductibles have been paid by the claimant, the Council will directly pay to the primary service provider the amount of reimbursement due the claimant from the Fund for remedial action activities. The claimant must submit to the Fund a copy of cancelled checks supporting that the applicable deductibles have been paid, along with a signed, written statement from the primary service provider verifying the applicable deductibles have been paid. This request will remain in effect until:
  - A) it is rescinded in writing by the claimant; or
  - B) the Fund has reimbursed the maximum benefit allowed; or
  - C) the claim is closed and the Fund has reimbursed the total amount approved for remedial action activities performed at the facility.
  
- 11) Upon enrollment in the Agency's site remediation program and receipt of a signed, written request from the claimant, the Fund may pay the Agency directly, on eligible claims, the cost incurred by the Agency in its oversight of the drycleaning facility with respect to which the claimant obtained a No Further Remediation letter. This request will remain in effect until:
  - A) the Fund has reimbursed the maximum benefit allowed; or
  - B) the claim is no longer eligible for benefits from the Fund; or
  - C) the facility has completed the project with the Agency and all related oversight costs have been paid in full to the Agency.
  
- g) Prioritization based upon Fund limitations.
  - 1) The liability of the Fund is further limited by the monies made available to the Fund, and no remedy shall be provided that would require the Fund to exceed its then current funding limitations to satisfy an award or that would restrict the availability of monies for higher priority sites. *The Council may prioritize the expenditure of funds from the remedial action account whenever it determines that there are not sufficient funds to settle*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

*all current claims. In prioritizing, the Council may consider the following:*

- A) *The degree to which human health is affected by the exposure posed by the release (Section 25(c)(1) of the Act);*
- B) *The reduction of risk to human health derived from remedial action compared to the cost of the remedial action (Section 25(c)(2) of the Act);*
- C) *The present and planned uses of the impacted property (Section 25(c)(3) of the Act).*

- 2) If the Council determines that there are not sufficient funds to settle all current claims and that prioritization is necessary, the Council will provide notice to all eligible claimants of the need for prioritization and the prioritization schedule. The Council may designate cash reserves to pay for focused site investigations performed through June 30, 2006 and to pay for unknown remediation costs associated with claims that have been prioritized. The initial claim prioritization will include all eligible claims as of the prioritization date set by the Council. Subsequent claim prioritizations will include all eligible claims as of the prioritization date set by the Council, excluding all claims that have previously been prioritized. All claims in the initial prioritization must be funded before conducting subsequent prioritizations. This funding methodology will apply to all subsequent prioritizations.
- 3) The prioritization schedule is as follows:
  - A) First priority will be the abatement of emergency conditions that present an immediate threat to human health and safety, such as explosive vapors in basements or utility conduits and migration of free products into the water supply line or to the off site property.
  - B) Second priority will be the drycleaning facilities located in a township without a groundwater ordinance and when the drycleaning solvent contamination of soil and groundwater of such facilities is likely to cause an immediate adverse effect on human health by contaminating potable water resources.

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- C) Third priority will be the drycleaning facilities with drycleaning solvent contaminants of soil and groundwater where migration of these contaminants to neighboring properties seems imminent or immediate, which can result in more costly and complicated remediations in the future.
- D) Fourth priority will be drycleaning facilities at which soil and/or groundwater contamination is at concentration higher than soil saturation limits of drycleaning solvents, according to TACO regulations of the Agency. Active remediation is required to address free product drycleaning solvent contamination.
- E) Fifth priority will be the drycleaning facilities in which soil and/or groundwater contamination is higher than the TACO Tier II level but less than the TACO soil saturation limit. Active remediation may be required or a No Further Remediation letter may be achieved through installation of an engineering barrier and/or through the use of institutional controls.
- F) When the Council determines it necessary to prioritize the claims, each individual claim will be ranked using the following numerical ranking system:

$$\text{Ranking Score} = (S1 \times 20) + (S2 \times 10) + (S3 \times 8) \\ + (S4 \times 6) + (S5 \times 4) + (S6 \times 2)$$

Where:

- S1 = Emergency condition
- S2 = Potable water resources contamination
- S3 = Migration of contaminants through groundwater or through soil/rock fractures to the neighboring properties
- S4 = Facilities with free product solvents
- S5 = Facilities with higher than the TACO Tier II level of solvent contamination
- S6 = Facilities with less than the TACO Tier II level of solvent contamination

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

i) Emergency condition (S1)

Toxic fumes or explosion possibility, i.e., free product migration, etc.

Points: 5

ii) Potable water resources contamination (S2)

Imminent or immediate risk to public water resources such as public wells, rivers, and surface water reservoirs and lakes

Distance	Points
Within 500 feet	5
Within ¼ mile	4
Within ½ mile	3
Within 1 mile	2
Within 1½ miles	1

iii) Migration of contaminants with groundwater or through soil/rock fractures to the neighboring properties (S3)

Time period for the migration of contaminants to the neighboring property given seepage velocity of groundwater and size and location of contamination plume

Time	Points
Within 6 months	5
Within 1 year	4
Within 1½ years	3
Within 2 years	2
Within 2½ years	1

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

iv) Facilities with free product solvents (S4)

The soil at the facility is contaminated with drycleaning solvent higher than TACO soil saturation limits (i.e., PCE > 240 ppm and TCE > 1300 ppm) and/or free product was discovered in on-site wells

Groundwater Ordinance	Points
Rejected or not available	5
Only approved by the township	4
Approved by the Agency and township	3

v) Facilities with higher than the TACO Tier II level of solvent contamination (S5)

Facilities with higher than the TACO Tier II level of solvent contamination but less than soil saturation limits

Groundwater Ordinance	Points
Rejected or not available	5
Only approved by the township	4
Approved by the Agency and township	3

vi) Facilities with less than the TACO Tier II level of solvent contamination (S6)

Facilities with higher than the TACO Tier I level but less than Tier II level of solvent contamination (i.e., Tier I for PCE & TCE ≥ 300 ppb for Class I and 60 ppb for Class II)

Groundwater Ordinance	Points
Rejected or not available	5
Only approved by the township	4
Approved by the Agency and township	3

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

The highest ranked claims will receive priority funding, subject to an analysis of the claimant's ability to pay for remediation costs that are anticipated to exceed the Fund's maximum benefit cap.

4) Ability to Pay Remediation Costs

A) The final step in the prioritization process is to analyze each claimant's ability to pay for remedial action costs that are anticipated to exceed the Fund's maximum benefit cap for the facility. This analysis will be done at the completion of the remedial action plan or, in the case of substantial soil and groundwater contamination, at the completion of the focused site investigation.

B) If it is apparent that the cost of remedial action will exceed the benefits available to an eligible drycleaning facility, the Administrator will contact the claimant and ask that the claimant respond in writing as to whether it has the financial resources and is willing to expend those resources to remediate the facility.

C) If the claimant states that it chooses to remediate the facility, the following mechanisms would be deemed acceptable in order to ensure that the claimant has the necessary resources to complete the remedial action once the Fund's maximum benefits have been expended:

i)A) Escrow 100% of the estimated remedial action costs that will exceed the Fund's remedial benefit cap. Cash or cash equivalents, such as a certificate of deposit, marketable bonds, etc., would be acceptable for escrow; or

ii)B) A letter of credit from a federally insured financial institution for 100% of the estimated remedial action costs that will exceed the Fund's remedial benefit cap; or

iii)C) Personal or corporate guarantees for 100% of the estimated cleanup costs that will exceed the Fund's remedial benefit cap. The guarantees would need to be collateralized by liquid assets.

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- [D\)](#) Any eligible claimant who determines that it has neither the the facility will be moved to a new and separate prioritization pool. Funding for these claims will only be made available once the cleanups have been completed on all of the other eligible claims that do not exercise these funding limitations.
- 5) Once a claim has been prioritized, it cannot be removed from the prioritized listing unless the claim becomes ineligible for benefits from the Fund or the claimant refuses to remediate the facility in a timely manner.
- [6\)](#) If the claimant does not obtain and submit to the Council cost proposals for beginning the remedial action process within 120 days after being notified that his/her remedial claim has been prioritized for funding, the claim will be removed from the prioritization list and the next highest ranked claim will be added to the list. Any claim removed from the prioritization list due to non-timely remedial action by the claimant will be included in the next prioritization pool.
- h) Remedial claim benefits for a specific drycleaning facility can be transferred to a successor drycleaning facility operator or owner upon execution of a remedial benefits transfer form prescribed by the Council and signed by the original claimant and the successor claimant and approved by the Council.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1500.50 Drycleaner Facility Insurance Account**

The owner or operator of an active drycleaning facility shall be eligible for up to \$500,000 financial assurance per drycleaning facility from the Council subject to the following limitations:

- a) To apply for financial assurance coverage, the owner or operator of an active drycleaning facility must submit a completed application provided by the Council (see Section 1500.70(b)). The Council will not determine who must submit the application. Any insurance policy issued must identify both the owner and the operator and both will be named insureds.
- b) Prior to the submission of an insurance application and no later than June 30, 2006 for a drycleaning facility that is active on June 30, 2006, an applicant must

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

have a focused site investigation completed that is designed to identify soil and groundwater contamination resulting from the release of drycleaning solvents at the facility based upon the continued use of the facility as a drycleaning facility, consistent with 35 Ill. Adm. Code 740.430 and 435.

- c) *The drycleaning facility is participating in and meets all requirements of a drycleaning compliance program approved by the Council. (Section 45(d)(2) of the Act)*
- d) Applications must include the annual premium for financial assurance coverage as follows:
  - 1) *For the year July 1, 1999 through June 30, 2000, \$250 per drycleaning facility (Section 45(e)(1) of the Act);*
  - 2) *For the year July 1, 2000 through June 30, 2001, \$375 per drycleaning facility (Section 45(e)(2) of the Act);*
  - 3) *For the year July 1, 2001 through June 30, 2002, \$500 per drycleaning facility (Section 45(e)(3) of the Act);*
  - 4) *For the year July 1, 2002 through June 30, 2003, \$625 per drycleaning facility (Section 45(e)(4) of the Act);*
  - 5) *For subsequent years, the applicant applying for coverage shall pay an annual actuarially sound insurance premium as determined by the Council. The Council shall take into consideration risk factor adjustments to reflect the range of risk presented by:*
    - A) *the type of drycleaning system*
    - B) *the type of monitoring system*
    - C) *drycleaning volume*
    - D) *risk management practices. (Section 45 (e)(5) of the Act)*
- e) *If coverage is purchased for any part of a year, the purchaser shall pay the full annual premium for that year. The insurance premium is fully earned upon*

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

*issuance of the insurance policy.* (Section 45(f) of the Act) The insurance premium may be paid in semiannual installments for policies issued on or after June 30, 2003.

- f) All insurance policies shall include a *\$10,000 deductible* (Section 45(g) of the Act).
- g) *Coverage shall be limited to remedial action costs associated with soil and groundwater contamination resulting from a release of drycleaning solvent at an insured drycleaning facility including third-party liability for soil and groundwater contamination, consistent with the terms of the Council's insurance policy.* (Section 45(c) of the Act)
- h) Coverage is not provided for a release that occurred before the date of coverage (Section 45(c) of the Act). It is the responsibility of the insured to prove the release occurred after the date of coverage.
- i) The Council does not have the duty or obligation to defend a claim made against a named insured listed on a Council issued insurance policy.
- j) If a Council insured drycleaning facility ceases drycleaning operations during the policy period, coverage shall automatically cancel 60 days after the last day of active drycleaning operations at the facility. No cancellation notice need be issued by the Council to effect this cancellation.
- k) Except as noted in subsection (j), an insurance policy issued by the Council may be cancelled by mailing or delivering to the first named insured listed on the declarations page of the insurance policy written notice of cancellation at least:
  - 1) Ten days before the effective date of cancellation if the Council cancels for non-payment of premiums or misrepresentation; or
  - 2) Sixty days before the effective date of cancellation if the Council cancels for any other reason.
- l) Insurance coverage issued under this Section shall expire one year after the date of issuance unless cancelled in accordance with subsection (j) or (k) and may be renewed on reapplication to the Council and submission of the appropriate premium in accordance with subsection (d). At least 30 days before the insurance

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

## NOTICE OF PROPOSED AMENDMENTS

policy is to expire, the Council will mail a renewal application and premium billing notice to the address of the first named insured on the policy. Failure to complete the renewal application and pay the appropriate premium shall result in expiration of the insurance policy.

- m)h) An insurance policy issued by the Council for a specific drycleaning facility location can be transferred to a successor drycleaning facility operator or owner upon execution of a policy transfer form prescribed by the Council and signed by the policy holder and transferee. The insurance policy cannot be transferred unless the drycleaning facility license is also transferred.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1500.55 Drycleaning Solvent Tax**

- a) *On or after January 1, 1998, a tax is imposed on the use of a drycleaning solvent by a person engaged in the business of operating a drycleaning facility in this State at the rate of:*
- 1) *\$10 per gallon of perchloroethylene or other chlorinated drycleaning solvent used in drycleaning operations;*
  - 2) *\$2 per gallon of petroleum-based drycleaning solvent; and*
  - 3) *\$1.75 per gallon of green solvents, unless the green solvent is used at a virgin facility, in which case the rate is \$.35 per gallon. All drycleaning solvents shall be considered chlorinated solvents unless the Council determines that the solvents are petroleum-based solvents or green solvents. (Section 65(a) of the Act)*
- b) In determining if a drycleaning solvent is a green solvent, the manufacturer and/or distributor of the solvent must present to the Council the solvent's material safety data sheet, the material safety data sheet of the detergents used in conjunction with the solvent, and such other information the Council deems necessary to determine if the solvent should be classified as a green solvent.
- c) In accordance with this Section, the Council has determined the following solvents should be classified as a green solvent:

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) [Carbon Dioxide \(CO<sub>2</sub>\)](#)
- 2) [Propylene Glycol Ether DPnB](#)

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1500.70 Forms**

- a) The following is a summary of information that shall be completed on the License Application Form to receive a license certificate.
  - 1) Drycleaning facility name, address, contact person, phone number and date facility began drycleaning operations.
  - 2) Drycleaner operator information, including name, mailing address, contact person, phone number, type of legal entity (i.e., sole proprietorship), corporation, partnership, Federal ID or social security number, Illinois Business Tax ID number.
  - 3) Information pertaining to the owner of the real estate, including owner name, mailing address, contact person, phone number, type of legal entity, Federal ID or social security number.
  - 4) Information pertaining to the annual fee involving the quantity of drycleaning solvents purchased for the preceding year or estimated to be used in the current year if it is a new drycleaning facility.
  - 5) Information regarding the drycleaning solvent supplier, including name of supplier, contact person, phone number, mailing address, Illinois Business Tax ID number.

The license form must be signed by the applicant and returned with the appropriate application form and proof of payment of license fee in order to receive a license from the Drycleaner Environmental Response Trust Fund Council of Illinois.

- b) The following is general information that must be completed on an insurance application form in order to receive pollution liability insurance coverage from the Fund.

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Facility name, address, contact person, drycleaner license number and phone number.
- 2) Operator name, mailing address, contact person, legal entity, type of legal entity, whether the operator is the owner of the land, buildings or both.
- 3) Owner information, including name, mailing address, contact person, type of legal entity.
- 4) Where correspondence regarding this application should be sent.
- 5) Information on the mortgagee, including name, mailing address.
- 6) Site specific information such as:
  - A) Number of drycleaning units not in use or temporarily out of use at the location.
  - B) Site conditions, including distance in feet to the nearest building off premises.
  - C) Distance in feet to nearest water well.
  - D) Distance in feet to nearest water/sewer main.
  - E) Location of the property in terms of residential, commercial or industrial area.
  - F) A diagram of the facility showing location of the building, drycleaning units, stored drycleaning solvents, stored hazardous waste containers, etc., should be listed on the diagram.
  - G) What type of hazardous waste generator facility is at this location and if the facility is operating in accordance with the requirements for the type of hazardous waste generator facility that is indicated.
  - H) Does the facility participate in and meet all the requirements of the Drycleaning Compliance Program approved by the Council. If the

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

answer is yes, the applicant must provide the name of the program and documentation of participation. In addition, the applicant must indicate if the facility is compliant with all the requirements of the Compliance Program.

- I) Does the drycleaning unit have an Illinois EPA air operating permit? If so, the type of permit must be indicated.
- 7) Has a site investigation been conducted to identify soil and groundwater contamination of the facility? If it has, a copy of the entire report should be submitted with the application.
- 8) An indication of whether the applicant has ever reported a release or spill on this site to the Illinois Emergency Management Agency. If the response is yes, the applicant should explain when, what and the current status of the cleanup. If the response is no, the applicant should indicate if he/she is aware of a release or spill that has occurred at this facility that would impact soil and groundwater.
- 9) Specific information on each individual drycleaning unit at the facility, including:
  - A) Date each unit installed.
  - B) Was the unit new at installation?
  - C) Identification of the type of drycleaning solvent currently used.
  - D) Indicate what type of drycleaning unit it is, i.e., dry to dry, transfer, other.
  - E) What is the average amount of drycleaning solvent used per month in each unit?
  - F) Does the unit have a pollution control mechanism on it? If so, identify what type.
  - G) What is the size of each unit, based on pounds of clothes that each unit holds per cycle?

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- H) Generation of drycleaning unit.
- 10) Hazardous Waste
- A) Does the site maintain drycleaning solvent hazardous waste in approved containers that are labeled hazardous waste and properly dated?
  - B) Is wastewater from the drycleaning solvent discharged into a sanitary sewer/septic tank service or groundwater?
  - C) Are all drycleaning solvent wastes generated at this facility managed in accordance with applicable State waste management laws and rules in accordance with the Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 722?
- 11) Pollution Prevention Measures
- A) Does the unit have a containment dike or structure around each unit for the entire drycleaning area in which any drycleaning solvent is utilized that is capable of containing a spill or leak?
  - B) Is the surface of the dike floor in which the drycleaning solvent may leak, spill or otherwise be released sealed or impervious?
  - C) Are regular visual inspections conducted of the unit, solvent containers, waste containers and other areas where the solvent waste is located?
  - D) Are the repairs done on a timely basis and a log kept of all repairs?
  - E) Is the drycleaning solvent delivered to the facility by means of a closed direct-coupled delivery system?
- 12) An insurance application form must be signed and dated by the applicant.
- c) The following is a summary of information that shall be completed on a claims form to apply for remedial action or insurance benefits.

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Business facility information including:
  - A) Name and address of property where release occurred and name, address and phone number of person filing claim.
  - B) [Indication of whether the claim is for remedial account program benefits or insurance account program benefits.](#)
  - C)~~B)~~ An insurance policy number, if applicable.
  - D)~~C)~~ The number of drycleaning units at this facility, whether they are still in use, and the drycleaning solvents that were stored in the drycleaning units.
  - E)~~D)~~ Questions as to other types of drycleaning machines, equipment, or underground or aboveground tanks, besides the drycleaning units, that store drycleaning solvent located at this facility that may contain any product that is chlorine or petroleum based.
  - F)~~E)~~ The name of the owner of the land on which the drycleaning units are located.
  - G)~~F)~~ The name of the owner of the facility and drycleaning units.
  - H)~~G)~~ The name of the owner and operator of the business at the location, including the length of time the business has been in operation and how long the current operator has operated the business.
- 2) General information about the spill or leak.
  - A) When did the person filing the claim first learn about the spill or leak?
  - B) How was the spill or leak discovered?
  - C) When and how was the problem reported to the Illinois Emergency Management Agency or the Illinois Environmental Protection Agency?

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- D) Information regarding the source of contamination.
  - E) Information regarding an awareness of any person who has suffered bodily injury or property damage as a result of this release.
  - F) Statement regarding whether the contamination has migrated beyond the property.
  - G) Has a site investigation been prepared?
  - H) Have cleanup activities commenced at the site?
  - I) The name of the licensed professional engineer performing remediation on this site, if applicable.
- 3) General Information about other insurance at the facility.
- A) Whether other insurance specifically providing pollution liability coverage has existed for this property. If the response is yes, provide the name of the company, policy number and a copy of the policy.
  - B) Has the incident been reported to the insurance company?
  - C) Has the person filing the claim requested payment from anyone else for costs associated with the claim? If the response is yes, provide information on the payment request from a third party.
- d) The following is a summary of general information that shall be completed on the claim reimbursement request form:
- 1) Claimant information, including name, address, social security or Federal Tax ID number. In addition, site information regarding where the remedial activities were performed, including site name, physical address and city.
  - 2) Contractor information in the form of contractor name, address and telephone number.

---

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND  
COUNCIL OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 3) Remediation activities. An indication of the activities that were completed and the amount being billed at this time.
- 4) Reimbursements from other programs. An indication of whether the claimant has applied for reimbursement from any other source for the invoices being submitted with this form.
- 5) Original invoices.
- 6) A summary of the eligible costs, broken down by cost category, and certification that the information is accurate and complete.
- 7) A schedule of detail to support the cost categories reported.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: 148.295      Proposed Action: Amendment
- 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: This proposed rulemaking provides additional funding under Critical Hospital Adjustment Payments (CHAP) for hospitals that qualify as high volume Medicaid providers. This funding is necessary to ensure continued access to quality health care for the Department's medical assistance clients. CHAP spending is expected to increase by approximately \$1.0 million as a result of these changes.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.105	Amendment	May 27, 2005 (29 Ill. Reg. 7693)
148.126	Amendment	August 26, 2005 (29 Ill. Reg. 13140)
148.140	Amendment	September 30, 2005 (29 Ill. Reg. 14502)
148.310	Amendment	July 1, 2005 (29 Ill. Reg. 9241)
148.402	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.404	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.406	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.408	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.410	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.412	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.414	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.416	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.418	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.420	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.422	New Section	July 1, 2005 (29 Ill. Reg. 9241)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

148.424	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.426	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.428	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.430	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.432	New Section	July 1, 2005 (29 Ill. Reg. 9241)
148.434	New Section	July 1, 2005 (29 Ill. Reg. 9241)

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this 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:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002

(217) 524-0081

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].

Any interested persons may review these proposed amendments on the Internet at <http://www.dpaillinois.com/publicnotice/>. Access to the Internet is available through any local public library. In addition, the amendments may be reviewed at the Illinois Department of Human Services' local offices (except in Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Department of Healthcare and Family Services, 100 West Randolph Street, Suite 10-300, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements at 42 CFR 447.205.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

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: Medicaid funded hospitals will be affected.
  - 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 2005

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF HEALTHCARE AND  
FAMILY SERVICES~~PUBLIC AID~~  
SUBCHAPTER d: MEDICAL PROGRAMSPART 148  
HOSPITAL SERVICES

## SUBPART A: GENERAL PROVISIONS

## Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

## Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100	Outpatient Rural Hospital Adjustment Payments
148.103	Outpatient Service Adjustment Payments
148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
148.112	High Volume Adjustment Payments
148.115	Rural Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- 148.390 Hearings  
148.400 Special Hospital Reporting Requirements

## SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

- Section  
148.500 Definitions  
148.510 Reimbursement

## SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

- Section  
148.600 Definitions  
148.610 Scope of the Program  
148.620 Assistance Level and Reimbursement  
148.630 Criteria and Information Required to Establish Eligibility  
148.640 Covered Services

- 148.TABLE A Renal Participation Fee Worksheet  
148.TABLE B Bureau of Labor Statistics Equivalence  
148.TABLE C List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005;

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

**Section 148.295 Critical Hospital Adjustment Payments (CHAP)**

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section.

- a) Trauma Center Adjustments (TCA)

The Department shall make a TCA to Illinois hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (IDPH) in accordance with the provisions of subsections (a)(1) through (a)(3) of this Section.

  - 1) Level I Trauma Center Adjustment.
    - A) Criteria. Illinois hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by the Illinois Department of Public Health shall receive the Level I trauma center adjustment.
    - B) Adjustment. Illinois hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:
      - i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$21,365.00 per Medicaid trauma admission in the CHAP base period.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$14,165.00 per Medicaid trauma admission in the CHAP base period.
- 2) Level II Rural Trauma Center Adjustment. Illinois rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period.
- 3) Level II Urban Trauma Center Adjustment. Illinois urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:
  - A) The hospital is located in a county with no Level I trauma center; and
  - B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(3) of this Section; or the hospital is not located in an HPSA and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(3) of this Section.
- b) Rehabilitation Hospital Adjustment (RHA)  
Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- 1) Treatment Component. All hospitals defined in subsection (b) of this Section shall receive \$4,215.00 per Medicaid Level I rehabilitation admission in the CHAP base period.
  - 2) Facility Component. All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:
    - A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$229,360.00 in the CHAP rate period.
    - B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$527,528.00 in the CHAP rate period.
  - 3) Health Professional Shortage Area Adjustment Component. Hospitals defined in subsection (b) of this Section that are located in an HPSA on July 1, 1999, shall receive \$276.00 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.
- c) Direct Hospital Adjustment (DHA) Criteria
- 1) Qualifying Criteria  
Hospitals may qualify for the DHA under this subsection (c) under the following categories:
    - A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:
      - i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999, and had a Medicaid inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;
      - ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999,

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or

- iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.
- B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999, and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.
- C) Children's hospitals, as defined under 89 Ill. Adm. Code 149.50(c)(3), on July 1, 1999.
- D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.
- E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals qualifying in subsection (c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999, and provided more than 15,000 Total days.
- F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D), or (E) of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999, and provided more than 7,500 Total days and provided obstetrical care as of July 1, 2001.
- G) Illinois teaching hospitals with 25 or more graduate medical education programs on July 1, 1999, that are affiliated with a Regional Alzheimer's Disease Assistance Center as designated by

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

the Alzheimer's Disease Assistance Act [410 ILCS 405/4], that had an MIUR less than 25 percent on July 1, 1999, and provided 75 or more Alzheimer days for patients diagnosed as having the disease.

H) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(G) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999.

I) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(H) of this Section, all other hospitals that had an MIUR greater than 23 percent on July 1, 1999, an average length of stay less than four days, provided more than 4,200 Total days and provided 100 or more Alzheimer days for patients diagnosed as having the disease.

2) DHA Rates

A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:

i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean Combined MIUR, will receive \$69.00 per day for hospitals that do not provide obstetrical care and \$105.00 per day for hospitals that do provide obstetrical care.

ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive \$105.00 per day for hospitals that do not provide obstetrical care and \$142.00 per day for hospitals that do provide obstetrical care.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive \$124.00 per day for hospitals that do not provide obstetrical care and \$160.00 per day for hospitals that do provide obstetrical care.
  - iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive \$142.00 per day for hospitals that do not provide obstetrical care and \$179.00 per day for hospitals that do provide obstetrical care.
- B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:
- i) County owned hospitals as defined in Section 148.25 with more than 30,000 Total days will have their rate increased by \$455.00 per day.
  - ii) Hospitals that are not county owned with more than 30,000 Total days will have their rate increased by \$330.00 per day.
  - iii) Hospitals with more than 80,000 Total days will have their rate increased by an additional \$423.00 per day.
  - iv) Hospitals with more than 4,500 Obstetrical days will have their rate increased by \$101.00 per day.
  - v) Hospitals with more than 5,500 Obstetrical days will have their rate increased by an additional \$194.00 per day.
  - vi) Hospitals with an MIUR greater than 74 percent will have their rate increased by \$147.00 per day.
  - vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by \$41.00 per day.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999, will have their rate increased by \$227.00 per day.
  - ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than four days will have their rate increased by \$182.25 per day.
  - x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by \$202.00 per day.
  - xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have an MIUR greater than 70 percent and have more than 20,000 days will have their rate increased by \$98.00 per day.
- C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:
- i) Qualifying hospitals will receive a rate of \$421.00 per day.
  - ii) Qualifying hospitals with more than 1,500 Obstetrical days will have their rate increased by \$369.00 per day.
- D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:
- i) Hospitals will receive a rate of \$28.00 per day.
  - ii) Hospitals located in Illinois and outside of HSA 6 that have an MIUR greater than 60 percent will have their rate increased by \$55.00 per day.
  - iii) Hospitals located in Illinois and inside HSA 6 that have an MIUR greater than 80 percent will have their rate increased by \$573.00 per day.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- iv) Hospitals that are not located in Illinois that have an MIUR greater than 45 percent will have their rate increased by \$32.00 per day for hospitals that have fewer than 4,000 Total days; or \$246.00 per day for hospitals that have more than 4,000 Total days but fewer than 8,000 Total days; or \$178.00 per day for hospitals that have more than 8,000 Total days.
  - v) Hospitals with more than 3,200 Total admissions will have their rate increased by \$248.00 per day.
- E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:
- i) Hospitals will receive a rate of \$41.00 per day.
  - ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional \$14.00 per day.
  - iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional \$87.00 per day.
  - iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional \$41.00 per day.
- F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive \$188.00 per day.
- G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of \$55.00 per day.
- H) Hospitals that qualify under subsection (c)(1)(G) of this Section will receive the following rates:
- i) Hospitals with an MIUR greater than 19.75 percent will receive a rate of \$69.00 per day.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- ii) Hospitals with an MIUR equal to or less than 19.75 percent will receive a rate of \$11.00 per day.
  - I) Hospitals qualifying under subsection (c)(1)(H) of this Section will receive a rate of \$268.00 per day.
  - J) Hospitals qualifying under subsection (c)(1)(I) of this Section will receive a rate of \$238.00 per day.
  - K) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two. The payments calculated under this Section to hospitals that qualify under subsection (c)(1)(A)(iii) of this Section may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations. A portion of the payments calculated under this Section may be classified as disproportionate share adjustments for hospitals qualifying under subsection (c)(1)(A)(iii) of this Section.
- 3) DHA Payments
- A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.
  - B) Payment rates will be multiplied by the Total days.
  - C) Total Payment Adjustments
    - i) For the CHAP rate period occurring in State fiscal year 20062004, total payments will equal the methodologies described in subsection (c)(2) of this Section. For the period January 1, 2006April 1, 2004, to June 30, 20062004, payment will equal the State fiscal year 20062004 amount less the amount the hospital received under DHA for the quarters ending September 30, 20062003, and December 31, 20062003, and March 31, 2004.
    - ii) For CHAP rate periods occurring after State fiscal year 20062004, total payments will equal the methodologies described in subsection (c)(2) of this Section.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- d) **Rural Critical Hospital Adjustment Payments (RCHAP)**  
RCHAP shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive \$367,179.00 per year. The Department shall also make an RCHAP to hospitals qualifying under this subsection at a rate that is the greater of:
- 1) the product of \$1,367.00 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or
  - 2) the product of \$138.00 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.
- e) **Total CHAP Adjustments**  
Each eligible hospital's critical hospital adjustment payment shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section. The critical hospital adjustment payments shall be paid at least quarterly.
- f) **Critical Hospital Adjustment Limitations**  
Hospitals that qualify for trauma center adjustments under subsection (a) of this Section shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased.
- g) **Critical Hospital Adjustment Payment Definitions**  
The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:
- 1) "Alzheimer days" means total paid days contained in the Department's paid claims database with a ICD-9-CM diagnosis code of 331.0 for dates of service occurring in State fiscal year 2001 and adjudicated through June 30, 2002.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- 2) "CHAP base period" means State Fiscal Year 1994 for CHAP calculated for the July 1, 1995, CHAP rate period; State Fiscal Year 1995 for CHAP calculated for the July 1, 1996, CHAP rate period; etc.
- 3) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.
- 4) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.
- 5) "Medicaid general care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.
- 6) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.
- 7) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.
- 8) "Medicaid obstetrical care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

under Title XIX of Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.

- 9) "Medicaid trauma admission" means those claims billed as admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.3, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.
- 10) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.
- 11) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.
- 12) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.
- 13) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICE

## NOTICE OF PROPOSED AMENDMENT

- 14) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 15) "Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5<sup>th</sup> digit of 1 or 2; 650; 651.0 through 659.9 with a 5<sup>th</sup> digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5<sup>th</sup> digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5<sup>th</sup> digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Prevailing Wage Hearing Procedures
- 2) Code Citation: 56 Ill. Adm. Code 100
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
100.5	Amend
100.10	Amend
100.20	Amend
100.24	Amend
100.26	Amend
100.28	New
100.30	Repeal
100.40	Repeal
100.50	Repeal
100.60	Repeal
100.70	Repeal
100.80	Repeal
100.90	Repeal
100.100	Repeal
100.110	Repeal
100.120	Repeal
- 4) Statutory Authority: 820 ILCS 130/11a
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking is being implemented in order to apply the provisions contained in P.A. 94-0515 and P.A. 94-0488. The rules update the record keeping requirements and amend the hearing procedures to be used for debarment hearings. The rules also clarify the situations in which a two-year debarment will be applicable and when a notice of violation will be issued. Other technical non-substantive changes are also being made.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this Notice, to:
- Name: Valerie A. Puccini  
Assistant General Counsel  
Address: Illinois Department of Labor  
160 N. LaSalle Street, 13<sup>th</sup> Floor  
Chicago, IL 60601
- Telephone: (312) 793-7838  
Facsimile: (312) 793-5257
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Rules affect contractors and subcontractors who perform public works projects subject to the Act.
- B) Reporting, bookkeeping or other procedures required for compliance: Covered employers must maintain records as set forth in the statute.
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: The proposed amendment was not included on either of the 2 most recent regulatory agendas because: it was new legislation not anticipated at the time of filing the most recent agenda.

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

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER a: GENERAL ADMINISTRATIVE RULESPART 100  
PREVAILING WAGE HEARING PROCEDURES

## Section

100.5	Applicability
100.10	Policy
100.20	Applicability (Renumbered)
100.22	Definitions
100.24	Notice of Violation
100.26	Initiation of Hearing
<a href="#">100.28</a>	<a href="#">Two Year Debarments</a>
100.30	Notice of Hearing ( <a href="#">Repealed</a> )
100.40	Intervention ( <a href="#">Repealed</a> )
100.50	Postponement or Continuance of Hearing ( <a href="#">Repealed</a> )
100.60	Hearing Examiner; Power and Duties ( <a href="#">Repealed</a> )
100.70	Pre-Hearing Conference ( <a href="#">Repealed</a> )
100.80	Consent Findings and Rules or Orders ( <a href="#">Repealed</a> )
100.90	Discovery ( <a href="#">Repealed</a> )
100.100	Hearing ( <a href="#">Repealed</a> )
100.110	Hearing Examiner's Decision ( <a href="#">Repealed</a> )
100.120	Judicial Review ( <a href="#">Repealed</a> )

AUTHORITY: Implementing and authorized by Section 11a of the Prevailing Wage Act [820 ILCS 130/11a].

SOURCE: Adopted at 8 Ill. Reg. 1586, effective January 20, 1984; emergency amendments at 14 Ill. Reg. 1026, effective January 1, 1990, for a maximum of 150 days; emergency expired May 31, 1990; amended at 14 Ill. Reg. 13608, effective August 9, 1990; emergency amendment at 29 Ill. Reg. 14204, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 3909, effective February 28, 2005; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 100.5 Applicability**

This Part shall apply to all hearings conducted by this Department of Labor under Section 11a of the Prevailing Wage Act [820 ILCS 130/11a] (the Act) for purposes of debarring a contractor or

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

subcontractor from contracting for public works as defined in the Act for a ~~four~~<sup>two</sup> year period. Such debarment is automatic after the contractor or subcontractor has received notice of a second violation of the Act within five years from the date of the first violation, unless within 10 working days after receipt of the notice of a second violation he/she requests a hearing in writing in accordance with this Part.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.10 Policy**

All hearings shall be conducted in the most economic, expeditious and reasonable manner that is in accordance with Illinois law and the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120)~~these and other applicable rules. These rules are promulgated to guide the Hearing Examiner in his/her duties. Operational interpretations are to be made in a flexible manner to provide all parties with a fair and impartial hearing, consistent with the declaration of policy in Section 1 of the Act).~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.22 Definitions**

- a) "Violation" means a written ~~decision~~<sup>determination</sup> by the Department that a contractor or subcontractor has: failed or refused to pay the prevailing wage to one or more laborers, workers, or mechanics under a single contract or subcontract as required by Section 3 of the Act; failed to keep accurate records as required by ~~Section 5 of the Act~~ or this Part; ~~failed to produce to the Department accurate records or records not in compliance with the provisions of Section 6 of the Act~~<sup>produced falsified records or records not in compliance with the provisions of subsection (d) of this Section to the Department for inspection, as prohibited by Section 6 of the Act</sup>; refused to submit records to the Department in response to a subpoena issued in accordance with Section 10 of the Act; ~~refused to comply with the certified payroll provision of Section 5 of the Act~~; ~~refused the Department access, at any reasonable hour or at any location designated by the Department, to inspect the contractor's or subcontractor's certified records and other records as required by the Act or this Part~~; ~~refused access to the Department for inspection of records at any reasonable hours as required by Section 5 of the Act (regular business hours of the contractor or subcontractor or by mutual agreement between the Department and contractor or subcontractor)~~; ~~failed to furnish a sworn statement of the accuracy of its records in accordance with Section 10 of the Act~~; ~~or~~ failed to insert into each subcontract or lower tiered subcontract and into the

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

project specifications for each subcontract or lower tiered subcontract a written stipulation that not less than the prevailing rate of wages be paid as required by Section 4 of the Act; ~~or the contractor failed to obtain a bond that guarantees the faithful performance of the prevailing wage clause in the contract.~~ A violation also means a written ~~decision~~ determination by the Department that a contractor or construction manager failed to post at a location on the project site of the public works the prevailing wage rates as required by Section 4 of the Act.

- b) "Notice of Second violation" is a violation as defined in subsection (a) that has occurred within ~~five~~ two years from the date of ~~the notice of first~~ previous violation.
- c) "Prevailing hourly rate of wages" means the hourly cash wages plus fringe benefits for health and welfare, insurance, training, vacations and pensions paid most frequently (numerically most occurring), in the county in which the public works is performed, to employees engaged on public works, as determined by the public body awarding the contract or the most recent revision as determined by the Department of Labor effective prior to the date when the contract was let for bids or, if not let for bids, when executed; and all revisions by the Illinois Department of Labor when effected.
- d) "Accurate records" means the payroll records required to be filed with the public body in charge of the project as required by Section 5 of the Act. Accurate records shall also mean names, addresses, telephone numbers and social security numbers of all employees engaged in a public works project; each employee's classification for the type of work actually performed on the public works project; the hours worked each day in each work week by each employee, including any overtime hours; the hourly rate of pay for straight time hours worked; the hourly rate of pay for overtime hours worked; the hourly rate paid for fringe benefits, including pension, health and welfare, training and vacations, and a designation of whether such fringe benefits were paid into a fund or paid directly to the employee; ~~each employee's gross weekly wage, withholdings and net weekly wage; and the starting and ending times of work for each employee.~~
- e) "~~Decision~~ Determination" means that reasons warrant ~~the decision by~~ the Director or ~~the Director's~~ his/her designee to issue a Notice of Violation to a contractor or subcontractor because the Act has been violated. Each specific finding listed in the Notice of Violation is a separate "Decision ~~Determination~~" that the Act has been violated.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- f) "Notice of Violation" means the formal written notice to a contractor or subcontractor that the Department has made a ~~decision~~determination that the contractor or subcontractor has violated the Act.
- g) "Employee", for purposes of the Act and this Part, means laborers, mechanics and other workers employed in any public works, as defined and covered under the Act, by anyone under contracts for public works.
- h) "Construction manager" includes, but is not limited to, the contractor, subcontractor or anyone overseeing any project covered by the Act for purposes of the posting requirement.
- i) "Employer", for purposes of the Act and this Part, means contractors and/or subcontractors who perform public works projects subject to the Act.
- j) "Contract" means an agreement either written or oral or otherwise as agreed to between the parties.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.24 Notice of Violation**

- a) Upon receipt of a report ~~of an inspection, survey or evaluation~~ of a complaint against an employer, the Director or ~~the Director's~~his/her designee shall review ~~the findings contained in~~ the investigative file to determine whether there is reason or reasons that~~the findings~~ constitute a violation or violations of which the contractor or subcontractor must be given notice. All information, ~~evidence~~ and observations made during an audit, investigation or survey shall be considered and shall constitute the basis for the Department's ~~decision~~determination that the Act has been violated and that a Notice of Violation shall be issued. The Notice of Violation shall ~~provide~~list the ~~decision~~specific determination that a contractor or subcontractor has violated the Act.
- b) The Notice of Violation shall state the amount of monies estimated due by the Department to be in controversy based on ~~reasons~~findings contained in the investigation file.
- c) In making a ~~decision that~~determination where a contractor or subcontractor has failed to allow the Director or ~~the Director's~~his/her deputies or agents access to accurate payroll records, the Director shall rely on the information contained in

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

the investigative file or the certified payroll records filed with the public body in charge of the project or any other information and shall assess a separate violation for each day worked by each worker on the subject project. Each decision of determination of a separate violation under Section 5 of the Act shall be listed in the Notice of Violation.

- d) In deciding ~~that whether~~ the reasons findings warrant a decision determination that the Act has been violated and require the issuance of a notice of violation, the Director or the Director's his/her designee in their discretion, shall base the his/her decision on one or any combination of the following reasons factors:
- 1) The severity of the violations. The Director or the Director's his/her designee may will consider the following:
    - A) The amount of wages that are determined to be underpaid. Whether the contractor or subcontractor is charged with violating the Act on at least 2 separate occasions.
    - B) The activity or conduct complained of violates the requirements of the statute and was not merely a technical, non-substantive error.
  - 2) The nature frequency and duration of the present violations as well as prior history of the contractor or the subcontractor related to the Act. that of findings in previous investigations and the contractor or subcontractor's general inspection history. The Director or his/her designee may consider whether the same or similar findings, relating to the prior violations of the Act, has been the result of prior investigations; and whether the contractor or subcontractor has allowed the conditions or violations to continue or recur.
  - 3) The amount of wages determined to be in controversy (the difference between the amount actually paid and the required prevailing wage for that type of work). The Director or his/her designee may consider the amount of money in controversy for the cited violations.
  - 34) Whether the contractor or subcontractor filed certified payroll records with the public body in charge of the project; whether the contractor or subcontractor has kept the payroll records and accurate records for 3 years; whether the contractor or subcontractor produced certified payroll records in accordance with Section 5 of the Act. has made and kept, for a

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~period of not less than 3 years, true and accurate records of the name, address, telephone number when available, social security number and occupation of all laborers, workers, and mechanics employed by them in connection with public works and whether those records show the actual hourly wages paid in each pay period to each employee and the hours worked each day in each work week by each employee, as well as starting and ending times of work for each employee.~~

- 45) Whether the contractor or subcontractor has violated any other provision of the Act. ~~The failure of a contractor or subcontractor to allow the Department reasonable access to their payroll records.~~
- 6) ~~Whether the contractor or subcontractor furnished a sworn statement of the accuracy of its records pursuant to Section 10 of the Act.~~
- 7) ~~Whether the contractor or subcontractor inserted into each subcontract or lower tiered subcontract and into the project specifications for each subcontract or lower tiered subcontract a written stipulation that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work under the contract for public works.~~
- 8) ~~Whether the contractor or construction manager to whom a contract for public works is awarded posted, at a location on the project site of the public works that is easily accessible to the employees engaged on the project, the prevailing wage rates for each craft or type of laborer, worker and mechanic needed to execute the contract or project or work to be performed.~~
- e) The Director or the Director's designee will determine the weight to be given to each of the reasons as set forth in subsection (d).
- f) The notices of the first and second violations shall be sent by the Department by certified mail, deposited in the United States mail, postage prepaid, addressed to the last known address of the persons, partnerships, associations, or corporations involved. Said notices shall contain a reference to the specific Sections of the Act or this Part alleged to have been violated; identify the particular public works project involved; the conduct complained of; an identification as to first or second notice and a statement of remedies available to the contractor or subcontractor and Department.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.26 Initiation of Hearing**

- a) Request for ~~hearing~~Hearing for Notice of Second Violation: A hearing shall be initiated upon the request of a contractor or subcontractor after he/she has received the notice of a second violation of the Act within five years from the date of the notice of first violation. Such request must be in writing and mailed by certified mail or delivered in person to the Department within 10 working days of receipt of the notice of ~~saida~~ second violation. Failure to request a hearing as required by this Section will result in the contractor or subcontractor, its directors, officers, agents, representatives or other controlling persons acting through or on their behalf from being awarded any contracts for public works for four years.
- b) Hearings shall be conducted pursuant to the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).~~Initiation: A hearing shall be initiated by the issuance by the Director of Labor or his/her authorized representative of a Written Notice of Hearing.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.28 Two Year Debarments**

The two year debarment period in a two year period applies in the following circumstances:

- a) If the First Notice of Violation occurs prior to January 1, 2006 and the Second Notice of Violation occurs after January 1, 2006.
- b) If the First Notice of Violation and the Second Notice of Violation occur prior to January 1, 2006.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.30 Notice of Hearing (Repealed)**

- a) ~~Contents: A Notice of Hearing served under subsection (b) of Section 100.26 shall include:~~
- 1) ~~The time, place, date and nature of the hearing;~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- ~~2) The legal authority and jurisdiction under which the hearing is to be held;~~
  - ~~3) A reference of the particular section of statutes and rules involved;~~
  - ~~4) A short and plain statement of the matters asserted; and~~
  - ~~5) A designation of a Hearing Examiner to preside over the hearing and the address of the Hearing Examiner.~~
- b) ~~Service of the Notice of Hearing: Service shall be complete when the Notice of Hearing is served~~
- ~~1) in person or;~~
  - ~~2) deposited in the United States Mail, registered or certified, postage prepaid, addressed to the last known address of the person(s), partnership(s), association(s), or corporation(s) involved not less than fourteen (14) days before the day designated for the hearing.~~
- e) ~~Referral of Hearing Examiner: A copy of a notice of hearing issued pursuant to subsection (b) of Section 100.26 shall be referred to the Hearing Examiner.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.40 Intervention (Repealed)**

- a) ~~Not later than fourteen (14) days prior to hearing, the Hearing Examiner shall permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when either of the following is met:~~
  - ~~1) When the party may be adversely affected by a final order arising from the hearing; or~~
  - ~~2) When the intervenor and hearing proceeding have a question of law or fact in common.~~
- b) ~~Two copies of a petition for intervention shall be filed with the Director of Labor and one copy shall be filed with the Hearing Examiner, and one copy served on each party, no later than 48 hours prior to the date set for hearing of the matters~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~set forth in the Notice of Hearing. The Hearing Examiner shall permit later intervention when there is good cause shown for the delay. (For purposes of this Part good cause shall be shown by, but not limited to, the failure of a party to receive notice of the hearing; the inability of a party or intervenor to produce a material witness or relevant evidence; the illness or death of a party, intervenor, or counsel; the sudden and unexpected unavailability of counsel; substitution of counsel; or other similar reasons.)~~

- e) ~~An intervenor shall have all the rights of an original party, except that the Hearing Examiner shall, in his/her order allowing intervention, provide that the party not raise issues which might more properly have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.50 Postponement or Continuance of Hearing (Repealed)**

~~A hearing shall be postponed or continued for good cause by the Hearing Examiner upon his/her own motion or upon motion of a party to the hearing; such motion of the party shall set forth facts attesting that the request for continuance is not for the purposes of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing not less than three days in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponement or continuances.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.60 Hearing Examiner; Power and Duties (Repealed)**

- a) ~~Powers: A Hearing Examiner designated to preside over a hearing shall have all powers necessary and appropriate to conduct a fair, full and impartial hearing, including the following:~~
- ~~1) To administer oaths and affirmations;~~
  - ~~2) To rule upon offers of proof and receive relevant evidence;~~
  - ~~3) To exercise the power of the Director and issue subpoenas under any statute;~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 4) ~~To provide for discovery and to determine its scope;~~
  - 5) ~~To regulate the course of the hearing and the conduct of the parties and their counsel;~~
  - 6) ~~To consider and rule upon procedural requests;~~
  - 7) ~~To hold conferences for the settlement or simplification of the issues;~~
  - 8) ~~To examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetition or cumulative testimony and set reasonable limits on the amount of time each witness may testify;~~
  - 9) ~~To make or cause to be made an inspection of the employment or place of employment involved;~~
  - 10) ~~To make decisions in accordance with the Illinois Prevailing Wage Act, this Part, and the Illinois Administrative Procedure Act [5 ILCS 100].~~
- b) ~~Ex Parte Consultations: Except in the disposition of matters which are authorized by law to be entertained or disposed of on an ex parte basis, no agency member, or employee or Hearing Examiner shall, after notice of hearing pursuant to this Part, communicate directly or indirectly in connection with any issue of fact with any person or party or in connection with any other issue with any party or his representative except upon notice and opportunity for all parties to participate. However, an agency member may communicate with other members of the agency, and an agency member or Hearing Examiner may have the aid and advice of one or more personal assistants.~~
- e) ~~Disqualification:~~
- 1) ~~When a Hearing Examiner deems himself/herself unqualified to preside over a particular hearing, he/she shall withdraw from the hearing by notice on the record directed to the Director of Labor.~~
  - 2) ~~Any party who deems a Hearing Examiner, for any reason, to be unqualified to preside or to continue to preside over a particular hearing may file with the Director of Labor a motion to disqualify and remove the Hearing Examiner; and such motion to be supported by affidavits setting forth the alleged grounds for disqualification. The Director of Labor shall~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~rule on the motion.~~

- d) ~~Contumacious Conduct—Failure of or Refusal to Appear or Obey the Rulings of a Presiding Hearing Examiner:~~
- 1) ~~Contumacious conduct at any hearing before the Hearing Examiner shall be grounds for sanctions to be imposed by the Hearing Examiner.~~
  - 2) ~~If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or permit discovery, the Hearing Examiner shall render a decision based upon the information available.~~
- e) ~~Referral to Illinois Supreme Court Rules:—On any procedural question not regulated by this Part, the Illinois Prevailing Wage Act and the Illinois Administrative Procedure Act, a Hearing Examiner may be guided to the extent practicable by any pertinent provisions of the Illinois Supreme Court Rules.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.70 Pre-Hearing Conference (Repealed)**

- a) ~~Convening a Conference:—Upon his/her own motion or the motion of a party, the Hearing Examiner shall direct the parties or their counsel to meet with him/her for a conference to consider:~~
- 1) ~~Simplification of the issues;~~
  - 2) ~~Necessity or desirability of amendment to documents for purposes of clarification, simplification or limitation;~~
  - 3) ~~Stipulations, admissions of fact and of contents and authenticity of documents;~~
  - 4) ~~Limitation of the number of witnesses;~~
  - 5) ~~Propriety of prior mutual exchange between and among the parties who have prepared testimony or exhibits; and~~
  - 6) ~~Such other matters as may tend to expedite the disposition of the~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~proceedings and to assure a just conclusion thereof.~~

- b) ~~Record of Conference: The Hearing Examiner shall make an order which recites the action taken at the conference, the amendments allowed to any documents which have been filed, and the agreements made between the parties as to any of the matters reconsidered, and which limits the issues for hearings to those not disposed of by admissions or agreements and such other order, when entered, controls subsequent course of the hearing unless modified at the hearing to prevent manifest injustice.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.80 Consent Findings and Rules or Orders (Repealed)**

- a) ~~General: At any time before the receipt of evidence in any hearing or during any hearing, reasonable opportunity may be afforded to permit negotiations by the parties. An agreement containing consent findings and a rule or order disposing of the whole or any part of the proceedings shall be prepared by Hearing Examiner. The allowance of such opportunity and the duration thereof shall be in the discretion of the presiding Hearing Examiner after consideration of the nature of the proceedings, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.~~
- b) ~~Contents: Any agreement containing consent findings and rule of orders disposing of a proceeding shall also provide:~~
- ~~1) That the rule of order shall have the same force and effect as if made after a full hearing;~~
  - ~~2) That the entire record on which any rule or order may be based shall consist solely of the application of complaint and the agreement;~~
  - ~~3) A waiver of any further procedural steps before the Hearing Examiner for the Director of Labor; and~~
  - ~~4) Waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.~~
- e) ~~Submissions: On or before the expiration of the time granted for negotiations, the~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~parties or their counsel may:~~

- ~~1) Submit the proposed agreement to the presiding Hearing Examiner for his/her consideration; or~~
  - ~~2) Inform the presiding Hearing Examiner that agreement cannot be reached.~~
- ~~d) Disposition: In the event that an agreement contains consent findings and rule or order is submitted in the time allowed therefore, the presiding Hearing Examiner shall accept such agreement by issuing his/her decision based upon the agreed findings.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.90 Discovery (Repealed)**

- ~~a) Depositions: For reasons of unavailability or for other good cause shown, the testimony of any witness may be taken by deposition. Deposition may be taken orally or upon written interrogatories before any person designated by the presiding Hearing Examiner and having power to administer oaths.~~
- ~~b) Application: Any party desiring to take the deposition of a witness may make application in writing to the presiding Hearing Examiner, setting forth:
  - ~~1) The reasons why such deposition should be taken;~~
  - ~~2) The date, time, place and the name and post office address of the person before whom the deposition is to be taken;~~
  - ~~3) The name and address of each witness; and~~
  - ~~4) The subject matter concerning which each witness is expected to testify.~~~~
- ~~e) Notice: Such written notice as the presiding Hearing Examiner may order shall be given by the party taking the deposition to every other party, and shall be postmarked no later than fourteen (14) days prior to taking depositions.~~
- ~~d) Other Discovery: Whenever appropriate to a just disposition of any issue in a hearing, the presiding Hearing Examiner may allow discovery by any other appropriate procedure, such as by written interrogatories upon a party, production~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~of documents by a party, or by entry for inspection of the employment or place of employment involved.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.100 Hearing (Repealed)**

- a) ~~Nature: All hearings shall be public.~~
- b) ~~Order of Proceeding: The following shall be the order of proceeding of all hearings, subject to modification by the presiding Hearing Examiner for good cause.~~
  - 1) ~~Reading Notice of Hearing by Hearing Examiner.~~
  - 2) ~~Presentation, argument and disposition of motions preliminary to a hearing or the merits of the matters raised in the notice or answer.~~
  - 3) ~~Offer of proof by respondent in response to the complaint of alleged violation.~~
- e) ~~Burden of Proof: The Department of Labor shall have the burden of proof. The standard of proof shall be a preponderance of the evidence.~~
- d) ~~Default: Failure of a party to appear on the date set for hearing or failure to proceed as ordered by the Hearing Examiner shall constitute a default. The Hearing Examiner shall thereupon enter such findings, opinions and order as is appropriate under the pleadings and such evidence as he/she shall receive into the record.~~
- e) Evidence
  - 1) ~~Admissibility: A party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but a presiding Hearing Examiner shall exclude evidence which is irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under such rules of evidence may be~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, a Hearing Examiner shall allow evidence to be received in written form.~~

- ~~2) Testimony of Witnesses: The testimony of a witness shall be under oath or affirmation administered by the presiding Hearing Examiner.~~
- f) ~~Transcript: Oral proceedings or any part thereof shall be recorded by a certified court reporter or by a mechanical recording device. The only Certified Record shall be the record kept by the Department of Labor. Such records shall be transcribed:
  - 1) ~~upon written application filed with the Hearing Examiner or by instructions from the Hearing Examiner, the Department of Labor shall cause a record of the proceeding to be transcribed.~~
  - 2) ~~upon receipt of summons in Administrative Review or Order of court. Any recording or transcription will be retained through and including the time allotted for appeal, revision, re-hearing, or other manner of review, prior to final disposition as provided for by the Director of Labor or law.~~~~
- g) ~~Official Record: The official record of all hearings pursuant to this Part shall consist of the information enumerated in Section 10-35 of the Illinois Administrative Procedure Act, including:
  - 1) ~~The Request for Hearing;~~
  - 2) ~~The Notice of Hearing;~~
  - 3) ~~A transcript of the Hearing;~~
  - 4) ~~Hearing Examiner Findings of Fact, Conclusion of Law and Order.~~~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.110 Hearing Examiner's Decision (Repealed)**

~~Where authorized by Illinois Prevailing Wage Act or this Part to act as the personal~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~representative of the Director of Labor, the Hearing Examiner shall render a decision and issue an order upon consideration of the record as a whole or such portion thereof as may be supported by competent, material and substantial evidence. The decision in the case will be the decision for and of the Director of Labor and shall become effective immediately upon the execution of the Order by the Hearing Examiner or as otherwise specified within the order or an applicable statute. A copy of the order shall be delivered or mailed to each party and to each attorney of record, postage prepaid, certified or registered, addressed to the last known address of the party or attorney.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.120 Judicial Review (Repealed)**

- a) ~~If the proceedings to review judicially the final determination of the Department of Labor are not instituted as provided in subsection (b), the determination shall be final and binding upon publication in the Illinois Register.~~
- b) ~~The provisions of the Administrative Review Law [735 ILCS 5/Art. III], and all amendments and modifications, shall apply to and govern all proceedings for the judicial review of final "administrative decisions" of the Department of Labor. The term administrative decision is defined as in Section 3-101 of the Administrative Review Law.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Rules of Procedure in Administrative Hearings
- 2) Code Citation: 56 Ill. Adm. Code 120
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.100	Amend
120.110	Amend
120.115	New
120.130	Amend
120.140	Amend
120.150	Amend
120.160	Amend
120.200	Amend
120.210	Amend
120.220	Amend
120.300	Amend
120.310	Amend
120.320	Amend
120.330	Amend
120.400	Amend
120.410	Amend
120.510	Amend
120.520	Amend
120.530	Amend
120.540	Amend
120.545	New
120.550	Amend
120.560	Amend
120.570	Repeal
120.580	Repeal
120.600	Amend
120.610	Amend
120.630	Repeal
120.640	Amend
120.650	Amend
120.670	New
- 4) Statutory Authority: 5 ILCS 10/Art. 10

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking is being implemented in order to clarify provisions of the Department's formal hearing rules. The proposed rules eliminate the requirement that documents be filed with the Office of Administrative Hearings, amend document filing requirements, add a provision for emergency motions, provide an additional method for service of documents, clarify how service of summons can be made, clarify the elements necessary for intervention, provide that all hearings are subject to the Illinois Rules of Evidence, simplify the format for an Administrative Law Judge's final administrative decision and add a provision for judicial review. The rules also make technical non-substantive changes to be consistent with agency practice.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporation 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 create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this Notice, to:

Valerie A. Puccini  
Assistant General Counsel  
Illinois Department of Labor  
160 N. LaSalle Street, 13<sup>th</sup> Floor  
Chicago, IL 60601

(312) 793-7838  
Facsimile: (312) 793-5257

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Parties who are subject to administrative proceedings before the agency are affected.

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: The changes were not anticipated at the time of filing the most recent agenda.

The full text of the Proposed Amendmens is found at page:

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER a: GENERAL ADMINISTRATIVE RULES

PART 120  
RULES OF PROCEDURE IN ADMINISTRATIVE HEARINGS

SUBPART A: GENERAL PROVISIONS

Section	
120.100	Applicability
120.110	Definitions
<a href="#">120.115</a>	<a href="#">Non-Applicability of the Rules</a>
120.120	Burden and Standard of Proof
120.130	Filing
120.140	Form of Papers Filed
120.150	Computation of Time
120.160	Referral to Illinois Supreme Court Rules and Code of Civil Procedure

SUBPART B: NOTICE OF HEARING, SERVICE AND APPEARANCE

Section	
120.200	Notice of Hearing
120.210	Manner of Service
120.220	Appearance

SUBPART C: MOTION, JOINDER AND INTERVENTION

Section	
120.300	Answer and Motion
120.310	Consolidation and Severance of Matters
120.320	Intervention
120.330	Postponement or Continuance of Hearing

SUBPART D: PREHEARING CONFERENCES, DISCOVERY AND SUBPOENAS

Section	
120.400	Prehearing Conferences
120.410	Discovery
120.420	Subpoenas

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART E: CONDUCT OF HEARINGS AND RULES OF EVIDENCE

Section	
120.500	Authority of Administrative Law Judge
120.510	Ex Parte Communications
120.520	Disqualification of Administrative Law Judge
120.530	Contumacious Conduct
120.540	Consent <del>Decree</del> <a href="#">Findings and Rules or Orders</a>
<a href="#">120.545</a>	<a href="#">Settlement Agreements</a>
120.550	Conduct of Hearings
120.560	Rules of Evidence
120.570	Official Notice <del>(Repealed)</del>
120.580	Hostile or Adverse Witnesses <del>(Repealed)</del>

## SUBPART F: POST-HEARING PROCEDURES

Section	
120.600	Default
<a href="#">120.610</a>	<del>Official</del> Record <a href="#">in Contested Cases</a>
120.620	Briefs
120.630	Administrative Law Judge's Findings and Opinions <del>(Repealed)</del>
120.640	Administrative Law Judge's Decision <a href="#">and Order</a>
120.650	Administrative Law Judge's Recommendations
120.660	Order of the Director
<a href="#">120.670</a>	<a href="#">Judicial Review</a>

AUTHORITY: Implementing and authorized by Article 10 of the Illinois Administrative Procedure Act [5 ILCS 10/Art. 10].

SOURCE: Adopted at 25 Ill. Reg. 899, effective January 5, 2001; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 120.100 Applicability**

This Part shall apply to all administrative hearings concerning contested cases conducted under the jurisdiction of the Director of Labor and/or the Department of Labor, ~~except for debarment proceedings conducted under Section 11a of the Prevailing Wage Act [820 ILCS 130/11a]~~ and

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~56 Ill. Adm. Code 100.~~

**Section 120.110 Definitions**

"Administrative Law Judge" means an attorney, licensed to practice law in the State of Illinois, presiding over an administrative hearing convened under this Part.

"Contested case" means *an adjudicatory proceeding (not including ratemaking, rulemaking, or quasi-legislative, informational, or similar proceedings) in which the individual legal rights, duties, or privileges of a party are required by law to be determined by an agency only after an opportunity for a hearing.* [5 ILCS 100/1-30]

"Day" means a ~~business calendar~~ day.

"Department" means the Department of Labor.

"Director" means the Director of the Department of Labor or the Director's designee.

"Document" means pleading, notice, motion, affidavit, memorandum, brief, petition, or other paper or combination of papers required or permitted to be filed.

"Evidence" means those matters considered evidence under the Illinois Rules of Evidence a paper, drawing, map, chart, report, study, or other tangible thing produced and submitted at a hearing, or testimony received at hearing.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Party" means *each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.* [5 ILCS 100/1-55]

"Person" means any individual, partnership, corporation, limited liability company, association, governmental subdivision, or public or private organization of any character other than an agency.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.115 Non-Applicability of the Rules**

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

If a party fails to obtain or renew the registration, license or certification the party is required to obtain under the statutory framework the Director is required to enforce, the Director may issue a cease and desist order and seek judicial enforcement of the order through referral of the matter to the Attorney General.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.130 Filing**

- a) Documents and requests permitted or required to be filed with the Director or the Department in connection with a hearing shall be addressed and mailed or delivered to ~~the Office of Administrative Hearings, at~~ the Department's Chicago office. Filing, inspection, and copying of documents may be done at the Department in the Office of Administrative Hearings from 8:30 a.m. to 4:30 p.m. Monday through Friday, except for national and State legal holidays. The Department's Chicago office is open from 8:30 a.m. to 5:00 p.m. Monday through Friday, except for national and State legal holidays. Documents may also be inspected or copied at the Department's Springfield office by requesting of the ~~Department Office of Administrative Hearings~~ that those documents be transmitted by E-mail or fax to the Springfield office for that purpose, with the costs of transmission to be borne by the party transmitting the documents. Copying costs at the rate of 30 cents per page will be borne by the party requesting the copies of documents from the case file and/or copying to be borne by the requesting party.
- b) Filings received after 4:30 p.m. will be date-stamped the following business day.
- c) Documents may be filed with the ~~Department Office of Administrative Hearings~~ by certified, registered, or First Class mail, by messenger service, or personally at the Department's Chicago office. Filing by electronic transmission, such as telefax machine or computer modem, will not be accepted, except when specifically requested or ordered by the Administrative Law Judge.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.140 Form of Papers Filed**

- a) A document~~Documents~~ shall clearly show the title of the subject proceedings, nature of the document (i.e., motion, petition), the relevant statute that relates to

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

the proceeding, the case number and the Administrative Law Judge who is hearing the matter;

~~b) Except as otherwise provided, the original and one copy of all documents, including notices, motions, and petitions, shall be filed with the Office of Administrative Hearings.~~

be) Documents shall be typewritten or reproduced from typewritten copy on letter size white paper;

~~c~~d) Exhibits, where possible, shall be reduced to conform to the size requirements of subsection (c). A party is not prohibited from enlarging an exhibit at hearing for demonstrative purposes as long as the exhibit is reduced to the size requirement in subsection (c) for the record~~However, one non-conforming copy may be filed with the Office of Administrative Hearings;~~ and

de) One copy of each document filed shall be signed by the party or by its authorized representative or attorney. All documents shall bear the business address, fax number, if any, and ~~and~~ telephone number of the attorney filing the document, or of the party who appears on his or her own behalf.

e) Manner of service of all papers filed shall be in conformity with Section 120.210.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.150 Computation of Time**

Computation of any period of time prescribed by this Part shall begin with the first business day following the date of filing of the document with the ~~Department~~Office of Administrative Hearings and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday, or legal holiday. Notice and filing requirements shall be construed to mean notice and filing received by 4:30 p.m. Monday through Friday. Proof ~~that of~~ a notice ~~of~~ filing together with a copy of the document filed shall be served on all parties entitled to notice and the notice shall contain a certification by a person who sends the notice with a copy of the document filed describing how service was made~~was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that the notice or filing was timely received.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

**Section 120.160 Referral to Illinois Supreme Court Rules and Code of Civil Procedure**

An Administrative Law Judge ~~shall~~may be guided to the extent practicable by any pertinent provisions of the Illinois Supreme Court Rules and the Code of Civil Procedure [735 ILCS 5], regarding any procedural question not regulated by this Part, the appropriate Act and the IAPA.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: NOTICE OF HEARING, SERVICE AND APPEARANCE

**Section 120.200 Notice of Hearing**

- a) All hearings shall be initiated by the Director's issuance, upon written request or upon the Director's own motion, of a written Notice of Hearing, which shall be served upon all known parties to the hearing. Hearings under the Child Labor Law [820 ILCS 205] shall take priority over all other hearings.
- b) Service shall be complete when the Notice of Hearing is served:
  - 1) in accordance with how a summons is served on a person in the Civil Practice Act in-person; or
  - 2) by certified United States Mail, postage prepaid, addressed to the last known address of the person involved not less than 15 days before the day designated for the hearing; or-
  - 3) by U.S. mail, postage prepaid, to the address on file with the Department.
- c) A Notice of Hearing served under this Part shall include:
  - 1) The time, place and nature of the hearing;
  - 2) The legal authority and jurisdiction under which the hearing is to be held;
  - 3) A reference to the particular Section of the statutes and rules involved;
  - 4) A short and plain statement of the matters asserted, except where a more detailed statement is otherwise provided for by law; and
  - 5) A designation of an Administrative Law Judge to preside over the hearing

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

and the address of the Administrative Law Judge.

- d) A copy of a Notice of Hearing served pursuant to this Part shall be referred to the Administrative Law Judge designated in the Notice, together with the original complaint, application or report and any written request for a hearing filed pursuant to this Part.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.210 Manner of Service**

Service of any document upon any ~~person~~party may be made by personal delivery ~~or by~~ registered or certified mail with return receipt signed by the ~~person~~party or its registered agent, ~~or by U.S. regular mail, postage prepaid~~. Proof of service shall be made by affidavit of the person making personal service, or by a properly executed registered or certified mail receipt.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.220 Appearance**

- a) Any person entitled to ~~participate~~participation in proceedings may appear as follows:
- 1) A natural person may appear on his or her own behalf or by an attorney at law licensed and registered to practice in the State of Illinois.
  - 2) A corporation may appear through any officer ~~designated or authorized to act on behalf of the corporation~~, employee, or representative, or by an attorney at law licensed and registered to practice in the State of Illinois.
  - 3) Any other person, including the State of Illinois, ~~its agencies~~ and all political subdivisions, may appear through any officer, employee, or representative, or by an attorney licensed and registered to practice in the State of Illinois.
- b) Attorneys not licensed and registered to practice in the State of Illinois may request to appear on a particular matter by filing a motion ~~pro hac vice~~ with the Administrative Law Judge.
- c) An attorney appearing in a representative capacity shall file a separate written

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

notice of appearance with the Administrative Law Judge, together with proof of service and notice of filing on all parties. [The appearance shall contain the name of the party or parties, the attorney representatives, the attorney's business address, telephone number, fax number and ARDC number if licensed in the State of Illinois.](#)

- d) An attorney who has appeared in a representative capacity and who wishes to withdraw from that representation shall file a notice of withdrawal with the Administrative Law Judge, together with proof of service and notice of filing on all parties.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: MOTION, JOINDER AND INTERVENTION

**Section 120.300 Answer and Motion**

- a) Any party receiving a Notice of Hearing may file a written answer not later than 7 days [after receiving the notice of hearing prior to the date of the hearing](#). All answers or motions preliminary to a hearing shall be presented to the Administrative Law Judge in accordance with Section 120.130 of this Part at least 7 days prior to the date of the hearing. Failure to file an answer shall be deemed a general denial of matters asserted [and waiver of all affirmative defenses](#).
- b) Unless made orally on the record during a hearing, or unless the Administrative Law Judge directs otherwise, a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon and, when appropriate, by a proposed order. At least 2 copies of all motions shall be filed with ~~the Office of Administrative Hearings and one copy with~~ the Administrative Law Judge, and at least one copy served on each additional party, if any, to the hearing.
- c) Within 7 days after service of a written motion [or other document](#), or other period as the Administrative Law Judge may ~~require~~[prescribe](#), a party may file a response in support of or in opposition to the motion [and if necessary](#), accompanied by affidavits or other evidence. [A party has the right to request the Administrative Law Judge for leave to file a response to a motion.](#)
- d) No oral argument will be heard on a motion unless the Administrative Law Judge directs otherwise. A written brief may be filed with a motion or an answer to a

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

motion, stating the arguments and authorities relied upon. The brief will be no longer than 15 pages in length unless prior to the filing date leave is granted to file a brief greater than 15 pages.

- e) A written motion will be disposed of by written order and on notice of all parties.
- f) The Administrative Law Judge shall rule upon all motions, except that he or she shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.
- g) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.
- h) A party may participate in the proceeding without forfeiting any jurisdictional objection, if such objection is made within 10 days after the receipt of the notice of hearing. Any party may file a response to the objection within 10 days after service is raised at or before the time the party files his answer or motion, or, if no answer or motion is made, before the commencement of the hearing.
- i) A party has a right to file an emergency motion setting forth why an emergency exists and the Administrative Law Judge can deny the emergency motion solely on the basis that the motion did not demonstrate that an emergency exists.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.310 Consolidation and Severance of Matters**

In the interest of convenient, expeditious and complete determination of matters, the Administrative Law Judge may consolidate or sever hearing proceedings involving any number or parties or issues, and may join or sever ~~order additional~~ parties for the complete administration of justice to be brought in.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.320 Intervention**

- a) Upon timely written application, the Administrative Law Judge may in his or her discretion permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when:

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 1) The party is so situated that he or she may be adversely affected by a final order arising from the hearing; ~~or~~
  - 2) ~~The party requesting intervention is a necessary party to the hearing proceeding. A party's circumstances and the hearing proceeding have a question of law or fact in common.~~
- b) Two copies of a petition for intervention shall be filed with ~~the Office of Administrative Hearings and one copy shall be filed with~~ the Administrative Law Judge, and one copy served on each party. The Administrative Law Judge will determine whether a party is necessary and shall consider whether the necessary party intervention will unduly delay or prejudice the adjudication of the rights of the original parties.
  - c) An intervenor shall have all the rights of an original party subject to the order of the Administrative Law Judge, except that the Administrative Law Judge may, in his or her ~~order~~Order allowing intervention, provide that the party shall not raise issues that might more properly have been raised at an earlier stage of the proceeding, that the party shall not raise new issues or add new parties, or that in other respects the party shall not interfere with the conduct of the hearing, as justice and the avoidance of undue delay may require.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.330 Postponement or Continuance of Hearing**

A hearing may be postponed or continued for due cause by the Administrative Law Judge upon his or her own motion or upon the motion of a party to the hearing. A motion by a party shall set forth facts ~~demonstrating~~attesting that the request for continuance is not for the purposes of delay. Examples of due cause include the unavailability of the Administrative Law Judge, a witness or a party due to an accident, illness or other circumstances beyond the person's control. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**SUBPART D: PREHEARING CONFERENCES, DISCOVERY AND SUBPOENAS**

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

**Section 120.400 Prehearing Conferences**

- a) Upon the Administrative Law Judge's own motion or the motion of a party, the Administrative Law Judge may direct the parties or their counsel to meet with the Administrative Law Judge for a conference to consider:
- 1) Simplification of the issues;
  - 2) Necessity or desirability of amending documents for purposes of clarification, simplification or limitation;
  - 3) Stipulations and admissions of fact and of contents and authenticity of documents;
  - 4) Limitation of the number of witnesses;
  - 5) Propriety of prior mutual exchange between and among the parties who have prepared testimony or exhibits; and
  - 6) Such other matters as may tend to expedite the disposition of the proceedings and to assure a just conclusion.

b) After the prehearing conference, the results of the prehearing conference will be set out in the transcript of proceeding. All parties are permitted to voice any objections to a prehearing order in the transcript of proceeding or in writing by a time certain set by the Administrative Law Judge. A party's failure to object will constitute a waiver of objection to the prehearing order or any part of that order.

cb) The Administrative Law Judge shall make an order that recites the action taken at the conference, the amendments allowed to any pleadingsdocuments that have been filed, and the agreements made between the parties as to any of the matters considered and that limits the issues for hearings to those not disposed of by admissions or agreements. The order, when entered, controls the subsequent course of the hearing unless modified at the hearing to prevent manifest injustice.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.410 Discovery**

- a) For reasons of unavailability or for other good cause shown, the testimony of any

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

witness may be taken by deposition. Deposition may be taken in accordance with the Illinois Supreme Court Rules except there will be no distinction between discovery deposition and evidence deposition orally or upon written interrogatories before any person designated by the presiding Administrative Law Judge and having power to administer oaths.

- b) Unless the prehearing conference order permits the taking of depositions, anyAny party desiring to take the deposition of a witness may file a motion make applicationin writing to the presiding Administrative Law Judge, setting forth:
- 1) The reasons why the deposition should be taken;
  - 2) The time when, the place where, and the name and post office address of the person before whom the deposition is to be taken;
  - 3) The name and address of each witness; and
  - 4) The subject matter concerning which each witness is expected to testify.
- c) All parties shall receive appropriate notice of the taking of the deposition as determined by the Administrative Law JudgeAny notice the presiding Administrative Law Judge may order shall be given by the party taking the deposition to every other party.
- d) Each witness testifying upon deposition shall be sworn, and the parties not calling the witness shall have the right to cross examine the witness. The questions and answers, together with all objections made, shall be reduced to writing, read to the witness, subscribed by him or her, and certified by the officer before whom the deposition is taken. Thereafter, the officer shall seal the deposition, with 2 copies, in an envelope and mail the envelope by registered mail to the presiding Administrative Law Judge. Subject to objections to the questions and answers noted at the time of taking, the deposition may be read and offered in evidence by the party taking it as against any party who was present, was represented at the taking of the deposition, or had due notice of the taking of the deposition. Each deposition of a witness shall be transcribed. The witness shall be questioned in accordance with the Civil Practice Act and Rules of Illinois Supreme Court except all objections as to form and substance of question must be made during the deposition. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for taking of the deposition in the first instance exist at the time of the hearing.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- e) ~~In the discretion of the Administrative Law Judge, he or she may permit, under terms that seem just and equitable, discovery that is permitted by Illinois Supreme Court Rules. Whenever appropriate to a just disposition of any issue in a hearing, the presiding Administrative Law Judge may allow discovery by any other appropriate procedure, such as by written interrogatories upon a party, production of documents by a party, or entry for inspection of the employment or place of employment involved.~~
- f) ~~Upon application of any party, the Administrative Law Judge may enter a protective order as permitted by Supreme Court Rule 201. The Administrative Law Judge may at any time on his or her own initiative, or on motion of any party or witness, make a protective order as justice requires denying, limiting, conditioning or regulating discovery to prevent unreasonable delay, expense, harassment, or oppression, or to protect trade secrets or confidential information.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART E: CONDUCT OF HEARINGS AND RULES OF EVIDENCE

**Section 120.510 Ex Parte Communications**

- a) No party may engage in any ex parte communication with an Administrative Law Judge or with any member of the Department regarding matters pending before an Administrative Law Judge ~~or the Director.~~
- b) The Administrative Law Judge shall not initiate ex parte communications, directly or indirectly, in any matter in connection with any substantive issue, with any interested person or party. If the Administrative Law Judge receives any such ex parte communication, including any documents, he or she shall inform the other parties of the substance of any such oral communication or documents. The other parties shall be given an opportunity to review any such ex parte communication.
- c) Nothing shall prevent the Administrative Law Judge from communicating ex parte about routine matters such as requests for continuances or opportunities to inspect the file, as long as all parties are informed of the substance of the ex parte communication. The date and type of communication, the persons involved and the results of such routine communications shall be part of the record. A member of the Department may communicate with other members of the Department and a Department member or Administrative Law Judge may have the aid and advice

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

of one or more personal assistants.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.520 Disqualification of Administrative Law Judge**

At any time prior to the issuance of the Administrative Law Judge's decision or recommendations, a party may move to disqualify the Administrative Law Judge on the grounds of bias or conflict of interest. The motion shall be made in writing to the General Counsel~~Director~~, with a copy to the Director and the Administrative Law Judge, setting out the specific instances of bias or conflict of interest. The General Counsel will assign the matter to a neutral Administrative Law Judge for a determination. An adverse decision or ruling, in and of itself, is not grounds for disqualification. The Administrative Law Judge's employment or contract as an Administrative Law Judge by the Department is not, in and of itself, a conflict of interest. The case shall be suspended until the neutral Administrative Law Judge~~Director~~ rules on the motion. The neutral Administrative Law Judge~~Director~~ may decline to disqualify the presiding Administrative Law Judge or appoint another Administrative Law Judge to hear the case.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.530 Contumacious Conduct**

- a) Contumacious conduct at any hearing before the Administrative Law Judge shall be grounds for exclusion from the hearing.
- b) If a witness or a party refuses to answer a question after being directed to do so or refuses to obey an order to provide or permit discovery, the Administrative Law Judge may make such orders with regard to the refusal as are just and appropriate, including but not limited to, excluding the testimony of witnesses, entering an order of default, entering an order that certain facts are deemed admitted for purpose of the proceeding, or entering an order denying the application or complaint of a party ~~or regulating the contents of the record of the hearing.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.540 Consent ~~Decree~~Findings and Rules or Orders**

a) If the parties to the proceeding resolve, settle or compromise their dispute and as part of the settlement agreement and the parties desire the Administrative Law Judge to enter a consent

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~decree in order to resolve the matter, the Administrative Law Judge shall enter the Consent Decree as long as the proposed Consent Decree does not violate the statute or regulations promulgated thereunder. At any time before the reception of evidence in any hearing or during any hearing, a reasonable opportunity may be afforded to permit negotiations by the parties or an agreement containing consent findings and a rule or order disposing of the whole or any part of the proceedings. The allowance or duration of the opportunity shall be in the discretion of the presiding Administrative Law Judge after consideration of the nature of the proceedings, the requirements of the public interest, the representations of the parties, and the probability of an agreement that will result in a just disposition of the issues involved.~~

- ~~b) Any agreement containing consent findings and rules or orders disposing of a proceeding shall also provide:~~
- ~~1) That the rule or order shall have the same force and effect as if made after a full hearing;~~
  - ~~2) That the entire record on which any rule or order may be based shall consist solely of the application or complaint and the agreement;~~
  - ~~3) A waiver of any further procedural steps before the presiding Administrative Law Judge; and~~
  - ~~4) Waiver of any right to challenge or contest the validity of the findings and of the rule or order made in accordance with the agreement.~~
- ~~c) On or before the expiration of the time granted for negotiations, the parties or their counsel may:~~
- ~~1) Submit the proposed agreement to the presiding Administrative Law Judge for consideration; or~~
  - ~~2) Inform the presiding Administrative Law Judge that agreement cannot be reached.~~
- ~~d) In the event that an agreement containing consent findings and rule or order is submitted in the time allowed, the presiding Administrative Law Judge may accept the agreement by issuing a decision based upon the agreed findings.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

**Section 120.545 Settlement Agreements**

The Administrative Law Judge has no authority to change, amend or modify the Settlement Agreement of the parties to the proceeding.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.550 Conduct of Hearings**

- a) All hearings shall be public unless required by statute to be otherwise.
- b) The following shall be the order of proceeding of all hearings, subject to modification by the presiding Administrative Law Judge for good cause:
  - 1) Presentation, argument and disposition of motions preliminary to a hearing on the merits of the matters raised in the notice or answer;
  - 2) Presentation of applicant's or complainant's opening statement;
  - 3) Presentation of objector's or respondent's opening statement;
  - 4) Applicant's or complainant's case;
  - 54) Objector's or respondent's case;
  - 65) Applicant's or complainant's case in rebuttal;
  - 76) Objector's or complainant's closing statement;
  - 87) Applicant's or respondent's closing statement;
  - 98) Set dates for any and all motions, written briefs, findings of fact and conclusions of law~~Presentation and argument of all motions prior to final order;~~
  - 109) Presentation of written brief or proposed findings of fact, conclusions of law and order ~~if required or allowed by the presiding Administrative Law Judge;~~ and
  - 1140) The filing~~Filing~~ of the decision of~~findings of fact and conclusions of law~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~and recommendations of~~ the Administrative Law Judge.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.560 Rules of Evidence**

The Illinois Rules of Evidence shall apply unless by such application the Administrative Law Judge determines that application of any such rule would be an injustice. The Administrative Law Judge must state on the record his or her reasons for that determination.

- a) ~~A party shall be entitled to present his or her case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received but a presiding Administrative Law Judge may exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privileges applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced, an Administrative Law Judge may allow evidence to be received in written form.~~
- b) ~~The testimony of a witness shall be under oath or affirmation administered by the presiding Administrative Law Judge.~~
- c) ~~If a party objects to the admission or rejection of any evidence or to the limitation to the scope of any examination or cross-examination, or to the failure to limit such scope, he shall state briefly the grounds for the objection. Rulings on all objections shall appear in the record. When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the Administrative Law Judge shall admit the evidence subject to the right of the Administrative Law Judge to strike the evidence from the record either during the hearing or as a part of his or her findings of fact and conclusions of law if he or she should determine that it was improperly admitted. In this case, it shall not be considered in making findings of fact, conclusions of law and recommendations.~~
- d) ~~Formal exception to an adverse ruling is not required.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

**Section 120.570 Official Notice (Repealed)**

~~Official notice may be taken of any material fact not appearing in evidence in the record if the Circuit Courts of this State could take judicial notice of the fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the facts noticed. The Department's expertise, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.580 Hostile or Adverse Witnesses (Repealed)**

- a) ~~If the Administrative Law Judge determines that a witness is hostile or unwilling or adverse, he or she may be examined by the party calling him or her as if under cross-examination.~~
- b) ~~The party calling an occurrence witness, upon the showing that he or she called the witness in good faith and is surprised by his or her testimony, may impeach the witness by proof of prior inconsistent statements.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: POST-HEARING PROCEDURES

**Section 120.600 Default**

Failure of a party to appear at the hearing or failure to proceed as ordered by the Administrative Law Judge shall constitute a default. The Administrative Law Judge shall enter the appropriate default order ~~thereupon enter findings, opinions and recommendations as are appropriate under the pleadings and evidence he or she shall receive into the record.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.610 ~~Official Record~~ in Contested Cases**

- a) A full and complete record shall be kept of all proceedings. The record shall

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

consist of the following:

- 1) All pleadings, including all notices and responses to those pleadings;
  - 2) A transcript of the hearing, if any, and all evidence received;
  - 3) A statement of matters officially noticed;
  - 4) Any offers of proof, objections and rulings on that proof;
  - 5) Any proposed findings and acceptance;
  - 6) Any decision, opinion or report by the Administrative Law Judge;
  - 7) All staff memoranda or data submitted to the Administrative Law Judge or members of the Department in connection with their consideration of the case; and
  - 8) Any ex parte communication prohibited by Section 10-60 of the IAPA [5 ILCS 100/10-60], but those communications shall not form the basis for any finding of fact.
- b) The record shall also contain the following:
- 1) Subpoenas;
  - 2) Requests for Subpoenas;
  - 3) Cover letters;
  - 4) Notices of Filing;
  - 5) Certificates of mailing for regular mail and return receipts for certified mail; and
  - 6) Discovery Requests.
- c) The Department shall be the official custodian of the records of administrative hearings held by the Department.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.630 Administrative Law Judge's Findings and Opinions (Repealed)**

~~The Administrative Law Judge's findings and opinions shall be in writing and shall include findings of fact and conclusions of law or opinions separately stated when possible. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a statement of the underlying supporting facts. Each conclusion of law shall be supported by authority or reasoned opinion.~~

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.640 Administrative Law Judge's Decision and Order**

~~The Administrative Law Judge's decision shall be in writing and when necessary include findings of fact and conclusions of law and opinions. The findings of fact shall be based exclusively on the evidence presented at hearing or known to all parties, including matters officially noticed. The~~Where authorized by statute or rule to act as the personal representative of the Director, the Administrative Law Judge shall, in addition to the decision, findings and opinions required by Section 120.630, render a decision and issue an appropriate order upon consideration of the record as a whole or such portion of the record as may be supported by competent, material and substantial evidence. The decision in the case will be the decision for and of the Director and shall become effective immediately upon the execution of the order by the Administrative Law Judge or as otherwise specified within the order or an applicable statute. A copy of the order shall be delivered or mailed to each party of record and to each attorney of record.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.650 Administrative Law Judge's Recommendations**

- a) Where the Director is required by law to be the sole, personal acting officer, the Administrative Law Judge shall, in lieu of decision and order under Section 120.640 ~~and in addition to the findings and opinions required by Section 120.630,~~ make recommendations by way of proposal for decision. The recommendations shall be made upon consideration of the record as a whole or portion of the record as may be supported by competent, material and substantial evidence.
- b) The Administrative Law Judge shall forward a copy of his or her proposed

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

findings of fact, opinions and recommendations to each party of record and each party of record shall be allowed 10 days in which to submit exceptions to the findings, opinions, and recommendations of the Administrative Law Judge and to present a brief to the Administrative Law Judge in support of those exceptions.

- c) The Administrative Law Judge shall then prepare and submit to the Director or his or her authorized representative a final set of findings, opinions and recommendations that, if a party submitted proposed findings of fact that might control the decision or order, shall include a ruling upon each proposed finding of fact together with the exceptions and briefs filed pursuant to this Section.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 120.670 Judicial Review**

- a) If a party seeks judicial review of an Administrative Law Judge's decision, that party will pay a certified check of \$500 made payable to the Illinois Department of Labor to reimburse the Illinois Department of Labor the cost of filing the Administrative Record in court.
- b) Actions for judicial review under this Section shall be filed where the hearing proceedings took place, which is either in the circuit court of Cook County or Sangamon County.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Six Day Week Law
- 2) Code Citation: 56 Ill. Adm. Code 220
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
220.100	Amend
220.105	Amend
220.125	Amend
220.135	Amend
220.145	Amend
220.305	Amend
220.315	New
220.320	New
220.325	New
220.400	Amend
220.405	New
220.800	Amend
220.805	New
220.810	New
220.900	Amend
220.905	Amend
220.910	Amend
220.915	Amend
220.920	Amend
220.925	Amend
220.930	Amend
220.935	New
220.940	New
220.1000	Amend
220.1100	Amend
220.1105	New
- 4) Statutory Authority: 820 ILCS 140
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking is being implemented in order to implement P.A. 94-0593, which provided hotel room attendants working in hotels located in a county with a population greater than 3,000,000, two 15- minute paid rest breaks and one 30-minute meal period in each workday in which the hotel room attendant works at least 7 hours. The rules also provide that employers

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

ensure that their premises have available a clean room with adequate seating and tables and free clean drinking water for room attendants. Employers are also required to  
NOTICE OF PROPOSED AMENDMENTS

maintain records of the rest breaks taken and paid and meal periods taken pursuant to P.A. 94-0593. Statutory citations have also been updated.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporation 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 create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this Notice, to:  

Valerie A. Puccini  
Assistant General Counsel  
Illinois Department of Labor  
160 N. LaSalle Street, 13<sup>th</sup> Floor  
Chicago, IL 60601

(312) 793-7838  
Facsimile: (312) 793-5257
- 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:  
Covered employers must maintain records of rest breaks taken and paid and meal periods taken.
  - C) Types of professional skills necessary for compliance: None

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: It was new legislation not anticipated at the time of filing the most recent agenda.

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

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 220  
SIX DAY WEEK LAW

SUBPART A: DEFINITIONS

Section

- 220.100 ~~Definition of the~~ Act
- 220.105 Director
- 220.110 Year
- 220.115 Week
- 220.120 Permit
- 220.125 Defining the word required in the phrase "no Employee shall be required to work", Section 4 of the Act; ~~(Illinois Revised Statutes, 1977, Chapter 48, Section 8d)~~
- 220.130 Employee
- 220.135 Time Book
- 220.140 Agriculture
- 220.145 Emergency under Section 2 of the Act; ~~(Illinois Revised Statutes, 1977, Chapter 48, Section 8b(2))~~

SUBPART B: LENGTH AND NUMBER OF PERMITS

Section

- 220.200 Permits

SUBPART C: RESPONSIBILITIES OF EMPLOYERS

Section

- 220.300 Written requests for permits
- 220.305 Telephone requests for permits
- 220.310 Record of permits
- 220.315 Paid rest breaks
- 220.320 Meal periods
- 220.325 Clean environment and free water

SUBPART D: RESPONSIBILITIES OF THE DIRECTOR

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

Section  
 220.400 Notice to the employer  
 | [220.405](#) [Inspection of records and premises](#)

SUBPART E: TIMELINESS OF EMPLOYER REQUESTS

Section  
 220.500 Written request for permits  
 220.505 Telephonic requests

SUBPART F: CANCELLATION OF PERMIT

Section  
 220.600 Procedure

SUBPART G: POSTING OF SCHEDULES

Section  
 220.700 Deadline for posting

SUBPART H: MEAL PERIOD [AND PAID REST BREAKS](#)

Section  
 220.800 Employees working in excess of 7½ hours continuously  
 | [220.805](#) [Employees working at least 7 hours](#)  
 | [220.810](#) [Paid rest breaks](#)

SUBPART I: VIOLATIONS: AN EMPLOYER SHALL BE CITED FOR VIOLATIONS OF THE ACT AS FOLLOWS:

Section  
 220.900 Failure to provide the required day of rest  
 220.905 Meal Period  
 220.910 Posting of Schedule  
 220.915 Non-voluntary work  
 220.920 Time Records  
 220.925 Permits  
 220.930 Inspection of permits  
 | [220.935](#) [Paid rest breaks](#)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

| [220.940](#) [Clean environment and free water](#)

SUBPART J: APPLICABILITY OF THE ILLINOIS  
ADMINISTRATIVE PROCEDURE ACT

Section  
220.1000 Denial, suspension or revocation of permits

SUBPART K: HEARING PROCESS

Section  
220.1100 Procedure and timetable

| [220.1105](#) [Waiver](#)

AUTHORITY: Implementing and authorized by the One Day Rest In Seven Act [820 ILCS 140].

SOURCE: Adopted at 2 Ill. Reg. 6, p. 38, effective January 31, 1979; codified at 8 Ill. Reg. 18478; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: DEFINITIONS

| **Section 220.100** ~~Definition of the Act~~

| ~~As used herein the term~~ Act shall mean the One Day Rest In Seven Act ~~"An Act to promote the public health and comfort of persons employed by providing for one day of rest in seven" as amended~~ [820 ILCS 140/1 et seq.]

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.105** Director

| ~~As used herein the term~~ Director shall mean the Director of the Illinois Department of Labor and his the Director's authorized representative.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

| **Section 220.125** Defining the word required in the phrase "no employee shall be required to work", Section 4 of the Act (~~Illinois Revised Statutes, 1977, Chapter 48, par. 8d~~) [820 ILCS 140/4]

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

As used herein said work required shall mean that all such work on the seventh day of the week must be voluntary on the part of the employee involved. With the exception of the exemptions under Section 2(1) through (6) of the Act, (~~Illinois Revised Statutes, 1977, Chapter 48, pars. 8b(1) through (6)~~)[820 ILCS 140/2(1)-(6)], no employee can be required to work on their designated day of rest.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.135 Time Book**

The 'Time Book' as required in Section 5 of the Act, (~~Illinois Revised Statutes, 1977, chapter 48, par. 8e~~) can be any accurate record of hours worked each day and each work week for each employee, name and address of each employee, the rate of pay, the amount paid each pay period, deductions made from wages, rest breaks taken and paid pursuant to Section 3.1 of the Act, and meal periods taken pursuant to Section 3 and 3.1 of the Act. These time book records may be maintained by, i.e., time clock card, time card, time book, time sheet, or other suitable record.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.145 Emergency under Section 2 of the Act (~~Illinois Revised Statutes 1977, Chapter 48, Section 8b(2)~~)[820 ILCS 140/2(2)]**

- a) The word Emergency as used herein shall mean a sudden, urgent, unforeseen occurrence or occasion requiring immediate action. An emergency under this section of the Act shall not include the call in of employees on their designated day of rest to replace those scheduled but failing to report for work.
- b) Duration of emergency: The emergency condition shall remain in effect until repairs made necessary by the emergency have been completed.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: RESPONSIBILITIES OF EMPLOYERS

**Section 220.305 Telephone requests for permits**

Such requests to the Director shall be honored; however, the employer shall within two working days of the telephone call forward to the Director a letter consistent with the requirements in Section 220.300 [of this Part](#).

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.315 Paid rest breaks**

Employers required to provide paid rest breaks under Section 3.1 of the Act shall ensure that the rest breaks are taken and paid as set forth in the Act and this Part.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.320 Meal periods**

Employers shall ensure that the meal periods are taken as provided in Section 3 and 3.1 of the Act and this Part except when meal periods are controlled by a collective bargaining agreement.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.325 Clean environment and free water**

Employers shall ensure that a clean and comfortable environment and free clean drinking water is provided on the employer's premises as provided in Section 3.1 of the Act and this Part.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: RESPONSIBILITIES OF THE DIRECTOR

**Section 220.400 Notice to the employer**

The Director shall, upon granting a permit, forward to the employer a written confirmation of such permit containing the information in Section 220.300(c) of this Part.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.405 Inspection of records and premises**

The Director is authorized at all reasonable hours to review records required to be maintained pursuant to the Act and this Part and is authorized to inspect the premises of the employer to determine compliance with the Act and this Part.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

SUBPART H: MEAL PERIOD AND PAID REST BREAKS**Section 220.800 Employees working in excess of 7½ hours continuously**

The meal period required in Section 3 of the Act; (~~Illinois Revised Statutes, 1977, Chapter 48, par. 8e~~) shall be required in each continuous 7½ hour period or longer worked by an employee. Such meal period shall be taken during the course of the day and no later than 5 hours after the start of the work period.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.805 Employees working at least 7 hours**

The meal period required in Section 3.1 of the Act shall be required for employees working at least 7 continuous hours. This meal period shall be taken during the course of the day and no later than 5 hours after the start of the work period.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.810 Paid rest breaks**

- a) The first paid rest break shall be taken within the first 4 work hours and the second paid rest break shall be taken in the remaining work hours, as practicable.
- b) The paid rest breaks cannot be taken to come in later than the regularly scheduled start of the work period. Paid rest breaks also cannot be taken to leave earlier than the regularly scheduled ending time of the work period.
- c) Two 15-minute paid rest breaks shall not be combined together to create one 30-minute paid rest break.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART I: VIOLATIONS: AN EMPLOYER SHALL BE CITED  
FOR VIOLATIONS OF THE ACT AS FOLLOWS:**Section 220.900 Failure to provide the required day of rest**

A violation of Section 2 of the Act; (~~Illinois Revised Statutes, 1977, Chapter 48, par. 8b~~), shall

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

be charged for each employee during each week in which the employee works seven days of the calendar week when no permit authorizing work on the designated day of rest has been granted by the Director.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.905 Meal Period**

A violation of Section 3 of the Act; ~~(Illinois Revised Statutes, 1977, Chapter 48, par. 8e)~~; shall be charged for each work period as defined in Section 220.800 ~~of this Part~~ ~~herein~~ during which an employee is not permitted a meal period of at least 20 minutes. A violation of Section 3.1 of the Act shall be charged for each work period as defined in Section 220.805 of this Part during which an employee is not permitted a meal period of 30 minutes.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.910 Posting of Schedule**

One violation shall be charged for each week the schedule required by Section 4 of the Act; ~~(Illinois Revised Statutes, 1977, Chapter 48, par. 8d)~~ is not posted as provided in Section 220.700 ~~of this Part~~.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.915 Non-voluntary work**

A violation shall be charged under Section 4 of the Act; ~~(Illinois Revised Statutes, 1977, Chapter 48, par. 8d)~~ for each week an employee is required to work on the designated day of rest.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.920 Time Records**

One violation shall be charged for each employee upon whom adequate time records are not maintained as provided in Section 5 of the Act; ~~(Illinois Revised Statutes, 1977, Chapter 48, par. 8e)~~ and Section 220.135 ~~of this Part~~ ~~herein~~.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.925 Permits**

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

One violation shall be charged for each week an employer allows his employees to work on their designated day of rest without a permit as prescribed in Section 8 of the Act, ~~(Illinois Revised Statutes, 1977, Chapter 48, par. 8h)~~, and Section 220.200 (a) of this Part ~~therein~~.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.930 Inspection of permits**

The failure of an employer to produce for inspection ~~the~~ such letter as required in Subpart D ~~above~~ shall be prima facie evidence that employees are working seven days per week in violation of Section 2 of the Act, ~~(Illinois Revised Statutes, 1977, Chapter 48, par. 8b)~~.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.935 Paid rest breaks**

A separate violation shall be charged for each day and for each employee who is denied paid rest breaks as provided in Section 3.1 of the Act and this Part.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.940 Clean environment and free water**

One violation shall be charged for each day that an employer fails to provide on the employer's premises a clean and comfortable environment with free clean drinking water as set forth in Section 3.1 of the Act and this Part.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART J: APPLICABILITY OF THE ILLINOIS  
ADMINISTRATIVE PROCEDURE ACT**Section 220.1000 Denial, suspension or revocation of permits**

The provisions of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10](Ill. Rev. Stat. 1991, ch. 127, pars. 1001-1 et seq.) shall apply to all violations of the Act and this Part, including but not limited to, the denial, suspension and revocation of permits authorized under Section 8 of the Act, ~~(Ill. Rev. Stat. 1977, ch. 48, par. 8h)~~.

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART K: HEARING PROCESS

**Section 220.1100 Procedure and timetable**

- a) The Director shall advise in writing each employer who receives a notice of violation of the Act or this Part for whom a permit has been denied, suspended, or revoked of the hearing process.
- b) The employer may, within 21 days ~~after~~ a notice of violation of the Act and this Part including a notice of the denial, suspension or revocation of a permit, request in writing, a formal hearing under the provisions of the Illinois Administrative Procedure Act and the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120) ~~an informal office hearing~~.
- e) ~~If the informal hearing does not resolve the problem, the employer will have the opportunity to request, within 21 days of the informal hearing, a formal hearing under the provisions of the Illinois Administrative Procedure Act.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 220.1105 Waiver**

Any individual who alleges a violation of Section 3.1 of the Act may waive the administrative steps before the Illinois Department of Labor and proceed directly with a cause of action in civil court as provided in Section 3.1 of the Act.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Victims' Economic Security and Safety Act
- 2) Code Citation: 56 Ill. Adm. Code 280
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action</u>
280.300	Amend
280.320	Repeal
280.400	Amend
- 4) Statutory Authority: 820 ILCS 180/1 et seq.
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking is being implemented in order to clarify that a private right of action does not exist under the statute. Other amendments include the elimination of informal hearings in order to process cases quicker and more efficiently to the formal administrative hearing stage.
- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporation by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:  

Valerie A. Puccini  
Assistant General Counsel  
Illinois Department of Labor  
160 N. LaSalle Street, 13<sup>th</sup> Floor  
Chicago IL 60601

(312) 793-7838  
(312) 793-5257
- 12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agenda because: it was not anticipated at the time of filing the most recent agenda.

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

DEPARTMENT OF LABOR

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 280  
VICTIMS' ECONOMIC SECURITY AND SAFETY ACT

SUBPART A: GENERAL PROVISIONS

Section	
280.100	Purpose and Scope
280.110	Definitions
280.120	Application
280.130	Independent Contractor Exemption
280.140	Records Retention and Release

SUBPART B: COMPLAINT

Section	
280.200	Persons Who May File a Complaint
280.210	Requirements for Filing a Complaint
280.220	Confidentiality
280.230	Incomplete Complaint
280.240	Amendment of Complaint

SUBPART C: PROCEDURE IMMEDIATELY AFTER COMPLAINT

Section	
280.300	Withdrawal, Settlement, Waiver and Consents
280.310	Presentation of Parties' Information
280.320	Duplicative Issues or Inconsistent Rulings ( <a href="#">Repealed</a> )

SUBPART D: ADMINISTRATIVE CASE REVIEW

Section	
280.400	Investigation
280.410	Decision by the Department
280.420	Enforcement Procedures

SUBPART E: FORMAL ADMINISTRATIVE HEARING

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

Section  
280.500 Procedures in Formal Administrative Hearing

AUTHORITY: Implementing the Victims' Economic Security and Safety Act of 2003 [820 ILCS 180].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 1017, effective December 29, 2003; adopted at 28 Ill. Reg. 7626, effective May 24, 2004; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: PROCEDURE IMMEDIATELY AFTER COMPLAINT

**Section 280.300 Withdrawal, Settlement, Waiver and Consents**

- a) A complaint may be voluntarily withdrawn at any time.
- b) Complainant and a respondent may settle at any time.
- c) Any party may waive a public hearing at any time after the time for filing a response has passed.
- d) At any time, the parties may enter into a consent ~~decree findings, rules and orders~~ under 56 Ill. Adm. Code 120.540.
- e) Any withdrawal, settlement or Consent ~~Decree Order~~ will not affect the processing of a complaint made by any other complainant, the allegations of which are similar or related to the individual allegations settled.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 280.320 Duplicative Issues or Inconsistent Rulings (Repealed)**

~~When the Department becomes aware that there is a complaint pending in federal or State court containing some or all of the issues before the Department, it may make a determination whether there is the possibility of inconsistent findings or rulings. At any time, the Department may recommend to the Director dismissal of those issues and continue, if feasible, to process the remaining issues. If all issues are being litigated, then denial of the entire complaint may be considered. The parties will be afforded an opportunity to contest the denial.~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: ADMINISTRATIVE CASE REVIEW

**Section 280.400 Investigation**

- a) The Department may conduct an investigation to ascertain the facts relating to the violation alleged in the complaint, to determine whether reasonable cause exists to believe a violation of the Act has occurred and to determine whether the issues may be resolved between the parties. The investigation may be in person or by telephone and may include written or oral inquiry, or field visit ~~or an informal conference~~ or any method or combination of methods deemed suitable in the discretion of the Department. The Department will limit its investigation to reviewing up to three years prior to the date the complaint was filed, but in no case shall review occur prior to the effective date of the Act, August 25, 2003.
- b) The parties must cooperate fully with the Department at all times as provided for in this Part. Such cooperation shall include without limitation:
  - 1) promptly providing the Department with a notice of address or telephone change or any prolonged absence from the current address so that the parties can be located;
  - 2) providing necessary information and being available for interviews, conferences and hearings upon reasonable notice or request by the Department. If the parties cannot be located or do not respond to reasonable requests by the Department, without good cause, such action may result in a finding of a failure to cooperate with the Department.
- c) If, at any time, a party fails to cooperate with the Department under this Part, the Department, upon seven calendar days notice to all parties, may make a part of the official record a finding of failure to cooperate. If a finding of a failure to cooperate is made, the Department may make such recommendations as are appropriate to the Director, including denial of the complaint, or other order, including provision of discovery, including subpoenas or depositions, or affirmative action under the Act.
- d) The Department, on its own or at the request of a party or a witness, may issue an appropriate protective order. The order may be issued at any time and shall be for the purpose of preventing a clearly unwarranted invasion of personal privacy or

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

other disclosure of confidential information, including, without limitation, documents, home addresses or names of individuals. The order may apply, where relevant, to nonparties and other parties. Further, the order may be subject to being modified or vacated by a court of competent jurisdiction.

- e) ~~The Department may convene an informal conference for the purpose of obtaining evidence, identifying the issues in dispute, ascertaining the positions of the parties and exploring the possibility of settlement. The informal conference will be limited in scope to those issues the Department believes to be in question.~~
- f) ~~Notice of the conference shall be given to all parties at least ten calendar days prior to the conference and shall identify the individuals requested to attend on behalf of each party.~~
- g) ~~At an informal conference, an individual may be represented only by himself or herself or by an attorney at law. Further, a corporation or government agency, or other similar employer, may be represented only by an employee, officer or attorney at law. The Department may permit a party to have available witnesses, a translator and/or other supportive person, including a relative or a representative of a union or of a victim services organization. Nothing in the Act or this Part shall be construed as to allow the unauthorized practice of law.~~
- h) ~~Parties shall be prepared to proceed at the informal conference. A request by one party for a continuance may be granted prior to the conference if the request is in writing, with notice to the other party, and the Department grants permission. Otherwise, a request for a continuance may be made in person by any individual to the Department at the time of the conference with proof that the party notified or attempted to notify the other party in advance of the conference of the intent to ask for a continuance. The continuance will be granted only upon a showing of good cause. Good cause may be shown by, without limitation, the failure of a party to receive notice of the informal conference, the inability of a party to produce a material witness or relevant evidence, the illness or death of a party or counsel, the sudden and unexpected unavailability of counsel and substitution of counsel.~~
- i) ~~The Department shall conduct the informal conference and control the proceedings. No tape recordings, stenographic report or other verbatim record of the conference shall be made. If any person, including a party, fails to cooperate at the conference, including becoming so disruptive or abusive that a full and fair conference cannot be conducted, the Department shall exclude the person from~~

## DEPARTMENT OF LABOR

## NOTICE OF PROPOSED AMENDMENTS

~~the conference. If a party fails to cooperate, a finding of failure to cooperate may result.~~

j) ~~Telephone Conferences~~

1) ~~Written requests to participate in an informal conference by telephone must be received by the Department's Chicago office no later than six calendar days prior to the conference date. The request shall be in writing and state a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.~~

2) ~~A party shall not consider its request granted unless the party receives written notice of the Department's approval prior to the conference date.~~

3) ~~In no event shall any party be able to participate in an informal conference through an electronic pager.~~

k) ~~If a party appears at an informal conference or formal administrative hearing, exclusively through an attorney or other representative unfamiliar with the events at issue, the Department shall make a finding of a failure to cooperate, unless the representative is seeking, in good faith, a continuance or, with respect to a respondent, the respondent establishes that it does not employ or control any person with knowledge of the events at issue.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pick (N) Pools
- 2) Code Citation: 11 Ill. Adm. Code 308
- 3) 

<u>Section Numbers</u> : 308.40 308.90	<u>Proposed Action</u> : Amend Amend
--	--
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking addresses the situation when a thoroughbred race scheduled for the turf is taken off the turf and run on the dirt track. Currently, if a horse is scratched, the wagering fan receives the post-time favorite. This rulemaking would make all wagering fans that had a pick (n) wager, where one of the races was taken off the turf, a winner for that race only.
- 6) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending in this Part? No
- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:  

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 7-701  
Chicago, Illinois 60601

(312) 814-5017  
mickey\_izzo@irb.state.il.us
- 12) Initial Regulatory Flexibility Analysis:

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

- A) Types of small business 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: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated when they were submitted.

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER a: GENERAL RULESPART 308  
PICK (N) POOLS

Section	
308.10	Pick (n)
308.20	Pool Calculations
308.30	Dead Heats
308.40	Scratches
308.50	Cancellation of Races
308.60	Carryover Cap
308.70	Mandatory Distribution
308.80	Disclosure
308.90	Pick 3 Pools

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 18 Ill. Reg. 7433, effective May 8, 1994; amended at 19 Ill. Reg. 5039, effective April 1, 1995; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 308.40 Scratches**

- a) Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the closing of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.
- b) Once wagering has closed for the first race of a Pick (n) pool, if a race is moved from the turf course to the dirt track, then all ticket holders are considered winners for that race for the Pick (n) pool. If this occurs in any leg of a Pick (n) pool, the

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

carryover from previous performances shall not be included in the distribution unless the pool has been designated as a mandatory distribution.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 308.90 Pick 3 Pools**

- a) The Pick 3 requires selection of the first-place finisher in each of three specified contests.
- b) The net Pick 3 pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:
  - 1) As a single price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then
  - 2) As a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then
  - 3) As a single price pool to those who selected the first-place finisher in any one of the three contests; but if there are no such wagers, then
  - 4) The entire pool shall be refunded on Pick 3 wagers for those contests.
- c) If there is a dead heat for first in any of the three contests involving:
  - 1) contestants representing the same betting interest, the Pick 3 pool shall be distributed as if no dead heat occurred.
  - 2) contestants representing two or more betting interests, the Pick 3 pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.
- d)
  - 1) Should a betting interest in any of the Pick 3 contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

2) Once wagering has closed for the first race of a Pick (n) Pool, if a race is moved from the turf course to the dirt track, then all ticket holders are considered winners for that race for the Pick (n) Pool. If this occurs in any leg of a Pick (n) pool, the carryover from previous performances shall not be included in the distribution unless the pool has been designated as a mandatory distribution.

- e) If two or three Pick 3 contests are cancelled or declared "no contest", the entire pool shall be refunded on Pick 3 wagers for those contests.
- f) If one of the Pick 3 contests is cancelled or declared "no contest", the Pick 3 pool will remain valid and shall be distributed in accordance with subsection (b)(2).

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated when they were submitted.

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1318  
RACING RULES

## Section

1318.10	Racing Conduct
1318.20	Complaints
1318.30	Disqualification of Entries
1318.40	Penalties
1318.50	Unsatisfactory Driving
1318.60	Driver Substitution
1318.70	Failure to Finish
1318.80	Improper Conduct
1318.90	Whips and Snappers
1318.100	Goaded Devices
1318.110	Accidents
1318.120	Use of Hopples
1318.130	Breaking
1318.140	Breaking on Purpose
1318.150	Call Out Breaks
1318.160	Right of Course
1318.170	Penalties
1318.180	Harness Tracks Without a Continuous Hub Rail
1318.190	Open Stretch Racing

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Harness Racing (original date not cited in publication); adopted December 22, 1977, filed December 30, 1977; codified at 5 Ill. Reg. 10945; amended at 5 Ill. Reg. 13719, effective December 2, 1981; emergency amendment at 15 Ill. Reg. 15610, effective October 10, 1991, for a maximum of 150 days; emergency expired March 8, 1992; amended at 16 Ill. Reg. 7489, effective April 27, 1992; amended at 17 Ill. Reg. 19303, effective October 25, 1993; amended at 22 Ill. Reg. 7049, effective May 1, 1998; amended at 28 Ill. Reg. 14658, effective November 1, 2004; amended at 29 Ill. Reg. 14043, effective September 1, 2005; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

**Section 1318.130 Breaking**

- a) When a horse or horses break from their gait in trotting or pacing, their driver shall at once, where clearance exists, take such horse to the inside or outside and pull it to its gait.
- b) The following shall be considered violations of this rule:
  - 1) Failure to properly attempt to pull the horse to its gait.
  - 2) Failure to take to the inside or outside where clearance exists.
  - 3) Failure to lose ground by the break.
  - 4) An extended break.
- c) If there has been no failure on the part of the driver in complying with subsections b(1), b(2), and b(3), the horse shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish.
- d) The judges may set any horse back one or more places if in their judgment any of the above violations have been committed and the driver may be punished.
- e) If a horse goes offstride during any part of the race, and, in the opinion of the stewards, interferes with any horse or horses, that interference shall constitute a violation. The offending horse shall be placed behind all horses interfered with unless the driver of the horse or horses interfered with failed to exercise reasonable care to avoid the incident.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Payment of Taxes by Electronic Funds Transfer
- 2) Code Citation: 86 Ill. Adm. Code 750
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
750.600	Amendment
750.700	Amendment
750.900	Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-210
- 5) A Complete Description of the Subjects and Issues Involved: Provides that electronic payments of taxes and fees initiated on or before the due date are deemed timely by the Department of Revenue. Currently electronic payments of taxes or fees must be deposited as collected funds in the Department's account on or before the due date to be deemed timely.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking 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 create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this Notice to:

Samuel J. Moore  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62702

Phone: (217) 782-2844

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation that makes electronic payment of taxes or fees to the Department of Revenue.
  - 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 2005

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 750

## PAYMENT OF TAXES BY ELECTRONIC FUNDS TRANSFER

## Section

750.100	Scope of the Program and Rules
750.200	Definitions
750.300	Payments Required to be Paid by Electronic Funds Transfer
750.400	Eligibility Determination and Taxpayer Notification
750.500	Voluntary Program Participation
750.600	Methods of Electronic Funds Transfer Payment
750.700	Payment Transmission Errors
750.800	Department Notification Requirement
750.900	Due Date; General Provisions

**AUTHORITY:** Implementing the Illinois Income Tax Act [35 ILCS 5], Use Tax Act [35 ILCS 105], Service Use Tax Act [35 ILCS 110], Service Occupation Tax Act [35 ILCS 115], Retailers Occupation Tax Act [35 ILCS 120] and Electricity Excise Tax Law [35 ILCS 640] and authorized by Section 2505-210 of the Civil Administrative Code [20 ILCS 2505/2505-210].

**SOURCE:** Adopted at 17 Ill. Reg. 18132, effective October 4, 1993; amended at 18 Ill. Reg. 15612, effective October 11, 1994; amended at 20 Ill. Reg. 9111, effective July 2, 1996; amended at 22 Ill. Reg. 10904, effective June 8, 1998; amended at 23 Ill. Reg. 5847, effective May 3, 1999; amended at 24 Ill. Reg. 3867, effective February 28, 2000; amended at 25 Ill. Reg. 185, effective December 26, 2000; amended at 26 Ill. Reg. 1727, effective January 24, 2002; amended at 27 Ill. Reg. 14623, effective August 26, 2003; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 750.600 Methods of Electronic Funds Transfer Payment**

- a) There are two primary methods for payment by electronic funds transfer under the program, along with one emergency backup method. These methods are ACH Debit, ACH Credit and Fedwire. Taxpayers may use either the ACH Debit or Credit methods for payment. Taxpayers who are required to pay or voluntarily pay Cigarette Tax or Cigarette Use Tax using EFT must pay their tax liability using an ACH debit payment. Fedwire is only offered as an emergency backup method of payment.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- b) Taxpayers who choose or are required to use the ACH Debit option must use one of the following methods:
- 1) Place a toll-free call to the Department's data collection service and provide the appropriate account number and required tax payment information. The data collection service will then provide the taxpayer with a unique "confirmation number" to acknowledge the call. ~~The call must be placed by 3:30 pm Central Standard Time at least one day prior to the due date for the payment.~~ The data collection service will initiate the ACH Debit to the taxpayer's account the same day the taxpayer calls the Department, except in the case of ACH warehousing by the data collection service, which will be initiated the working day prior to the due date, and a credit to the Department's account will be made the following day. When a taxpayer chooses this payment option, the Department will provide the taxpayer with a detailed set of technical instructions related to the payment mechanism.
  - 2) ~~ACH Debits initiated via electronic data transfer (modem to modem) must be acknowledged as accepted before 12:00 p.m. (Noon—central time) on the last business banking day prior to the due date of the payment.~~
  - 23) Taxpayers that are purchasing cigarette tax revenue stamps will not need to place a call to the Department's data collection service. However, a debit authorization form provided by the Department must accompany the purchase order invoice. The Department will then initiate all ACH debits for taxpayers who are required to use EFT when purchasing cigarette tax stamps and who provide the Department with their debit authorization.
  - 34) Taxpayers who electronically file their tax return may include an ACH Debit record with the transmission.
- c) To use the ACH Credit option, the taxpayer initiates a credit by instructing its bank to transfer the tax due from the taxpayer's account to the Department's account. The taxpayer's bank will then insert a "trace number" into the payment transaction to be used as a payment verification. In addition to the payment amount, taxpayer account posting information is sent with the funds transfer using the TXP convention. This is a standard format developed for use by all states accepting tax payments by means of ACH Credit. A copy of the TXP convention is provided as a portion of the technical instructions provided to taxpayers making payment in this form.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) ~~The ACH Credit must be initiated at least one day prior to the due date of the payment so the funds are available on the due date of the payment, or earlier if required by the taxpayer's bank so the funds are available on the due date.~~
- 12) Before choosing this option on the registration form, a taxpayer should contact its bank to determine what ACH services are offered by the bank.
- 23) This option is not authorized for taxpayers that purchase cigarette tax stamps.
- d) The Fedwire option for payment is offered by the Department only as a backup method. ~~If for some reason a taxpayer is unable to initiate an ACH Debit or ACH Credit one day prior to the due date of the tax, Fedwire is the only electronic alternative method available to avoid late payment penalties and interest.~~ If this backup method is used, the taxpayer's bank must initiate the Fedwire by noon Central Standard Time on the tax due date.
- 1) Fedwires have costs associated with them for both the initiator and the receiver. A taxpayer using this option will be required to pay the initiator's fee, and the receiver fee will be charged to the Department.
- 2) To effectively credit the payment information to the taxpayer's account, the Department's standard Fedwire format (the Department requires the same data as the TXP convention) information should be entered by taxpayer's bank as part of the Fedwire transaction. The taxpayer's bank should provide taxpayer with a paper copy of the transmission for taxpayer's records. A copy of the Department's standard Fedwire format is included in the technical instructions provided all program participants.
- 3) Fedwire is not a routine electronic funds transfer option. If a taxpayer uses this emergency backup option, taxpayer must contact the Department by telephone in advance to provide notification of the emergency situation.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 750.700 Payment Transmission Errors**

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- a) If a taxpayer does not make a correct payment of tax for a particular period, such taxpayer shall, on the nearest business day to the date on which the error is discovered, contact the Department's Electronic Funds Transfer EFT unit.
- b) If the taxpayer error involves an underpayment of tax, the taxpayer must make appropriate arrangements to initiate payment for the amount of the underpayment and penalties and interest.
- c) A failure to initiate an electronic funds transfer payment ~~so that it settles~~ on or before the due date because of circumstances under the taxpayer's control, including but not limited to insufficiency of funds in the taxpayer's account or a direct payment to the Department using an unauthorized payment method, may result in either the loss of discount, the imposition of penalties and interest, or both.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 750.900 Due Date; General Provisions**

- a) Taxpayers who are required to remit tax payments through electronic funds transfer and voluntary program participants must initiate the transfer ~~so that the amount due is deposited as collected funds to the Department's account~~ on or before the due date under the appropriate tax Act and request a payment date no later than the due date or, if a payment date of the due date is unavailable, then no later than the next available business day after the due date. For the payment to be deemed timely by the Department, the transfer must be initiated on or before the due date and must result in the amount due being deposited as collected funds to the Department's account, even if that deposit occurs after the due date. Taxpayers should be aware that the provisions of Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25] do not apply to payments made by electronic funds transfer as the payments are not transmitted by mail.
- b) The electronic funds transfer method of payment does not change any current filing requirements for tax returns.
- c) In addition to the provisions for reasonable cause for late payment under the applicable tax laws, for electronic funds transfer purposes, reasonable cause for late payment by electronic funds transfer includes the following:
  - 1) The inability to gain access to the EFT system on the required date

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

because of a system failure beyond the reasonable control of the taxpayer.  
For example:

- A) In the case of ACH debit transactions, the taxpayer is unable to make telephone contact with the system to provide an instruction to transfer funds from the taxpayer's account, or
  - B) In the case of ACH credit transactions, the taxpayer's bank is unable to gain access to the ACH network to arrange for a deposit of funds with the Department;
- 2) The failure of the electronic funds transfer system to properly apply a payment.

d) If a taxpayer is required to remit a tax payment through electronic funds transfer but instead makes the payment by mail, the provisions of Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25] do not apply to the payment made by mail. In this instance, the amount due must be deposited as collected funds to the Department's account on or before the due date under the appropriate tax Act in order for the payment to be considered timely by the Department.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Electronic Filing of Returns or Other Documents
- 2) Code Citation: 86 Ill. Adm. Code 760
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
760.220	Amendment
760.240	Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-210
- 5) A Complete Description of the Subjects and Issues Involved: Provides that electronic payments of taxes and fees initiated on or before the due date are deemed timely by the Department of Revenue. Currently electronic payments of taxes or fees must be deposited as collected funds in the Department's account on or before the due date to be deemed timely.
- 6) Will this rulemaking replace an emergency rulemaking currently in effect: No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking 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 create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this Notice to:

Samuel J. Moore  
Associate Counsel  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62702

(217) 782-2844

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation that makes electronic payment of taxes or fees to the Department of Revenue.
  - 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 2005

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 760

## ELECTRONIC FILING OF RETURNS OR OTHER DOCUMENTS

## Section

760.100	Electronic Returns
760.110	Exclusions from Electronic Filing
760.120	Where to Send Electronic Returns (Repealed)
760.200	Ways to Participate in Electronic Filing
760.210	Enrollment in the Electronic Filing Program
760.220	Electronic Payment Required
760.230	Electronic Signatures
760.240	Due Dates and Date Received
760.300	Responsibilities of Electronic Filers
760.310	Filing Acknowledgments
760.320	Electronic Payment Acknowledgments
760.330	Termination of Voluntary Participants

AUTHORITY: Implementing and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 22 Ill. Reg. 14905, effective August 3, 1998; amended at 27 Ill. Reg. 14636, effective August 26, 2003; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 760.220 Electronic Payment Required**

- a) Taxpayers who voluntarily choose to electronically file returns and other documents with the Department under the provisions of this Part must make any required payments relating to those returns or documents through electronic means. The methods of electronic payment that can be utilized are as follows:
  - 1) Electronic payment by electronic funds transfer under the Electronic Funds Transfer Program described in 86 Ill. Adm. Code 750. Liquor tax participants that submit their return and schedules on approved magnetic media must utilize this method;
  - 2) Electronic payment by including payment data as part of an EDI 813 Electronic Filing of Tax Return Data transaction set (see Section 760.320)

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

of this Part). This method is only available for sales tax participants; or

- 3) Electronic payment by including payment data in an EDI 820 Payment Order/Remittance Advice transaction set (see Section 760.320 of this Part). This method is only available for sales tax participants;
  - 4) Electronic payment by including payment data as part of the electronic transmission of the return and schedule data; or
  - 5) Electronic payment by including payment data in an electronic transmission that is separate from the return and schedule transmission.
- b) Regardless of the electronic payment method selected, taxpayers must complete and submit Form EFT-1, Authorization Agreement for Electronic Funds Transfer, as part of the electronic filing enrollment process, along with the appropriate electronic filing enrollment form. This is required unless a participant is already enrolled to make payments in the Department's Electronic Funds Transfer Program for the returns or other documents listed in Section 760.100(c) or (d) of this Part. Form EFT-1 must be completed and submitted with the appropriate enrollment form for electronic filing.
- e) ~~Taxpayers making electronic payments must initiate the transfer so that the amount due is deposited as collected funds to the Department's account on or before the due date under the appropriate tax Act. Taxpayers are reminded that the provisions of Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25] do not apply to payments made by electronic means as those payments are not transmitted by mail.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 760.240 Due Dates and Date Received**

- a) When the statutory due date for filing a return and other document or making payment with the Department falls on a weekend or a banking holiday observed by the State of Illinois, the Department will accept the electronic return or other document and the payment on the next business day. Electronic filers are responsible for timely initiating the transaction to assure the return and other document is received by, and the funds made available to, the Department on the day following the weekend or banking holiday.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- b) Taxpayers making electronic payments under this Part must initiate the payment on or before the due date under the appropriate tax Act and request a payment date no later than the due date or, if a payment date of the due date is unavailable, then no later than the next available business day after the due date. For the payment to be deemed timely by the Department, the transfer must be initiated on or before the due date and must result in the amount due being deposited as collected funds to the Department's account, even if that deposit occurs after the due date. ~~When the statutory due date for filing or payment is the next day following a weekend or observed banking holiday, electronic filers are responsible for initiating the transaction prior to or on the last business day before the weekend or banking holiday, to assure the return and other document is received by, and the payment made available to, the Department by the due date.~~
- c) The receipt date of the electronic transmission will constitute the receipt date of the electronic return or other document ~~(except debit authorization)~~ if the transmission is acknowledged as accepted, or accepted with error, with a detailed acknowledgment from the Department as provided in Section 760.310. Any return or other document, including debit authorization, acknowledged as rejected with a functional or detailed acknowledgment will be considered not filed. The receipt date of the electronic transmission will be when the telephone transmission ends for participants transmitting directly to the Department.
- d) Payment by debit authorization included in the electronic return ~~The receipt date for electronic payment will be~~ considered timely if all of the following conditions are met:
- 1) The receipt date of the electronic return in which the EFT debit payment is included is timely under subsection (c);
  - 2) The EFT debit payment date requested is no later than the due date or, if a payment date of the due date is unavailable, then no later than the next available business day after the due date; and
  - 3) A confirmation number for the EFT debit is received in the acknowledgment from the Department indicating that it was accepted in the same electronic transmission as the return filing ~~the date the payment is actually deposited as collected funds to the Department's account.~~
- e) Failure to receive a confirmation number for a debit authorization in the acknowledgment from the Department means that the payment was not accepted

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

for processing, although the return may be acknowledged as accepted or accepted with error.

- f) In the case where a taxpayer submits a return or other document on approved magnetic media in accordance with this Part, Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25], which provides that a return or other document transmitted through the United States mail is deemed filed with or received by the State on the date shown by the post office cancellation mark stamped upon the envelope or other wrapper containing it, applies only to the receipt of the return filed on diskette or other approved magnetic media.
- g) If a taxpayer is required to file a return or other document or to remit a tax payment through an electronic transmission but instead files the return or other document or makes the payment by mail, the provisions of Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25] do not apply to the return or other document filed or the payment made by mail. In this instance, the return or other document must be received by the Department or the amount due must be deposited as collected funds to the Department's account on or before the due date under the appropriate tax Act in order for the return or other document or the payment to be considered timely by the Department.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation that makes electronic payment of taxes or fees to the Department of Revenue.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 12) Regulatory Agenda on which this rulemaking was summarized: July 2005

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 770  
TELEFILE PROGRAM

Section	
770.100	Voluntary TeleFile Program
770.105	Mandatory TeleFile Program
770.110	Exclusions from TeleFile
770.120	How to Participate
770.130	Personal Identification Number (PIN)
770.140	Confirmation Numbers
770.150	Due Dates and Date Received

AUTHORITY: Implementing and authorized by Section 39c-1a of the Civil Administrative Code of Illinois [20 ILCS 2505/39c-1a].

SOURCE: Adopted at 24 Ill. Reg. 8384, effective June 2, 2000; emergency amendment at 27 Ill. Reg. 18924, effective November 26, 2003, for a maximum of 150; emergency expired April 23, 2004; days; amended at 28 Ill. Reg. 9670, effective June 23, 2004; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 770.150 Due Dates and Date Received**

- a) The date that the telephone call is completed and a confirmation number is issued by the automated voice prompt system is the received date for the return to which the confirmation number relates. For example, if a telephone call is initiated on one date and completed on another date, the date that the telephone call is completed is the date of filing. The confirmation number must be received and the telephone call must be completed by 11:59 p.m. CST (adjusted for Daylight Savings Time) on that date for the return to be considered filed on that date.
- b) Returns that are filed through the use of TeleFile after the date that they are due will result in penalties for late filing as provided in 86 Ill. Adm. Code 700.300.
- c) If a return filing includes EFT debit payment information, the payment will be considered timely if all of the following conditions are met:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

- 1) The received date for the return in which the EFT debit payment is included is timely under subsection (a);
  - 2) The EFT debit payment date requested is no later than the due date or, if a payment date of the due date is unavailable, then no later than the next available business day after the due date; and
  - 3) A confirmation number for the EFT debit is received from the automated voice prompt system indicating that it was accepted in the same call as the return filing.
- d) Failure to receive a confirmation number for an EFT debit payment means that the debit was not accepted by the TeleFile system.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS STATE TREASURER

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: College Savings Pool
- 2) Code Citation: 23 Ill. Adm. Code 2500
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2500.30	Amendment
2500.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].
- 5) A Complete Description of the Subjects and Issues Involved: This amendment removes the minimum initial contribution amount associated with the application process into the College Savings Pool, in order to open up participation to more applicants. Removing the minimum initial contribution level will make the Pool available to more middle and lower income families.  
  
The Treasurer's direct-sold Bright Start College Savings Program has effectively served a portion of individuals seeking a college savings investment vehicle. However, a significant number of potential College Savings Pool participants are in need of a product sold through their financial advisor. This amendment recognizes that fact and allows the implementation of such an advisor-sold product.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? \_No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Daniel Yabut

## ILLINOIS STATE TREASURER

## NOTICE OF PROPOSED AMENDMENTS

Legal Division  
The Honorable Judy Baar Topinka  
Office of the Illinois State Treasurer  
100 W. Randolph, Suite 15-600  
Chicago, IL 60601

(312) 814-8950

If because of a physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 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 on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: This rulemaking was not anticipated by the Treasurer's Office when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments is identical to the Emergency Amendments and can be found in this issue of the *Illinois Register* on page 19308:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Administration of Funds Created by the Wireless Emergency Telephone Safety Act
- 2) Code Citation: 83 Ill. Adm. Code 729
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
729.100	New Section
729.110	New Section
729.120	New Section
729.200	New Section
729.210	New Section
729.300	New Section
729.310	New Section
729.320	New Section
729.330	New Section
729.400	New Section
729.410	New Section
729.420	New Section
729.500	New Section
729.510	New Section
729.520	New Section
729.530	New Section
729.600	New Section
729.700	New Section
729.710	New Section
729.720	New Section
729.730	New Section
729.740	New Section
APPENDIX A	New Section
APPENDIX B	New Section
APPENDIX C	New Section
- 4) Statutory Authority: Implementing and authorized by the Wireless Emergency Telephone Safety Act [50 ILCS 751].
- 5) Effective Date of Rules: December 1, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 8) A copy of the adopted rules, 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: 06/24/05; 29 Ill. Reg. 8551
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version:  
In Section 729.420(d), after "month", add "under the following conditions:"  
After Section 729.420(d), add:  
"1) The underpaid provider has requested this remedy by mail or email due to fiscal constraints; and  
2) There are sufficient funds in the Wireless Services Emergency Fund to avoid underpaying another provider on the next monthly distribution due to this interim release of funds."
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: The Wireless Emergency Telephone Safety Act ("Act") [50 ILCS 751] has established a mechanism by which to fund the provision of wireless 9-1-1 and wireless E9-1-1 service. The Illinois Commerce Commission has been given the responsibility to administer the funds collected under authority of this Act by amendments to the Act in PA 93-0839. The Department of Central Management Services (DCMS) had this administrative responsibility prior to the amendments to the Act. The rules cover, among other matters, the eligibility of carriers and providers, administration of the funds, dispute resolution, and the use of grants and reimbursements.
- 16) Information and questions regarding these adopted rules shall be directed to:

Conrad S. Rubinkowski

---

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701

217/785-3922

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER f: TELEPHONE UTILITIES

PART 729  
ADMINISTRATION OF FUNDS CREATED BY THE  
WIRELESS EMERGENCY TELEPHONE SAFETY ACT

SUBPART A: GENERAL PROVISIONS

Section	
729.100	Scope
729.110	Definitions
729.120	Duties of the Commission

SUBPART B: ELIGIBILITY OF PROVIDERS AND CARRIERS

Section	
729.200	Eligibility of Providers
729.210	Eligibility of Carriers

SUBPART C: GENERAL ADMINISTRATION

Section	
729.300	Transmission of Subscriber Information
729.310	Transmission of Surcharge Moneys
729.320	Allocation of Surcharges
729.330	Administrative Costs

SUBPART D: ADMINISTRATION OF THE WIRELESS SERVICES EMERGENCY FUND

Section	
729.400	Distribution of Moneys
729.410	Grants for Subscribers in Overlapping Jurisdictions
729.420	Overpayments and Underpayments

SUBPART E: ADMINISTRATION OF THE  
WIRELESS CARRIER REIMBURSEMENT FUND

Section	
---------	--

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

729.500	Permitted Reimbursements
729.510	Reimbursement for Approved Expenditures
729.520	Priority of Distributions
729.530	Overpayments and Underpayments

## SUBPART F: DISPUTES

Section	
729.600	Resolution of Disputes

## SUBPART G: MISCELLANEOUS

Section	
729.700	Use of Grants and Reimbursements
729.710	Distributions Subject to Appropriation
729.720	Records
729.730	Physical Inspections
729.740	Indemnification

729.APPENDIX A	Form of Electronic Carrier Subscriber Information Transmittal
729.APPENDIX B	Format of Carrier Remittance Transmittal
729.APPENDIX C	Form of Sworn Statement

AUTHORITY: Implementing and authorized by the Wireless Emergency Telephone Safety Act [50 ILCS 751].

SOURCE: Adopted at 29 Ill. Reg. 19153, effective December 1, 2005.

## SUBPART A: GENERAL PROVISIONS

**Section 729.100 Scope**

This Part shall apply to all wireless carriers, Emergency Telephone System Boards, qualified governmental entities, and Wireless Public Safety Answering Points (W-PSAPs).

**Section 729.110 Definitions**

For purposes of this Part:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

"Act" or "WETSA" means the Wireless Emergency Telephone Safety Act [50 ILCS 751].

"Administrative costs" means the ordinary and extraordinary fees, costs and expenses incurred by the Illinois Commerce Commission in performing its duties and responsibilities under the Act and this Part, including legal and other professional and consulting fees and expenses.

"Carrier" means a wireless carrier.

"Commission" means the Illinois Commerce Commission.

"DSP" means the Illinois Department of State Police.

"FCC" means the Federal Communications Commission.

"Funds" means the Wireless Services Emergency Fund (WSEF) and the Wireless Carrier Reimbursement Fund (WCRF).

"Grant" means a distribution from the WSEF to a provider pursuant to Sections 20 and 25 of the Act [50 ILCS 751/20 and 25].

"Provider" means an Emergency Telephone System Board or qualified governmental entity. DSP shall be considered a provider to the extent that it is acting as a Wireless Public Safety Answering Point.

"Reimbursement" means a distribution from the WCRF to a carrier for the purpose of reimbursing that carrier for costs incurred in complying with the applicable provisions of FCC wireless enhanced 9-1-1 service mandates pursuant to Sections 30 and 35 of the Act [50 ILCS 751/30 and 35].

"Subscriber" means a wireless subscriber.

"W-PSAP" means a Wireless Public Safety Answering Point.

**Section 729.120 Duties of the Commission**

The Commission has the following responsibilities under the Act:

- a) To adopt rules governing grants and reimbursements;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- b) To develop and maintain a database of providers eligible to receive grants and carriers eligible to receive reimbursements;
- c) To the extent authorized by the State Treasurer, to collect and allocate surcharges remitted by carriers into the Funds;
- d) To make monthly grants to eligible providers;
- e) To review and process properly presented carrier requests for reimbursement in accordance with the Act;
- f) To account for all surcharges collected and moneys disbursed;
- g) To maintain auditable records of receipts, grants, and reimbursements and to provide an annual accounting of the Funds to the Auditor General as required by the Act; and
- h) To resolve disputes as required by the Act.

## SUBPART B: ELIGIBILITY OF PROVIDERS AND CARRIERS

**Section 729.200 Eligibility of Providers**

DSP shall be considered certified and eligible to receive grants without complying with this Section. To be eligible to receive a grant, any provider other than DSP must file a letter of intent and a wireless plan with the Commission's 9-1-1 Program pursuant to the 83 Ill. Adm. Code 728. The Commission's 9-1-1 Program will notify the entity in writing stating that it has the authorization to operate as an authorized wireless 9-1-1 answering point. Once the provider has received its authorization letter, it must provide the following information to the Commission's Illinois WETSA Program.

- a) A detailed explanation of the geographic area the Commission has granted it authority to cover, by five digit zip code. Including all zip codes in which the provider has sole authority from the Commission to handle wireless 9-1-1 calls.
- b) A list of all zip codes, including provider names, in which the petitioning provider has shared authority from the Commission to handle wireless 9-1-1 calls (in this instance the provider may also define its geographic coverage area by nine digit zip code). If none are known, a statement to that effect should be made;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- c) Copies of all agreements with other providers governing the manner in which grants relating to subscribers in overlapping geographic areas (defined by zip code) should be made (or, if no such agreements exist, a written statement to that effect).

**Section 729.210 Eligibility of Carriers**

To be eligible to receive a reimbursement, a carrier must:

- a) Be certified by the FCC as a wireless carrier (or reseller) operating in the State of Illinois;
- b) Have provided current subscriber information to the Commission as required by the Act and in Section 729.300; and
- c) Comply with all provisions of this Part pertaining to requests for reimbursement.

## SUBPART C: GENERAL ADMINISTRATION

**Section 729.300 Transmission of Subscriber Information**

With the first transmittal of surcharges collected under the Act, and at the end of each billing month after the first transmittal (no later than the last day of the next calendar month; for example a July subscriber file is due no later than August 31), each carrier shall submit to the Commission its updated total number of subscribers per zip code (9 digit zip code if available) for that billing month. Transmittals shall be made in an electronic format, in substantially the form set forth in Appendix A of this Part, as a file attached to an email or a CD-ROM. The file shall be in text format, or EXCEL format, and be accompanied by a transmittal document or a proper label listing the carrier name and the billing month included on the submission.

Transmittals shall be mailed to:

Illinois Commerce Commission  
IL WETSA  
527 East Capitol Avenue  
Springfield IL 62701  
Email ILWETSA@icc.state.il.us

**Section 729.310 Transmission of Surcharge Moneys**

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- a) Surcharge moneys collected under the Act shall be remitted by check on a monthly basis. Each remittance check shall display the remitting carrier's name and a single Federal Employer Identification Number and a unique carrier check number on the face. The payee shall be designated as "State of Illinois, WETSA Funds".
- b) Each remittance of fees under this Section shall be accompanied by a transmittal to the Commission, in substantially the form set forth in Appendix B of this Part.
- c) The checks and remittance transmittal shall be mailed to:

Illinois Commerce Commission  
IL WETSA  
527 East Capitol Avenue  
Springfield IL 62701

**Section 729.320 Allocation of Surcharges**

Of the surcharges remitted under this Subpart, one-third shall be deposited into the WCRF and two-thirds shall be deposited into the WSEF.

**Section 729.330 Administrative Costs**

- a) Administrative costs shall be chargeable to the Funds.
- b) Estimated administrative costs shall be held in escrow in the fund. The fees established and charged shall be adjusted periodically based on actual costs and shall be reconciled at least annually.

## SUBPART D: ADMINISTRATION OF THE WIRELESS SERVICES EMERGENCY FUND

**Section 729.400 Distribution of Moneys**

Subject to appropriation, moneys in the WSEF may be used only for grants to providers and to pay administrative costs.

- a) Except as provided in this Section, the Commission, subject to appropriation, shall make monthly proportional grants to each provider eligible to receive a grant under Section 729.200 based on the number of monthly subscribers in the

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

geographic area (defined by zip code) in which the provider is certified as a wireless 9-1-1 service provider by the Commission.

- b) All surcharge moneys allocated to the WSEF in a given month shall be distributed to the appropriate providers, except as reduced in subsections (d) and (e).
- c) Funds allocated to the WSEF for geographic areas (defined by zip codes) that have not been properly claimed as the jurisdiction of an eligible provider and located within the Statewide Wireless Emergency 9-1-1 System shall be allocated to DSP. Funds allocated to the WSEF for billing addresses located outside the State of Illinois, or geographic areas (defined by zip code) that have not been claimed as the jurisdiction of an eligible provider and are located outside the Statewide Wireless Emergency 9-1-1 System, shall be allocated proportionately to eligible providers in the manner set forth in subsection (a).
- d) Funds allocated to the WSEF for geographic areas that are contested between eligible providers shall be held in escrow until proper determination has been made by the Commission as provided in Section 729.600.
- e) Estimated administrative expenses shall be withheld on a monthly basis, with at least an annual adjustment based upon actual costs.

**Section 729.410 Grants for Subscribers in Overlapping Jurisdictions**

Providers sharing geographic areas (defined by zip code) are encouraged to enter into agreements governing the manner in which grants in the shared areas shall be made. Providers in shared geographic areas that do not enter into agreements shall be prepared, upon 60 days' notice, to submit documentation to the Commission outlining the percentage of the shared geographic area claimed and the reasons justifying the percentage claimed for resolution in accordance with Section 729.600.

**Section 729.420 Overpayments and Underpayments**

In the event of an underpayment or overpayment of grant funds, the Commission shall, at least annually, take one or more of the following corrective actions:

- a) Instruct an overpaid provider by an email or mail to redirect funds with a check to the proper (underpaid) provider in applicable instances (in which case each affected provider shall furnish proof to the Commission that the redirection of funds has been completed as instructed);

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- b) Offset one or more future grant payments to an overpaid provider;
- c) Increase one or more future grant payments to an underpaid provider; or
- d) Release a grant payment to an underpaid provider on an interim basis during the month under the following conditions:
  - 1) The underpaid provider has requested this remedy by mail or email due to fiscal constraints; and
  - 2) There are sufficient funds in the Wireless Services Emergency Fund to avoid underpaying another provider on the next monthly distribution due to this interim release of funds.

SUBPART E: ADMINISTRATION OF THE  
WIRELESS CARRIER REIMBURSEMENT FUND

**Section 729.500 Permitted Reimbursements**

Moneys in the WCRF may be used, subject to appropriation, only to reimburse carriers for costs incurred in complying with the applicable provisions of FCC wireless enhanced 9-1-1 service mandates and to pay administrative costs. In no event shall any sworn invoice submitted to the Commission for reimbursement be approved for:

- a) Costs not related to compliance with FCC Wireless Enhanced 9-1-1 mandates;
- b) Costs with respect to any Wireless Enhanced 9-1-1 service that is not operable at the time the invoice is submitted;
- c) Costs of providing Wireless Enhanced 9-1-1 services in an area when a unit of local government or Emergency Telephone System Board provides wireless 9-1-1 services in that area and was imposing and collecting a wireless carrier surcharge prior to July 1, 1998;
- d) An amount in excess of 100% of an individual carrier's cumulative remittances to the WCRF, net administrative costs and prior reimbursements, without prior approval by the Commission;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- e) Any cost associated with a third party vendor that the carrier is not contractually obligated to pay;
- f) Expenses not submitted within five years after the date the cost was incurred; or
- g) Any carrier that has not remitted surcharges to the Commission within the past one-year.

**Section 729.510 Reimbursement for Approved Expenditures**

- a) Subject to the conditions in Section 729.500, invoices properly submitted to the Commission shall be reviewed and either approved in whole or in part or denied in whole or in part.
- b) Sworn invoices shall contain a sufficiently detailed description of the goods/services for which reimbursement is sought for the Commission to be able to validate the claim for reimbursement. Sworn invoices submitted with insufficient detail to validate the claim shall either be returned to the carrier for resubmission with additional documentation or the Commission will request additional documentation in order to validate the claim.
- c) Carriers seeking reimbursement shall submit a sworn statement along with each submission of invoices verifying that the charges are reimbursable under the Act and this Part. The sworn statement shall be submitted in substantially the form of the affidavit set forth in Appendix C. Carriers shall submit requests for reimbursement on carrier letterhead, along with the documentation set forth in subsection (b) and in Appendix C of this Part, to the following address:

Illinois Commerce Commission  
IL WETSA  
527 East Capitol Avenue  
Springfield IL 62701

**Section 729.520 Priority of Distributions**

If insufficient funds exist in the WCRF to satisfy all outstanding claims against the WCRF, all moneys in the WCRF shall be distributed as follows:

- a) First, for reimbursement of outstanding administrative costs incurred by the Commission chargeable against the WCRF; and

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- b) Second, to make outstanding reimbursements on a pro-rata basis, including both current reimbursements and reimbursements due from prior months.

**Section 729.530 Overpayments and Underpayments**

- a) In the event that the Commission determines that an overpayment to a carrier has been made, it shall immediately notify the carrier and shall:
  - 1) Direct the carrier to immediately reimburse the overpayment to the State;  
or
  - 2) Offset a subsequent reimbursement in an amount equal to the overpayment.
- b) In the event that the Commission determines that an underpayment to a carrier has been made, it shall process a voucher corresponding to the underpaid amount, subject to fund availability.

## SUBPART F: DISPUTES

**Section 729.600 Resolution of Disputes**

- a) In the event that a provider files a petition pursuant to 83 Ill. Adm. Code 200 with the Commission alleging an area of overlapping 9-1-1 service jurisdiction in which the providers in that geographic area have not agreed to the manner in which grants in that area will be apportioned, the grants for that area shall be based on reference to an official Master Street Address Guide to the Emergency Telephone System Board or qualified governmental entity whose Public Safety Answering Point provides wireless 9-1-1 service in that area. The petitioning provider claiming the overlapping jurisdiction shall be responsible for providing at hearing a copy of the applicable Master Street Address Guide (see 83 Ill. Adm. Code 728.105). In the event no Master Street Address Guide is available for the jurisdiction at issue or does not provide the information necessary to resolve the dispute, the Commission shall resolve the dispute based on the evidence in the hearing. Any funds allocated to the WSEF for the geographic region in question shall be held in escrow until a final order is entered.
- b) In the event that the Commission matches a subscriber billing address to an incorrect jurisdiction, the recipient, upon notification from the Commission, shall

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

redistribute the funds in question in the manner directed by the Commission, based on the procedures in Section 729.420.

- c) In the event of a dispute between providers concerning a subscriber billing address, a provider may file a petition pursuant to 83 Ill. Adm. Code 200 seeking a determination of the billing address.

## SUBPART G: MISCELLANEOUS

**Section 729.700 Use of Grants and Reimbursements**

Grants and reimbursements may be used only for the purposes set forth in the Act.

**Section 729.710 Distributions Subject to Appropriation**

- a) Notwithstanding any other provision of this Part, grants shall be payable solely from funds appropriated by the General Assembly to the WSEF for the purpose of making grants. Obligations of the Commission and the State of Illinois to make grants shall cease immediately and without liability if, at any time, the Illinois General Assembly fails to appropriate or otherwise make available sufficient funds to make grants.
- b) Notwithstanding any other provision of this Part, reimbursements shall be payable solely from funds appropriated by the General Assembly to the WCRF for the purpose of making reimbursements. Obligations of the Commission and the State of Illinois to make reimbursements shall cease immediately and without liability if, at any time, the Illinois General Assembly fails to appropriate or otherwise make available sufficient funds to make reimbursements.
- c) The Commission shall notify eligible providers and carriers of any applicable lack of appropriations as soon as is practicable.

**Section 729.720 Records**

- a) Providers shall maintain detailed books and records related to grants received and use of the grant funds in accordance with applicable law and generally accepted accounting principles. Providers shall maintain these books and records for a minimum of five years. All books and records shall be available for review or audit by the Commission, its representatives, the Illinois Auditor General, and other governmental entities with monitoring authority upon reasonable notice and

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

during normal business hours. Providers shall cooperate fully with any such review or audit. If any audit indicates overpayment to a provider, the Commission shall adjust future or final payments otherwise due. If no payments are due and owed to a provider, or if the overpayment exceeds the amount otherwise due, the provider shall immediately refund all amounts that may be due to the WSEF.

- b) Carriers shall maintain detailed books and records related to surcharges billed and collected by geographic area, and records necessary to support requested reimbursements in accordance with applicable law and generally accepted accounting principles. Carriers shall maintain these books and records for a minimum of five years. All books and records shall be available for review or audit by the Commission, its representatives, the Illinois Auditor General, and other governmental entities with monitoring authority upon reasonable notice and during normal business hours. Carriers shall cooperate fully with any such review or audit. If any audit indicates overpayment to a carrier, or subcontractor, the Commission shall adjust future or final payments otherwise due. If no payments are due and owed to a carrier, or if the overpayment exceeds the amount otherwise due, the carrier shall immediately refund all amounts that may be due to the WCRF.

**Section 729.730 Physical Inspections**

With respect to any request for reimbursement, the Commission may perform an on-site physical inspection of the requesting carrier's facilities for the purpose of verifying that the request is reimbursable under the Act and this Part. Carriers shall cooperate and provide reasonable assistance requested by the Commission in the performance of any such physical inspection.

**Section 729.740 Indemnification**

Except as explicitly set forth in the Act, and except as explicitly prohibited by law, each provider requesting grants and each carrier shall indemnify and hold the State of Illinois, including the Commission, and its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, damages, suits, costs and fees, and related expenses, that may arise by reason of the functions or services provided by the Commission under the Act and this Part. In the event of any demand or claim against the Commission, the Commission will notify the responsible carrier or provider in writing. The Commission may elect to defend any demand or claim and will be entitled to be paid by the provider or carrier for all damages, costs and attorney's fees incurred.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

**Section 729.APPENDIX A Form of Electronic Carrier Subscriber Information Transmittal**

## MONTHLY SUBSCRIBER COUNT FILE

Storage Media: file attached to an Email or a CD-ROM

File Format: Text file or Microsoft EXCEL file

## Carrier Subscriber Record File Layout

INSTRUCTIONS: This file must be 32 characters in length with a header and trailer record. The header record must have an H indicator in the first position and the carrier name in the remaining 31 positions. The trailer record must have a T in the first position and the total number of records on the file excluding the header and trailer records for 10 positions, followed by the FEIN. If using a Microsoft EXCEL file, the file records shall all be placed in one column of the file.

Each field length must be filled. Example: Subscriber count is a length of 10 and all spaces must be filled with leading zeros (e.g., 0000000999).

Field Name	Starting Position	Length	Data Type
FEIN	1	9	Numeric
Billing Month	10	4	Numeric (YYMM)
US Postal Zip Code	14	5	Numeric
US Postal +4 Code (if available)	19	4	Numeric
Subscriber Count	23	10	Numeric

SAMPLE: Below is an example of the header, trailer and field requirements.

Header:

Hcarriername

Trailer

T99999999990

HCARRIERNAME

99999999904106270412340000000005

99999999904106270400000000000025

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

T0000000002999999999

Questions concerning the field requirements may be addressed to:

**Illinois Commerce Commission**

**IL WETSA**

527 East Capitol Avenue

Springfield IL 62701

Phone: (217) 782-9715

Email [LWETSA@icc.state.il.us](mailto:LWETSA@icc.state.il.us)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

**Section 729.APPENDIX B Format of Carrier Remittance Transmittal**

CARRIER REMITTANCE OF WIRELESS E9-1-1 FUNDS

CARRIER NAME \_\_\_\_\_

CARRIER FEIN \_\_\_\_\_

CARRIER ADDRESS \_\_\_\_\_

CITY/ST/ZIP \_\_\_\_\_

CONTACT NAME \_\_\_\_\_

CONTACT PHONE # \_\_\_\_\_

REMITTANCE AMT \$ \_\_\_\_\_

CHECK NUMBER \_\_\_\_\_

CHECK DATE \_\_\_\_\_

REMITTANCE MONTHLY BREAKDOWN:

MO/YR Billed	Amount Remitted
_____/_____ _____/_____ _____/_____ _____/_____ _____/_____ _____/_____ _____/_____ _____/_____	_____ _____ _____ _____ _____ _____ _____ _____

TOTAL REMITTED \$ \_\_\_\_\_ \*\*

\*\* Must agree with Remittance Amount listed at top of form.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Send Check and remittance to:

**Illinois Commerce Commission**

IL WETSA

527 East Capitol Avenue

Springfield, IL 62701



ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

- 10. To the best of my knowledge, the following are the Wireless Public Safety Answering Points (as defined by the Act) receiving Wireless Enhanced 9-1-1 service as a result of the expenditures set forth in Exhibit B.
- 11. The Carrier is in compliance with the Act.

[Signature]

\_\_\_\_\_  
[Printed Name of Official]

SUBSCRIBED AND SWORN TO this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me, a Notary Public in and for the County and State aforesaid, by [name of official making Affidavit], who is personally known to me to be the [affiant's official title] of [legal name of Carrier] who appeared before me this day and duly acknowledged to me execution of the foregoing Affidavit.

[Seal]

[Signature]

\_\_\_\_\_  
Notary Public

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Registration of Rail Carriers
- 2) Code Citation: 92 Ill. Adm. Code 1501
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1501.10	Amendment
1501.20	Repeal
1501.30	Repeal
- 4) Statutory Authority: Implementing Section 18c-7201 and authorized by Section 18c-1202(9) of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7201 and 18c-1202(9)].
- 5) Effective date of Amendments: December 1, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 29 Ill. Reg. 16; January 3, 2005
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Other than minor editorial changes, no changes were made between proposed and final versions.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendment? The proposed amendments consolidate three Sections into one Section for a more streamlined rule.
- 16) Information and questions regarding these adopted amendments shall be directed to:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Steven L. Matrisch  
Office of Transportation Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/782-6447  
smatrisc@icc.illinois.gov

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER III: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: RAIL CARRIERSPART 1501  
REGISTRATION OF RAIL CARRIERS

## Section

1501.10	Registration Procedure
1501.20	Contents of Registration ( <u>Repealed</u> )
1501.30	Notice of Change ( <u>Repealed</u> )

AUTHORITY: Implementing Section 18c-7201 and authorized by Section 18c-1202(9) of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7201 and 18c-1202(9)].

SOURCE: Adopted at 11 Ill. Reg. 15882, effective October 1, 1987; amended at 29 Ill. Reg. 19174, effective December 1, 2005.

**Section 1501.10 Registration Procedure**

- a) A rail carrier shall register with the Illinois Commerce Commission ("Commission") by filing a letter, signed by an owner, partner, or officer of the rail carrier, containing the information set forth as follows: in Section 1501.20.
- 1) The full, legal name of the rail carrier;
  - 2) The mailing address, telephone number and facsimile number of the rail carrier;
  - 3) The name of the rail carrier's chief executive officer;
  - 4) The name, address and facsimile number in Illinois of the rail carrier's agent for service of process.
- b) A rail carrier must notify the Commission of any change in the information listed in subsection (a) within 15 days after the change.

(Source: Amended at 29 Ill. Reg. 19174, effective December 1, 2005)

**Section 1501.20 Contents of Registration (Repealed)**

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

~~A completed letter of registration must set forth:~~

- ~~a) The full, legal name of the rail carrier;~~
- ~~b) The mailing address and telephone number of the rail carrier;~~
- ~~c) The name of the rail carrier's chief executive officer;~~
- ~~d) The name and address in Illinois of the rail carrier's agent for service of process~~

(Source: Repealed at 29 Ill. Reg. 19174, effective December 1, 2005)

**Section 1501.30 Notice of Change (Repealed)**

~~A rail carrier must notify the Commission of any change in the information listed in Section 1501.20 within 15 days of the change.~~

(Source: Repealed at 29 Ill. Reg. 19174, effective December 1, 2005)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Report of Railroad Accidents/Incidents
- 2) Code Citation: 92 Ill. Adm. Code 1515
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1515.10	Amendment
1515.30	Repeal
1515.70	New Section
- 4) Statutory Authority: Implementing Section 18c-7402(3) and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7402(3) and 18c-1202].
- 5) Effective date of amendment: December 1, 2005
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 29 Ill. Reg. 23; January 3, 2005
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Other than minor editorial changes, no changes were made between proposed and final versions.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendments: These amendments adopt federal regulations as the Commission's rules relating to the reporting of railroad accidents and incidents. In addition, Section 1515.30 regarding telephonic reporting of accidents and incidents is

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

repealed due to the adoption of the federal regulation regarding this subject. This amendment also adds a new section that imposes penalties for failure to submit reports.

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

Steven L. Matrisch  
Office of Transportation Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/782-6447  
smatrisc@icc.illinois.gov

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER III: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: RAIL CARRIERSPART 1515  
REPORT OF RAILROAD ACCIDENTS/INCIDENTS

## Section

- | 1515.10 ~~Monthly~~ Reports
- | 1515.20 Information Required by the Illinois Commerce Commission (Repealed)
- | 1515.30 Telephonic Reports (~~Repealed~~)
- | 1515.40 Adoption of Rules (Repealed)
- | 1515.50 Submission of Monthly Reports (Repealed)
- | 1515.60 Immediate Reports (Repealed)
- | 1515.70 Penalties for Noncompliance

AUTHORITY: Implementing Section 18c-7402(3) and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7402(3) and 18c-1202].

SOURCE: Amended August 25, 1976; codified at 8 Ill. Reg. 18466; Part recodified at 10 Ill. Reg. 18009; amended at 11 Ill. Reg. 15885, effective October 1, 1987; amended at 29 Ill. Reg. 19178, effective December 1, 2005.

**Section 1515.10 ~~Monthly~~ Reports**

- a) The Illinois Commerce Commission adopts 49 CFR 225 and 234, as of October 1, 2003~~as of December 1, 1986~~, as its regulation governing ~~monthly~~ reporting of railroad accidents and incidents as defined in Sections 225.5 and 234.5. ~~No incorporation in this Part includes any later amendment or edition.~~
- b) Copies of written reports submitted to the Federal Railroad Administration shall be concurrently submitted to the Illinois Commerce Commission Transportation Division, Railroad Section.
- c) Telephonic reports submitted to the Federal Railroad Administration shall also be submitted to the Illinois Emergency Management Agency (IEMA) by calling (217)782-7860 day or night.

(Source: Amended at 29 Ill. Reg. 19178, effective December 1, 2005)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

**Section 1515.30 Telephonic Reports (Repealed)**

- a) ~~The Commission also requires immediate telephone notification of certain types of accidents/incidents.~~
- b) ~~The following classes of accidents/incidents occurring within the State of Illinois should be reported immediately to the Illinois Commerce Commission by calling 217-782-4971 day or night:~~
  - 1) ~~All accidents/incidents in which a fatality occurs;~~
  - 2) ~~All collisions occurring on main tracks classified by the Federal Railroad Administration as accidents/incidents;~~
  - 3) ~~All derailments occurring on main tracks classified by the Federal Railroad Administration as accidents/incidents;~~
  - 4) ~~All derailments, collisions, accidents or any incidents involving the exposure of hazardous materials as prescribed in 49 CFR 171 and 172 and defined in 49 CFR 171.8 as of December 1, 1986. The incorporated material does not include any later amendments or additions.~~
  - 5) ~~All accidents at rail/highway grade crossings involving rail equipment carrying passengers and all accidents at rail/highway grade crossings involving any type of rail equipment and buses transporting passengers.~~
- e) ~~In the case of accidents/incidents involving joint operations, the telephone notification shall be made by the railroad that controls the track and directs the movement of trains where the accident occurred.~~
- d) ~~When making such telephone reports, the following information shall be provided:~~
  - 1) ~~name and title of person reporting,~~
  - 2) ~~name of railroad,~~
  - 3) ~~date, time and location of incident,~~
  - 4) ~~description and nature of incident,~~

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENTS

- 5) ~~persons killed or injured indicating if employee, passenger or other,~~
- 6) ~~identification of any hazardous material involved.~~

(Source: Repealed at 29 Ill. Reg. 19178, effective December 1, 2005)

**Section 1515.70 Penalties for Noncompliance**

Failure to submit reports as required by this Part shall result in violations and sanctions as prescribed in 625 ILCS 5/18c-1701 and 1704.

(Source: Added at 29 Ill. Reg. 19178, effective December 1, 2005)



ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/782-6447  
smatrisc@icc.illinois.gov

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED AMENDMENT

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

PART 1605  
 HAZARDOUS MATERIALS

## Section

1605.10 Adoption of Federal Regulations by Reference

AUTHORITY: Implementing Section 18c-7404 and authorized by Section 18c-1202 of the Illinois Commercial Transportation Law [625 ILCS 5/18c-7404 and 18c-1202].

SOURCE: Adopted at 11 Ill. Reg. 15877, effective October 1, 1987; amended at 13 Ill. Reg. 20337, effective January 1, 1990; amended at 29 Ill. Reg. 19183, effective December 1, 2005.

**Section 1605.10 Adoption of Federal Regulations by Reference**

- a) The following ~~parts~~Parts of 49 CFR, as of October 1, ~~2001~~1988, are adopted by reference as regulations of the Illinois Commerce Commission for the transportation of hazardous materials by rail carriers.
- 1) Part 171 (except ~~sections~~Sections 15 and 16);
  - 2) Part 172;
  - 3) Part 173 (~~except sections 27 and 33~~)(~~except that all references to "small arms," "small arms primers," "rifle grenades," "percussion caps," "cartridge cases," and other terms relating to firearms or ammunition for personal use are omitted~~);
  - 4) Part 174;
  - ~~5)~~ 5) Part 177.817(c);
  - ~~65)~~ 65) Part 178 (~~except subpart J~~); ~~and~~
  - ~~76)~~ 76) Part 179; ~~and~~-
  - ~~8)~~ 8) Part 180 (except subpart E).

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENT

- b) No incorporation in this Part of the Code of Federal Regulations involves any later amendment or edition.

(Source: Amended at 29 Ill. Reg. 19183, effective December 1, 2005)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Residential Mortgage License Act of 1987
- 2) Code Citation: 38 Ill. Adm. Code 1050
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1050.210	Amendment
1050.630	Amendment
1050.640	Amendment
1050.650	Amendment
1050.2110	Amendment
1050.2115	Amendment
1050.2120	Amendment
1050.2125	Amendment
- 4) Statutory Authority: Residential Mortgage License Act of 1987 [205 ILCS 635]
- 5) Effective Date of Amendments: November 10, 2005
- 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 material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal published in Illinois Register: June 10, 2005; 29 Ill. Reg. 8270
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Differences between proposal and final version: Additional clarifying language was added to Section 1050.2115 regarding permitted activities for loan solicitors, and to make it more explicit that the loan solicitor is not permitted to perform all functions of a loan originator.
- 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 any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of amendments: Section 1050.246 provides the fee for obtaining electronic registration through the Department. Section 1050.2110 has been amended to more clearly define the requirements in obtaining registration with the Department. Continuing education requirements are clarified in Section 1050.2120. Various other non-substantive changes have been made.
- 16) Information and questions regarding these amendments shall be directed to:

Barb Smith  
Rules Coordinator  
Department of Financial and  
Professional Regulation  
320 West Washington Street, 3<sup>rd</sup> Floor  
Springfield, Illinois 62786

217/785-0813  
Fax #: 217/557-4451

Reynold Benjamin  
DFPR – Division of Banks  
Mortgage Banking Regulation-Loan Originator  
Program  
310 S. Michigan Ave. #2130  
Chicago, Illinois 60604

312/793-3000

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 1050

## RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

## SUBPART A: DEFINITIONS

## Section

1050.100	High Risk Home Loan Definitions; Applicability
1050.110	Definitions
1050.115	Administrative Decision (Repealed)
1050.120	Assisting (Repealed)
1050.125	Commissioner (Repealed)
1050.130	Control (Repealed)
1050.132	Conviction or Convicted (Repealed)
1050.135	Document (Repealed)
1050.140	Employee (Repealed)
1050.145	First Tier Subsidiary (Repealed)
1050.150	Hearing Officer (Repealed)
1050.155	High Risk Home Loan (Repealed)
1050.157	Licensee (Repealed)
1050.160	Material (Repealed)
1050.165	Other Regulatory Agencies (Repealed)
1050.170	Party (Repealed)
1050.175	Principal Place of Business (Repealed)
1050.180	Repurchase a Loan (Repealed)
1050.185	State (Repealed)
1050.190	Servicer (Repealed)
1050.195	Points and Fees (Repealed)
1050.197	Total Loan Amount (Repealed)
1050.198	Approved Credit Counselor (Repealed)
1050.199	Home Equity Loan (Repealed)

## SUBPART B: FEES

## Section

1050.210	Fees
1050.220	License Fees (Repealed)
1050.230	Amended License Fees – Corporate Changes (Repealed)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1050.240 Duplicate Original License Fees (Repealed)
- 1050.245 Loan Originator Registration Application Fee (Repealed)
- 1050.246 Loan Originator Registration Transfer Fee (Repealed)
- 1050.247 Loan Originator Registration Reactivation Fee (Repealed)
- 1050.248 Duplicate Loan Originator Certificate of Registration or Pocket Card Fee (Repealed)
- 1050.250 Examination Fees (Repealed)
- 1050.255 Direct Expenses of Out-of-State Examinations (Repealed)
- 1050.260 Additional Full-Service Office Fees (Repealed)
- 1050.270 Hearing Fees (Repealed)
- 1050.280 Late Fees (Repealed)
- 1050.290 Manner of Payment (Repealed)

## SUBPART C: LICENSING

## Section

- 1050.310 Application for an Illinois Residential Mortgage License
- 1050.320 Application for Renewal of an Illinois Residential Mortgage License
- 1050.330 Waiver of License Fee
- 1050.340 Full-Service Office
- 1050.350 Additional Full-Service Office
- 1050.360 Continuing Education Requirements for Certain Employees (Repealed)

## SUBPART D: OPERATIONS AND SUPERVISION

## Section

- 1050.410 Net Worth
- 1050.420 Line of Credit (Repealed)
- 1050.425 Examination
- 1050.430 Late Audit Reports
- 1050.440 Escrow
- 1050.450 Audit Workpapers
- 1050.460 Selection of Independent Auditor
- 1050.470 Proceedings Affecting a License
- 1050.475 Change in Business Activities
- 1050.480 Change of Ownership, Control or Name or Address of Licensee
- 1050.490 Bonding Requirements

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE  
BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

## Section

1050.610	Filing Requirements
1050.620	Reporting Forms
1050.630	Annual Report of Mortgage Activity
1050.640	Annual Report of Brokerage Activity
1050.650	Annual Report of Servicing Activity
1050.660	Verification

## SUBPART F: FORECLOSURE RATE

## Section

1050.710	Computation of National Residential Mortgage Foreclosure Rate
1050.720	Computation of Illinois Residential Mortgage Foreclosure Rate
1050.730	Excess Foreclosure Rate
1050.740	Foreclosure Rate Hearing
1050.750	Director's Authority – Unusually High Rate

## SUBPART G: SERVICING

## Section

1050.810	New Loans
1050.820	Transfer of Servicing
1050.830	Real Property Tax and Hazard Insurance Payments
1050.840	Payment Processing
1050.850	Toll-Free Telephone Arrangement
1050.860	Payoff of Outstanding Mortgage Loan

## SUBPART H: ADVERTISING

## Section

1050.910	General Prohibition
1050.920	Definition of Advertisement
1050.930	Compliance with Other Laws
1050.940	Requirements
1050.950	Misleading and Deceptive Advertising Prohibition

## SUBPART I: LOAN BROKERAGE PRACTICES

## Section

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1050.1010 Loan Brokerage Agreement
- 1050.1020 Loan Brokerage Disclosure Statement
- 1050.1030 Prohibited Practice

## SUBPART J: LOAN APPLICATION PRACTICES

## Section

- 1050.1100 High Risk Home Loan Application Practices; Applicability
- 1050.1110 Borrower Information Document
- 1050.1120 Description of Required Documentation
- 1050.1130 Maintenance of Records (Repealed)
- 1050.1140 Loan Application Procedures
- 1050.1150 Copies of Signed Documents
- 1050.1160 Confirmation of Statements
- 1050.1170 Cancellation of Application
- 1050.1175 Maintenance of Records
- 1050.1180 Ability to Repay
- 1050.1185 Verification of Ability to Pay Loan
- 1050.1186 Fraudulent or Deceptive Practices
- 1050.1187 Prepayment Penalty

## SUBPART K: GENERAL LENDING PRACTICES

## Section

- 1050.1200 High Risk Home Loan Lending Practices; Applicability
- 1050.1210 Notice to Joint Borrowers
- 1050.1220 Inaccuracy of Disclosed Information
- 1050.1230 Changes Affecting Loans in Process
- 1050.1240 Prohibition of Unauthorized Lenders
- 1050.1250 Good Faith Requirements
- 1050.1260 Pre-paid Insurance Products and Warranties
- 1050.1270 Refinancing Prohibited in Certain Cases
- 1050.1272 Balloon Payments
- 1050.1275 Financing of Certain Points and Fees
- 1050.1276 Payments to Contractors
- 1050.1277 Negative Amortization
- 1050.1278 Negative Equity
- 1050.1280 Counseling Prior to Perfecting Foreclosure Proceedings

## SUBPART L: COMMITMENT AND CLOSING PRACTICES

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

## Section

1050.1305	Approval Notice
1050.1310	Inconsistent Conditions Prohibited
1050.1315	Avoidance of Commitment
1050.1320	Charges to Seller
1050.1325	Intentional Delay
1050.1330	No Duplication to Borrower of Seller's Costs
1050.1335	Fees and Charges
1050.1340	Refunds on Failure to Close
1050.1345	Representative at Closing
1050.1350	Compliance with Other Laws
1050.1355	Failure to Close – Disclosure
1050.1360	Escrow Account Agreements at Closing

## SUBPART M: EXEMPTION GUIDELINES

## Section

1050.1410	General
1050.1420	Interpretative Guidelines

## SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

## Section

1050.1510	Applicability
1050.1520	Definitions (Repealed)
1050.1530	Filing
1050.1540	Form of Documents
1050.1550	Computation of Time
1050.1560	Appearances
1050.1570	Request for Hearing
1050.1580	Notice of Hearing
1050.1590	Service of the Notice of Hearing
1050.1595	Bill of Particulars or Motion for More Definite Statement
1050.1600	Motion and Answer
1050.1610	Consolidation and Severance of Matters – Additional Parties
1050.1620	Intervention
1050.1630	Postponement or Continuance of Hearing
1050.1640	Authority of Hearing Officer
1050.1650	Bias or Disqualification of Hearing Officer

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

1050.1660	Prehearing Conferences
1050.1670	Discovery
1050.1680	Subpoenas
1050.1690	Conduct of Hearing
1050.1700	Default
1050.1710	Evidence
1050.1720	Hostile Witnesses
1050.1730	Record of Proceedings
1050.1740	Briefs
1050.1750	Hearing Officer's Recommendation
1050.1760	Order of the Director
1050.1770	Rehearings and Reopening of Hearings
1050.1790	Costs of Hearing

## SUBPART O: MORTGAGE AWARENESS PROGRAM

Section	
1050.1800	Applicability
1050.1810	General
1050.1820	Guidelines
1050.1830	Offer of Mortgage Awareness Program

## SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

Section	
1050.1900	Applicability
1050.1910	Report of Default and Foreclosure Rates on Conventional Loans
1050.1920	Director's Review and Analysis

## SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

Section	
1050.2000	Applicability
1050.2010	Third Party Review of High Risk Home Loans

## SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section	
1050.2110	Application <u>for Registration and Investigation</u>
1050.2112	Evaluation of Applications

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

1050.2115	Examination
1050.2120	Continuing Education Requirements for Loan Originators
1050.2125	Certificate of Registration Issuance
1050.2130	Roster of Registered Loan Originators
1050.2135	Pocket Card
1050.2140	Certificate of Registration Renewal
1050.2145	Certificate of Registration Transfer Application or Inactive Notice
1050.2150	Inactive Registration Status; Reactivation
1050.2155	Temporary Permits
1050.2160	Confidential Information
1050.2165	Averments
1050.2170	Suspension or Revocation of Registration, Refusal to Renew, Fines
1050.2175	Loan Originator Hearings; Fees and Costs
1050.2180	Criminal Proceedings
1050.2185	Violations of Tax Acts
1050.2190	Disciplinary Action for Educational Loan Defaults
1050.2195	Nonpayment of Child Support

## SUBPART S: PROVISIONAL REGISTRATION OF LOAN ORIGINATORS

## Section

1050.2200	Purpose
1050.2210	Definitions
1050.2220	Registration Required
1050.2230	Exemptions
1050.2240	Application for Provisional Certificate of Registration; Contents; Amendment
1050.2250	Issuance of Provisional Certificate of Registration; Effective Date; Conditions
1050.2260	Loan Origination Practices
1050.2270	Enforcement

1050.APPENDIX A Estimated Monthly Income and Expenses Worksheet

1050.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635].

SOURCE: Filed January 18, 1974; amended at 2 Ill. Reg. 2, p. 1, effective January 16, 1978; codified at 8 Ill. Reg. 4524; amended at 9 Ill. Reg. 17393, effective October 24, 1985; Part repealed by emergency rule at 12 Ill. Reg. 3041, and new Part adopted by emergency rule at 12 Ill. Reg. 3079, effective January 13, 1988, for a maximum of 150 days; Part repealed at 12 Ill.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

Reg. 8683, and new Part adopted at 12 Ill. Reg. 8685, effective May 10, 1988; emergency amendment at 12 Ill. Reg. 9721, effective May 18, 1988, for a maximum of 150 days; amended at 13 Ill. Reg. 17056, effective October 20, 1989; amended at 15 Ill. Reg. 8580, effective May 28, 1991; emergency amendment at 16 Ill. Reg. 2915, effective February 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10463, effective June 23, 1992; emergency amendment at 16 Ill. Reg. 12634, effective August 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 20179, effective December 9, 1992; amended at 17 Ill. Reg. 3513, effective March 2, 1993; transferred from Chapter III, 38 Ill. Adm. Code 450 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1050 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 205] at 17 Ill. Reg. 4475; emergency amendment at 19 Ill. Reg. 11080, effective July 13, 1995, for a maximum of 150 days; emergency expired December 11, 1995; amended at 19 Ill. Reg. 15465, effective October 31, 1995; amended at 20 Ill. Reg. 388, effective January 1, 1996; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 21 Ill. Reg. 10972, effective August 1, 1997; amended at 22 Ill. Reg. 230, effective December 19, 1997; amended at 24 Ill. Reg. 64, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19322, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3696, effective January 30, 2001 in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1857; amended at 25 Ill. Reg. 6174, effective May 17, 2001; emergency amendment at 27 Ill. Reg. 10783, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 797, effective December 29, 2003; emergency amendment at 28 Ill. Reg. 7137, effective April 30, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 10352, effective June 29, 2004; amended at 28 Ill. Reg. 13351, effective September 21, 2004; amended at 29 Ill. Reg. 14808, effective September 26, 2005; amended at 29 Ill. Reg. 19187, effective November 10, 2005.

## SUBPART B: FEES

**Section 1050.210 Fees**

- a) **Method of Payment of Fees**  
The fees listed in this Section shall be payable to the Department. The Director may specify the form of payment, which may include certified check, money order, credit card, or other forms authorized by the Director. However, in the case of direct expenses of out-of-state examinations, payments shall be made directly to the examiners, in the manner specified in subsection (d)(2).
- b) **Residential Mortgage License**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Investigation Fee: The applicant shall pay a non-refundable fee of \$1,500.
  
- 2) License Fee:
  - A) Initial Licensure: For each application for an initial Illinois Residential Mortgage License on which the Director has made the findings that a license shall be issued, the applicant shall pay a non-refundable license fee of \$1,200, plus the investigation fee set forth in subsection (b)(1).
  - B) License Renewal: For each application for an annual renewal of an Illinois Residential Mortgage License on which the Director has made the finding that an annual license shall be issued, the applicant shall pay a non-refundable license fee of \$2,700.
  - C) Amended License: The licensee shall pay a fee of \$500 for each amended license that is required by Subpart D of this Part.
  - D) Notice of Change: The licensee shall pay a fee of \$50 with each Notice of Change of Officers or Directors or Change of Name or Address.
  - E) Duplicate License: The licensee shall pay a fee of \$50 for each duplicate original license issued.
  
- c) Loan Originator Registration
  - 1) Application Fee: An applicant for Loan Originator registration shall pay a non-refundable fee of \$125 for each individual registered on the initial application and \$100 annually for each individual registered after the initial application.
  - 2) Exemption from Application Fee: Notwithstanding the provisions of subsection (c)(1), each applicant who is also a licensee may request and be granted an exemption from the application fee for no more than two initial Loan Originator registration applications. The request for exemption shall be filed, on an approved form, with the Director at the time of application.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 3) Registration Transfer Fee: There shall be paid by or on behalf of the Loan Originator a non-refundable fee of ~~\$35~~\$50 for each Certificate of Registration transferred by mail or \$25 for each Certificate of Registration transferred electronically pursuant to Subpart R of this Part.
  - 4) Registration Reactivation Fee: There shall be paid by or on behalf of the applicant a non-refundable fee of \$100 for reactivating each Certificate of Registration on Inactive Registration Status under Subpart R.
  - 5) Duplicate Certificate of Registration or Pocket Card: The licensee shall pay a fee of \$50 for each Duplicate Certificate of Registration or pocket card issued for a Loan Originator employed by the licensee.
- d) Examination
- 1) Fees: Time expended in the conduct of any examination of the affairs of any licensee or its affiliates pursuant to the provision of Section 4-2 of the Act shall be billed by the Department at a rate of \$510 per examiner day. Fees will be billed following completion of the examination and shall be paid within 30 days after receipt of the billing.
  - 2) Out-of-State Travel: When out-of-state travel occurs in the conduct of any examination, the licensee shall make arrangements to reimburse directly to the examiners all charges for services such as travel expenses, including airfare, hotel and per diem incurred by the employee. These expenses are to be in accord with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board (80 Ill. Adm. Code 2800). Direct payment of expenses are to be made on the form and in the manner prescribed by the Director. Payment for expenses billed to licensees under this subsection (d)(2) shall be made by check payable to the examiners and sent to the Springfield office of the Department for forwarding to the examiner. The payment shall be sent by the licensee within five working days after receipt by the licensee of the bill for charges for services.
- e) Additional Full-Service Office:
- 1) Initial Fee: The licensee shall pay a fee of \$250 for each Notice of Intent to Establish an Additional Full-Service Office required by Subpart C of this Part.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 2) Annual Fee: After the notice filed under subsection (e)(1), the licensee shall pay an annual Additional Full-Service Office fee of \$250 fee on the initial license anniversary date.
- f) Hearing Fees: Except for hearings to which Section 1050.2175 of this Part applies, each party that requests a hearing pursuant to Section 4-1(n) of the Act shall pay a fee of \$500, unless the fee is waived by the Director. In determining whether to waive the fee, the Director shall consider the financial hardship imposed on the party.

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE  
BROKERAGE ACTIVITY AND MORTGAGE SERVICING ACTIVITY

**Section 1050.630 Annual Report of Mortgage Activity**

- a) Each licensee shall report the number and aggregate dollar amount of application for, and the number granted and the aggregate dollar amount of, loans pursuant to Section 4-8.3 described in Section 4-9(a)(1)-(3) of the Act. This report shall be categorized by: residential mortgage loans; construction loans; and home improvement and rehabilitation loans. The reporting shall be made by census tract. If the U.S. Department of Commerce Census Bureau has not assigned census tracts, the reporting shall be by zip code.
- b) Each licensee shall report the information regarding residential mortgage loans pursuant to Section 4-8.3 described in Section 4-9(b) of the Act by census tract. If the U.S. Department of Commerce Census Bureau has not assigned census tracts, then reporting shall be by zip code. In addition to the information required to be reported under Section 4-8.34-9(b) of the Act, each licensee shall furnish the name of any loan broker who has had any connection with such loans.
- c) Service corporations of savings and loan associations and subsidiaries or affiliates of certain banks and foreign banking corporations exempted from licensing at Section 1-4(d)(1)(viii) and (ix) of the Act (except those that only service or only broker loans), are required to file Annual Reports of Mortgage Activity as though they are licensees. They shall so file on forms prescribed by and obtained from the Director. In lieu of the information required by subsection (a), the service corporations of savings and loan associations may submit Federal Home Loan

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

Bank Board (FHLBB) Form 1154-0 "Loan Application Register of Mortgage Loans".

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

**Section 1050.640 Annual Report of Brokerage Activity**

- a) Each licensee and service corporation of savings and loan associations and subsidiaries or affiliates of certain banks and foreign banking organizations exempted from licensing by Section 1-4(d)(viii) and (ix) of the Act, which broker residential mortgage loans, shall file an Annual Report of Brokerage Activity.
- b) The Annual Report of Brokerage Activity shall include the names of the loan funders~~originators~~, dollar amount of the loans and with whom the licensee had mortgage brokerage agreements including any specific loan programs and any aggregate dollar limits.

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

**Section 1050.650 Annual Report of Servicing Activity**

Each licensee that services home loan mortgages and reports any of these loans as being in default or foreclosure pursuant to Section ~~4-8.34-9(b)~~ of the Act shall furnish, in addition to other information requested by the Director the names of the lenders~~lender~~ who funded~~originated~~ the loan.

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

## SUBPART R: REGISTRATION OF LOAN ORIGINATORS

**Section 1050.2110 Application for Registration and Investigation**

- a) Each applicant for registration as a Loan Originator shall file with the Division a completed, signed application, on forms supplied by the Division, that includes: An application to be registered as a Loan Originator shall be in writing, under oath or affirmation and declared under the penalty of perjury, and in the form prescribed by the Director. The application shall be accompanied by a non-refundable application fee as prescribed in Section 1050.210 of this Part and contain the following information:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) ~~a clear copy of a state identification card containing a current photo; The name, home address, U.S. postal service mailing address, work address, e-mail address if available, date of birth, social security number, driver's license number and state of issue, and phone number of the applicant. A clear copy of a State identification card containing a current photo is to be included with the application. If any of this information changes after the filing of the initial application, the applicant shall provide updated information in writing within 30 calendar days to the Division. Failure to provide updated material may result in a fine of \$50 per violation for the initial failure and \$100 per violation for each additional failure.~~
- 2) ~~a complete work history for the 3 years immediately preceding the date of application; A statement as to whether the applicant has been convicted of any criminal offense; has been subject to any adverse judgment involving financial crimes or a criminal or civil act involving monies, breach of trust, moral turpitude, or misfeasance or malfeasance; or has been convicted in any jurisdiction of a crime that is a felony in any jurisdiction. The statement shall describe fully all convictions and adverse judgments.~~
- 3) ~~the name, address, phone number and license number of the licensee that the applicant is or will be employed as a Loan Originator and the start date of employment or prospective employment; The applicant's employment history for the 3 years immediately preceding the date of application.~~
- 4) ~~verification of fingerprint processing from the Illinois Department of State Police, or its designated agent for fingerprint processing, that complies with the form and manner for requesting and furnishing criminal history record information prescribed by the Department of State Police. These fingerprints shall be verified with the Department of State Police and Federal Bureau of Investigation criminal history record databases; The name, address, phone number, and license number of the licensee that the applicant is or will be employed by as a Loan Originator, along with the start date of employment or prospective employment. This employment shall be verified on a form approved by the Director and signed by an authorized representative of the licensee. Any Loan Originator who is not employed by a licensee at the time of application as provided in Section 1050.2150 shall so indicate.~~
- 5) ~~proof of passage of the examination or qualification for an exemption specified in Section 1050.2115; A statement of eligibility under Section~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

~~1050.2115(b), (c), or (d). If the applicant cannot verify eligibility under one or more of these subsections to the Director's satisfaction, the applicant shall be required to pass the examination pursuant to Section 1050.2115(a) prior to performing loan origination activities.~~

- ~~6) verification that the applicant has not been convicted of any criminal offense, including a misdemeanor or felony, or has not been subject to any adverse judgment involving financial crimes or a criminal or civil act involving monies, breach of trust, moral turpitude, or misfeasance or malfeasance, or a detailed explanation describing fully all convictions and adverse judgements; ~~A statement as to whether the applicant has been issued, denied, or forfeited a professional or occupational license or registration by any jurisdiction, or has been the subject of any disciplinary action in connection with the license or registration, and the reasons for the disciplinary action.~~~~
- 7) A statement that the applicant is in compliance with Sections 1050.2165, 1050.2185, 1050.2190, and 1050.2195.
- ~~8) certification from the employing licensee of the name of the Loan Originator, office location where employed, and employment hire date, which shall be electronically submitted to the Division's website; ~~Such further information as the Director requires.~~~~
- ~~9) the required fees set forth in Section 1050.245 of this Part.~~
- b) If an applicant has held or holds any professional license in another jurisdiction, certification of that registration must be submitted to the Division directly from the state or territory in which the applicant was licensed stating whether the file on the applicant contains any record of disciplinary actions taken or pending. The Director shall investigate information submitted by the applicant upon receipt of a complete application, including all required fees. The submission of an application shall be deemed the applicant's authorization for the Director to conduct an investigation of information contained in the application for purposes of establishing the veracity of the application and to conduct background checks as the Director may deem appropriate, including but not limited to criminal history, credit, and administrative or disciplinary action by other regulatory agencies.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- c) The Director shall consider an application for registration withdrawn if it does not contain all of the information required under subsection (a) and if the information is not submitted to the Director within 15 business days after the Director requests the information.
- d) If any information changes after the filing of the initial application, the applicant shall provide updated information in writing within 30 calendar days to the Division. Failure to provide updated material may result in a fine of \$50 per violation for the initial failure and \$100 per violation for each additional failure.

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

**Section 1050.2115 Examination**

- a) Each applicant for an initial Loan Originator Certificate of Registration shall pass a written examination approved by the Director to determine the applicant's competency to be a Loan Originator. The Director may prepare, charge a nonrefundable fee for, and conduct examinations. The Director may also designate an independent testing service to perform these activities on behalf of the Director. In addition, any person who desires to take the written examination shall apply in writing on forms approved by the Director. The examination shall be comprehensive and shall evaluate the applicant's knowledge of residential mortgage financing, including but not limited to:
- 1) Residential mortgage financing fundamentals, including, but not limited to, industry overview, mortgage products and life cycle, and qualification calculations and principles; and
  - 2) Legal, regulatory, and ethical requirements including Federal, State, and local requirements and ethical responsibility.
- b) ~~Notwithstanding anything to the contrary required by subsection (a), each applicant for a Loan Originator Certificate of Registration who is able to verify current employment by a licensee and who has 2 or more years of loan origination experience in the 36 months immediately preceding the date of application shall not be required to pass the examination until the first renewal of his or her Certificate of Registration.~~
- b)e) Notwithstanding anything to the contrary required by subsection (a), each applicant who is able to verify possession of a professional certification approved

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

by the Director that requires at least 18 hours of continuing education every three years shall be exempt from the residential mortgage financing fundamentals portion of the examination and shall be required to take only the legal, regulatory, and ethical requirements portion of the examination.

~~c)d~~ Exception for Solicitors ~~and Processors~~.

- 1) Notwithstanding anything to the contrary required by subsection (a) of this Section and subject to the Director's ~~written~~ approval, an applicant for a Loan Originator Certificate of Registration shall not be required to pass an examination if the applicant avers, and does in fact, limit his or her activity as a Loan Originator, pursuant to Section 1-4(hh) of the Act, to soliciting residential mortgage loan applications, which includes collecting from prospective borrowers personal or financial information for the sole purpose of conveying this information to a licensee and its registered Loan Originator or an exempt entity and its employee performing exempt loan originator services, the following:
  - ~~A) soliciting residential mortgage loan applications or expressions of interest to apply for a residential mortgage loan and forwarding them, without collecting credit or appraisal information, to a licensee and its registered Loan Originators or an exempt entity; or~~
  - ~~B) processing a residential mortgage loan application taken by a licensee and its registered Loan Originators, provided that the applicant is an employee of the licensee or an exempt entity approved by the Director under Section 1-4(d)(6) of the Act.~~
- 2) The Director may approve the registration of a Loan Originator applicant to solicit ~~or process~~ residential mortgage loans as provided in this Part under a classification of "no examination required,"  ~~provided that:~~
  - A) the employing licensee or licensee pursuant to Section 1-4(d)(6) of the Act expressly, in writing on a form approved by the Director, assumes full and direct legal responsibility for the solicitation ~~or processing~~ activity performed on behalf of or in the name of the licensee or that benefits or is intended to benefit the licensee;
  - B) the Loan Originator will perform no activities for which an examination under this Part is required, subject to discipline by the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

Director of the Loan Originator and his or her employing licensee or licensee pursuant to Section 1-4(d)(6) of the Act; and

- C) otherwise meets the requirements of this Part and the Act and does not undermine the purposes of this Part and the Act.

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

**Section 1050.2120 Continuing Education Requirements for Loan Originators**

- a) Each calendar year, a Loan Originator shall complete a minimum of 6 hours of continuing education in residential mortgage ~~financing and related topics~~ finance, as approved by the Director. The employing licensee shall be responsible for ensuring compliance with these requirements for each Loan Originator it employs.
- ~~b) Notwithstanding anything to the contrary in subsection (a), a Loan Originator whose employment with a licensee commences after December 1 shall complete the requirements of subsection (a) by April 1 of the following calendar year and shall complete 6 additional hours of continuing education by December 31 of the following calendar year.~~
- ~~b)e)~~ Any Loan Originator who possesses a professional certification approved by the Director shall be exempt from the continuing education requirements of this Section. For a professional certification to be eligible for approval, it must require at a minimum 18 hours of continuing education related to residential mortgage lending every 3 years.
- ~~d) A licensee shall require each Loan Originator it employs to meet the requirements of this Section.~~
- ~~ce)~~ A ~~Notwithstanding anything to the contrary required by subsection (a) of this Section,~~ a Loan Originator who is admitted to practice law pursuant to the Illinois Supreme Court rule shall be exempt from the continuing education requirements of this Section.

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

**Section 1050.2125 Certificate of Registration Issuance**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- a) ~~The~~If an applicant meets the following conditions, Director shall issue a Certificate of Registration for the applicant to the employing licensee (or issue and hold until requested by the employing licensee) or at the Director's discretion may issue a Certificate of Registration to the applicant if he or she meets the following conditions:
- 1) The applicant has met the requirements of Sections 1050.2110, 1050.2115, and 1050.2165;
  - 2) An investigation has been conducted as required by Section 1050.2110;
  - 3) The applicant complies with the Act, this Part, and other applicable law;
  - 4) The applicant has not been convicted of any criminal offense or subject to any adverse judgment described in Section 1050.2110(a)(2), unless the Director finds that the applicant is rehabilitated and is currently honest, truthful, and of good reputation;
  - 5) The applicant's character and general fitness command the confidence of the public and warrant the belief that the applicant's employment by a licensee will be conducted honestly and fairly in compliance with the Act, this Part, and other applicable law; and
  - 6) If the Director has previously denied the applicant a license or registration under the Act or this Part, a period of 24 months must pass from the date of that denial and the taking of a new application for the applicant's Certificate of Registration.
- b) The Director shall issue the Certificate of Registration subject to the following conditions:
- 1) Each Loan Originator's Certificate of Registration shall be mailed to the employing licensee and maintained by the employing licensee at its main office, or to the applicant if the Director so chooses under subsection (a). The Director may institute an electronic registration system and retain all certificates within that system. If the Loan Originator is not employed by a licensee at the time the Certificate of Registration is issued, the Director shall retain the Certificate of Registration.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 2) Each Loan Originator and employing licensee shall provide written notification to the Director within 15 calendar days after ~~obtaining information~~~~discovering~~ that the Loan Originator employed by the licensee is convicted of any criminal offense; is subject to any adverse judgment in any jurisdiction involving financial crimes or criminal or civil acts involving monies, breach of trust, moral turpitude, misfeasance or malfeasance; or has been convicted in any jurisdiction of a crime that is a felony in that jurisdiction. The notification shall describe fully all convictions and adverse judgments.
- 3) If a Loan Originator's employment with a licensee ceases for any reason, the employing licensee shall return the Certificate of Registration to the Director within 10 calendar days after the date the employment ceases. If applicable, the employing licensee also shall provide a report pursuant to Section 6-2(4) of the Act and comply with Section 1050.2135. Licensees may be subject to discipline for filing a frivolous, false, or misleading report under Section 6-2(4) of the Act.
- 4) Pending the transfer of a Loan Originator's Certificate of Registration to another licensee and written confirmation from the Director, a licensee may employ a Loan Originator as an exclusive employee on a temporary basis for a period not to exceed 45 calendar days.
- 5) No licensee shall employ a person or entity to perform the duties of a Loan Originator, except a person with a current Loan Originator Certificate of Registration or Temporary Permit issued under Section 1050.2155.
- 6) A Certificate of Registration and the authority granted by that certificate are granted only to the Loan Originator. The Certificate of Registration and authority shall not in any manner be assigned or transferred to or used by any other person or entity.

(Source: Amended at 29 Ill. Reg. 19187, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Special Training Requirements
- 2) Code Citation: 92 Ill. Adm. Code 380
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
380.1000	New Section
380.1010	New Section
380.1020	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Rules: November 10, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5300
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Several grammatical corrections were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: On March 30, 2004 at 69 FR 16722, the Federal Motor Carrier Safety Administration (FMCSA) established a new part titled Special Training Requirements at 49 CFR 380. This new part established standards for minimum training requirements for the operators of longer combination vehicles (LCVs) and also for the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

instructors who train those operators. On May 21, 2004 at 69 FR 29384, the FMCSA amended 49 CFR 380 by adding a new subpart E to the part that established standards for mandatory training requirements for entry-level operators of all commercial motor vehicles (CMVs) required to hold or obtain a commercial driver's license. Since Illinois must establish training requirements for the operators of both LCVs and entry-level CMVs operating within the State, the Department is, at Section 380.1020(a), incorporating by reference 49 CFR 380 as of October 1, 2004, the latest edition of 49 CFR, subject only to the exceptions listed in Section 380.1020(c) of this Part. Additionally, the Department is defining terms at Section 380.1010 that are, for the most part, verbatim 49 CFR 380 with the exception of a few terms that have been revised to include references to either intrastate commerce or to the State of Illinois.

The following summaries provide descriptions of federal rulemakings that are applicable to this new Part and that are included in the October 1, 2004 edition of 49 CFR 380.

Docket FMCSA-97-2176 (69 FR 16722, March 30, 2004) Established standards for minimum training requirements for the operators of longer combination vehicles and requirements for the instructors who train those operators.

Docket FMCSA-97-2176 (69 FR 28846, May 19, 2004) Corrected errors from the final rule of March 30, 2004.

Docket FMCSA-1997-2199 (69 FR 29384, May 21, 2004) Established standards for mandatory training requirements on four specific topics for entry-level operators of commercial motor vehicles that are required to hold or obtain a commercial driver's license.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 380  
SPECIAL TRAINING REQUIREMENTS

## Section

380.1000	Purpose
380.1010	Definitions
380.1020	Incorporation by Reference of 49 CFR 380

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 29 Ill. Reg. 19208, effective November 10, 2005.

**Section 380.1000 Purpose**

This Part prescribes special training requirements for drivers of applicable commercial motor vehicles (CMVs) in Illinois. (See the definition of commercial motor vehicle in Section 380.1010.)

**Section 380.1010 Definitions**

As used in this Part:

"Alcohol or alcoholic beverage" means:

Beer as defined in 26 USC 5052(a) (Internal Revenue Code of 1954);

Wine of not less than one-half of one per centum of alcohol by volume; or

Distilled spirits as defined in section 5002(a)(8) of the Internal Revenue Code. (49 CFR 383.5, October 1, 2004)

"Classroom instructor" means a qualified longer combination vehicle (LCV) driver-instructor who provides knowledge and instruction that does not involve the actual operation of an LCV or its components. Instruction may take place in a

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

parking lot, garage, or any other facility suitable for instruction. (49 CFR 380.105, October 1, 2004)

"Commercial driver's license" or "CDL" means a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR 383, to an individual that authorizes the individual to operate a class of a commercial motor vehicle. (49 CFR 383.5, October 1, 2004)

"Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle –

Has a gross combination weight rating of 11,794 kilograms or more (26,001 pounds or more) inclusive of a towed unit(s) with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or

Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 pounds or more); or

Is designed to transport 16 or more passengers, including the driver; or

Is of any size and is used in the transportation of hazardous materials as defined in this Section. (49 CFR 383.5, October 1, 2004)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated. (49 CFR 383.5, October 1, 2004)

"Disqualification" means any of the following three actions:

The suspension, revocation, or cancellation of a CDL by the state or jurisdiction of issuance.

Any withdrawal of a person's privileges to drive a CMV by a state or other jurisdiction as a result of a violation of state or local law relating to motor

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

vehicle traffic control (other than parking, vehicle weight or vehicle defect violations).

A determination by the FMCSA that a person is not qualified to operate a CMV under 49 CFR 391.

"Driver's license" means a license issued by a state or other jurisdiction to an individual that authorizes the individual to operate a motor vehicle on the highways. (49 FR 383.5, October 1, 2004)

"Employee" means any operator of a CMV, including full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors (while in the course of operating a CMV) who are either directly employed by or under lease to an employer. (49 CFR 383.5, October 1, 2004)

"Employer" means any person (including the United States, a state, District of Columbia or a political subdivision of a state) that owns or leases a CMV or assigns employees to operate such a vehicle. (49 CFR 383.5, October 1, 2004)

"Endorsement" means an authorization to an individual's CDL required to permit the individual to operate certain types of CMVs. (49 CFR 383.5, October 1, 2004)

"Entry-level driver" means a driver with less than one year of experience operating a CMV with a CDL in interstate or intrastate commerce.

"Entry-level driver training" means training the CDL driver receives in driver qualification requirements, hours of service of drivers, driver wellness, and whistle blower protection as appropriate to the entry-level driver's current position in addition to passing the CDL test. (49 CFR 380.502, October 1, 2004)

"Hazardous materials" means any material that has been designated as hazardous under 49 USC 5103 and is required to be placarded under subpart F of 49 CFR 172 or any quantity of a material listed as a select agent or toxin in 42 CFR 73. (49 CFR 383.5, October 1, 2004)

"Longer combination vehicle" or "LCV" means any combination of a truck-tractor and two trailers or semi-trailers that operates on the highways of Illinois

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

with a gross vehicle weight (GVW) greater than 36,288 kilograms (80,000 pounds).

"LCV double" means an LCV consisting of a truck-tractor in combination with two trailers and/or semi-trailers. (49 CFR 380.105, October 1, 2004)

"Motor vehicle" means a vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power used on highways, except that this term does not include a vehicle, machine, tractor, trailer, or semi-trailer operated exclusively on a rail. (49 CFR 383.5, October 1, 2004)

"Qualified LCV driver-instructor" means an instructor meeting the requirements contained in 49 CFR 380, subpart C. There are two types of qualified LCV driver-instructors: classroom instructor and skills instructor. (49 CFR 380.105, October 1, 2004)

"Skills instructor" means a qualified LCV driver-instructor that provides behind-the-wheel instruction involving the actual operation of an LCV or its components outside a classroom. (49 CFR 380.105, October 1, 2004)

"State" means a state of the United States and the District of Columbia. (49 CFR 383.5, October 1, 2004)

"Tank vehicle" means any CMV that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 49 CFR 171. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons. (49 CFR 383.5, October 1, 2004)

"Training institution" means any technical or vocational school accredited by an accrediting institution recognized by the U.S. Department of Education. A motor carrier's training program for its drivers or an entity that exclusively offers services to a single motor carrier is not a training institution. (49 CFR 380.105, October 1, 2004)

"Vehicle" means a motor vehicle unless otherwise specified. (49 CFR 383.5, October 1, 2004)

**Section 380.1020 Incorporation by Reference of 49 CFR 380**

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- a) The Department incorporates by reference 49 CFR 380 as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 385, 387, 390, 391, 392, 393, 395, 396 and 397) was in effect on October 1, 2004, subject only to the exceptions in subsection (c) of this Section. No later amendments to or editions of 49 CFR 380 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 380 shall apply for purposes of this Part.
  - 1) 49 CFR 380.103 is not incorporated and the following is substituted therefor:

This Part applies to all operators of LCVs in interstate or intrastate commerce, employers of LCV operators, and LCV driver-instructors.
  - 2) 49 CFR 380.105 is deleted and not incorporated.
  - 3) 49 CFR 380.205 is deleted and not incorporated.
  - 4) 49 CFR 380.501 is not incorporated and the following is substituted therefor:

All entry-level drivers who drive in interstate or intrastate commerce and are subject to the CDL requirements of 49 CFR 383 must comply with subpart E of 49 CFR 380, except drivers who are subject to the jurisdiction of the Federal Transit Administration or who are otherwise exempt under 49 CFR 390.3(f).
  - 5) 49 CFR 380.502 is deleted and not incorporated.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 6) 49 CFR 380.509(a) is not incorporated and the following is substituted therefor:

Each employer must ensure that each entry-level driver that began operating a CMV requiring a CDL in interstate or intrastate commerce after July 20, 2003 receives the training required by 49 CFR 380.503.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Safety Fitness Procedures
- 2) Code Citation: 92 Ill. Adm. Code 385
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
385.1000	Amend
385.1010	Amend
385.2000	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch.18B]
- 5) Effective Date of Amendments: November 10, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5310
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The Department made various grammatical corrections in agreement with JCAR. Additionally, at Section 385.1010, the Department deleted the definition of "RSPA" and inserted a definition of "Pipeline and Hazardous Materials Safety Administration" in its place. The Department also added a new definition of "Safety Permit" at Section 385.1010. These substantive changes were made pursuant to public comment.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of amendments: On June 30, 2004, at 69 FR 39350, the Federal Motor Carrier Safety Administration (FMCSA) published a final rule that implements provisions of the Federal Hazardous Materials Transportation Law that required the US DOT to establish a national safety permit program, at 49 CFR 385, subpart E, for motor carriers that transport certain hazardous materials in interstate or intrastate commerce. The federal rule promotes the safe and secure transportation of designated hazardous materials thereby improving motor carrier safety. As prescribed by the federal rule, motor carriers that transport certain hazardous materials in interstate or intrastate commerce must hold a safety permit issued by the US DOT and must keep a copy of the permit or other proof of its existence in the vehicle. Therefore, by this Notice, and in the interest of public safety and consistency with the federal regulations, the Department added a new Subpart B to this Part to incorporate by reference 49 CFR 385, subpart E, as of October 1, 2004, the latest edition of 49 CFR. The Department will incorporate by reference 49 CFR 385, subpart E, for intrastate as well as for interstate commerce.

Additionally, a new subsection has been added at Section 385.1000(c), Purpose, to describe the applicability of newly created Subpart B of this Part.

Finally, at Section 385.1010, Definitions, the Department has updated the CFR citations in this Section to maintain consistency with the federal regulations; adding three new definitions to the Part; and amending one definition pursuant to the new hazardous materials safety permit program established by 49 CFR 385, subpart E.

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

Ms. Cathy Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 385  
SAFETY FITNESS PROCEDURES[SUBPART A: GENERAL REQUIREMENTS](#)

Section	Purpose
385.1000	Purpose
385.1010	Definitions
385.1020	Unsatisfactory Rated Motor Carriers

[SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITS](#)

<u><a href="#">Section</a></u>	
<u><a href="#">385.2000</a></u>	<u><a href="#">Incorporation by Reference of 49 CFR 385, subpart E</a></u>

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 25 Ill. Reg. 2131, effective January 17, 2001; amended at 26 Ill. Reg. 8966, effective June 5, 2002; amended at 29 Ill. Reg. 19216, effective November 10, 2005.

[SUBPART A: GENERAL REQUIREMENTS](#)**Section 385.1000 Purpose**

- a) This Part establishes procedures to prohibit motor carriers receiving a safety rating of "unsatisfactory" from the Federal Motor Carrier Safety Administration (FMCSA) from operating a commercial motor vehicle in Illinois.
- b) This Part applies to all motor carriers subject to the requirements of this Subchapter, except non-business private motor carriers of passengers as defined in 92 Ill. Adm. Code 390.1020.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- c) [Subpart B of this Part establishes the safety permit program for motor carriers that transport the types and quantities of hazardous materials listed in 49 CFR 385.403 and incorporated by reference at Section 385.2000\(a\) of this Part.](#)

(Source: Amended at 29 Ill. Reg. 19216, effective November 10, 2005)

**Section 385.1010 Definitions**

As used in this Part:

["Applicable Safety Regulations or Requirements" means 49 CFR chapter III, subchapter B – Federal Motor Carrier Safety Regulations or, if the carrier is an intrastate motor carrier subject to the hazardous materials safety permit requirements in subpart E of 49 CFR 385, 92 Ill. Adm. Code Subchapter d: Motor Carrier Safety Regulations and 49 CFR chapter I, subchapter C – Hazardous Materials Regulations.](#)

"Commercial Motor Vehicle" ~~means~~ ~~has~~ the same ~~meaning~~ as [the meaning ascribed to it in 92 Ill. Adm. Code 390.1020, except that Subpart B of this Part applies to intrastate motor carriers that transport those hazardous materials listed in 49 CFR 385.403 and incorporated by reference at Section 385.2000\(a\) of this Part.](#)

"Compliance Review" means an on-site examination of a motor carrier's operations, such as the drivers' hours of service, maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accidents, hazardous materials, and other safety and transportation records to determine whether a motor carrier meets the safety fitness standard. A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by a motor carrier, to investigate complaints, or other evidence of safety violations. The compliance review may result in the initiation of an enforcement action. (49 CFR 385.3, October 1, ~~2004~~2004)

"Department" means the Illinois Department of Transportation.

"Federal Motor Carrier Safety Administration" ~~or~~ ~~"(FMCSA)"~~ means an agency within the United States Department of Transportation.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

"Out-of-Service Order" means a prohibition against operating a commercial motor vehicle.

"Pipeline and Hazardous Materials Safety Administration" or "PHMSA" means the Pipeline and Hazardous Materials Safety Administration within USDOT (formerly known as the Research and Special Programs Administration). (70 FR 8299, February 18, 2005)

"Safety Management Controls" means the system, policies, programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations, that ensure the safe movement of products and passengers through the transportation system, and that reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (49 CFR 385.3, October 1, ~~2004~~2004)

"Safety Permit" means a document issued by the FMCSA that contains a permit number and confers authority to transport in commerce the hazardous materials listed in 49 CFR 385.403. (49 CFR 385.402, October 1, 2004)

"Safety Ratings" means:

A satisfactory safety rating means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standards prescribed in 49 CFR 385.5. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier.

A conditional safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in 49 CFR 385.5(a) through (k).

An unsatisfactory safety rating means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that has resulted in occurrences listed in 49 CFR 385.5(a) through (k).

An unrated carrier means that a safety rating has not been assigned to the motor carrier by the FMCSA. (49 CFR 385.3, October 1, ~~2004~~2004)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 29 Ill. Reg. 19216, effective November 10, 2005)

SUBPART B: HAZARDOUS MATERIALS SAFETY PERMITSSection 385.2000 Incorporation by Reference of 49 CFR 385, Subpart E

- a) The Department incorporates by reference 49 CFR 385, subpart E, as that subpart of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 385, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2004, subject only to the exceptions in subsection (b) of this Section. No later amendments to or additions of 49 CFR 385, subpart E, are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.
- b) The following interpretations of 49 CFR 385, subpart E, shall apply for purposes of this Subpart:
- 1) Any reference to "this part" in the incorporated material shall mean 92 Ill. Adm. Code 385.
  - 2) Any reference to "this chapter" or "this subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
  - 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Motor Carrier Safety Regulations.

(Source: Added at 29 Ill. Reg. 19216, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Minimum Levels of Financial Responsibility for Motor Carriers
- 2) Code Citation: 92 Ill. Adm. Code 387
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
387.1000	New Section
387.1050	New Section
387.2000	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch.18B]
- 5) Effective Date of Rules: November 10, 2005
- 6) Does these rules contain an automatic repeal date? No
- 7) Does these rules contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5317
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: Several grammatical corrections were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: By this Notice, the Department has adopted a new Part that prescribes, through an incorporation by reference of 49 CFR 387 as of October 1,

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

2004, the minimum levels of financial responsibility required to be maintained by motor carriers transporting property or passengers in Illinois.

49 CFR 387 has different applicability levels depending on what is being transported. The different applicability levels are as follows:

Motor Carriers of Property: 49 CFR 387, subpart A, incorporated by reference at Section 387.2000 of this Part, applies to for-hire motor carriers operating motor vehicles transporting property in interstate commerce and to motor carriers (including not-for-hire as well as for-hire motor carriers) transporting hazardous materials, hazardous substances or hazardous wastes in interstate or intrastate commerce. 49 CFR 387, subpart A, sets out the minimum levels of financial responsibility required of applicable carriers in a Schedule of Limits that lists the levels by type of vehicle and commodity being transported.

Motor Carriers of Passengers: 49 CFR 387, subpart B, also incorporated by reference at Section 387.2000 of this Part, applies to for-hire motor carriers transporting passengers in interstate commerce. 49 CFR 387, subpart B, provides a Schedule of Limits according to seating capacity and effective dates.

This Part will create additional incentives to motor carriers to maintain and operate their vehicles in a safe manner and will assure that motor carriers maintain appropriate levels of financial responsibility for motor vehicles operated on Illinois highways.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONS

## PART 387

## MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

## Section

387.1000	Purpose
387.1050	Applicability
387.2000	Incorporation by Reference of 49 CFR 387

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 29 Ill. Reg. 19222, effective November 10, 2005.

**Section 387.1000 Purpose**

This Part prescribes the minimum level of financial responsibility required to be maintained by for-hire motor carriers of passengers and property operating motor vehicles in interstate commerce. This Part also prescribes the minimum level of financial responsibility to be maintained by for-hire and not-for-hire motor carriers transporting hazardous materials, hazardous substances, or hazardous wastes in intrastate and interstate commerce. Finally, this Part creates additional incentives for motor carriers to maintain and operate their vehicles in a safe manner and to assure that they maintain appropriate levels of financial responsibility for motor vehicles operated on Illinois highways.

**Section 387.1050 Applicability**

- a) This Part applies to for-hire motor carriers operating motor vehicles transporting property in interstate commerce.
- b) This Part applies to motor carriers operating motor vehicles transporting hazardous materials, hazardous substances, or hazardous wastes in interstate or intrastate commerce.
- c) Exceptions:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

- 1) This Part does not apply to a motor vehicle that has a gross vehicle weight rating (GVWR) of less than 10,000 pounds. This exception does not apply if the vehicle is used to transport any quantity of a Division 1.1, 1.2, or 1.3 material, any quantity of a Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A, or to a highway route controlled quantity of a Class 7 material as it is defined in 49 CFR 173.403, in interstate commerce.
- 2) This Part does not apply to the transportation of non-bulk oil or non-bulk hazardous materials, substances, or wastes in intrastate commerce, except that this Part does apply to the transportation of a highway route controlled quantity of a Class 7 material as defined in 49 CFR 173.403, in intrastate commerce. (49 CFR 387.3, October 1, 2004)
- d) This Part applies to for-hire motor carriers transporting passengers in interstate commerce only.
- e) Exceptions. This Part does not apply to:
  - 1) An interstate motor vehicle transporting only school children and teachers to or from school;
  - 2) An interstate motor vehicle providing taxicab service and having a seating capacity of fewer than 7 passengers and not operated on a regular route or between specified points;
  - 3) An interstate motor vehicle carrying fewer than 16 individuals in a single daily round trip to commute to and from work; and
  - 4) An interstate motor vehicle operated by a motor carrier under contract providing transportation of preprimary, primary, and secondary students for extracurricular trips organized, sponsored, and paid for by a school district. (49 CFR 387.27, October 1, 2004)

**Section 387.2000 Incorporation by Reference of 49 CFR 387**

- a) The Department incorporates by reference 49 CFR 387 as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR 380, 385, 387, 390, 391, 392, 393, 395, 396, and 397) was in effect on October 1, 2004. No later amendments to or editions of 49 CFR 387 are incorporated. Copies of the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED RULES

appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.

- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Motor Carrier Safety Regulations: General
- 2) Code Citation: 92 Ill. Adm. Code 390
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
390.1010	Amend
390.1020	Amend
390.1030	Amend
390.2000	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].
- 5) Effective Date of Amendments: November 10, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5323
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Several grammatical changes were made in agreement with JCAR. Additionally, the Department added a definition of "Safety Permit" at Section 390.1020 pursuant to public comment.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Number</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
390.2000	Amend	29 Ill. Reg. 18393; November 14, 2005

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and purpose of amendments: By this Notice, the Department has amended this Part as follows:

At Section 390.1010, the Department added a new subsection that states that intrastate motor carriers and vehicles that transport certain types and quantities of hazardous materials are now subject to some or all of the provisions of 49 CFR 385, 386, 387, and 390 of the Federal Motor Carrier Safety Regulations. This subsection was added pursuant to a final federal rulemaking of June 30, 2004 at 69 FR 39350 that requires motor carriers that transport certain types and quantities of hazardous materials to obtain a hazardous materials safety permit.

At Section 390.1020, the Department updated CFR citations to maintain consistency with the federal regulations. A new definition of "Previous employer" was added to this Part pursuant to the new federal definition from the final federal rulemaking of March 30, 2004 at 69 FR 16684.

At Section 390.1030, the Department updated CFR citations to maintain consistency with the federal regulations.

At Section 390.2000(a), the Department updated the incorporation by reference date of 49 CFR 390, subpart B, to the October 1, 2004 edition, the most recent edition of 49 CFR.

The following summaries provide descriptions of federal rulemakings that are applicable to this Part, that became effective since April 2003, and that are included in the October 1, 2004 edition of 49 CFR 390, subpart B. Therefore, the Department has incorporated changes made by the following Dockets:

Docket FMCSA-97-2277 (69 FR 16684, March 30, 2004) Amended the regulations to specify minimum driver safety performance history data that new or prospective employers are required to seek for applicants under consideration for employment as a commercial motor vehicle driver. This action enabled prospective motor carrier employers to make more sound hiring decisions of drivers.

Docket FMCSA-97-2180 (69 FR 39350, June 30, 2004) Established a national safety permit program for motor carriers that transport certain hazardous materials in interstate or intrastate commerce. Implemented provisions of Federal hazardous materials transportation law.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

Finally, at Section 390.2000(b), the Department amended the list of exceptions to 49 CFR 390, subpart B, as follows:

49 CFR 390.15 – The Department deleted language no longer necessary in the Illinois Motor Carrier Safety Regulations (IMCSR). 49 CFR 390.15 now provides enforcement authority to “an authorized State enforcement agency representative.” Since the FMCSA has declared the Department “an authorized State enforcement agency”, the IMCSR no longer need to expressly provide for that enforcement authority.

49 CFR 390.21 – The Department established marking requirements for intrastate commercial motor vehicles that require a hazardous materials safety permit pursuant to the federal final rule of June 30, 2004 (69 FR 39350).

49 CFR 390.25 – The Department deleted language that restricted the applicability of 49 CFR 390.25 to interstate commerce. The Department expanded the applicability of 49 CFR 390.25 to intrastate, as well as interstate, commerce.

49 CFR 390.29(b) - The Department deleted language that is no longer necessary in the IMCSR. 49 CFR 390.15 provides enforcement authority to an “authorized representative of the FMCSA.” Since the FMCSA declared the Department’s compliance officers to be authorized representatives of the FMCSA, the IMCSR no longer need to expressly provide for that enforcement authority.

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

Ms. Catherine Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P. O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 390  
MOTOR CARRIER SAFETY REGULATIONS: GENERAL

## SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

Section	
390.1000	Purpose
390.1010	General Applicability
390.1020	Definitions
390.1030	Rules of Construction

## SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

Section	
390.2000	Incorporation by Reference

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 14 Ill. Reg. 15519, effective September 10, 1990; amended at 15 Ill. Reg. 13171, effective August 21, 1991; amended at 16 Ill. Reg. 14435, effective September 8, 1992; amended at 18 Ill. Reg. 754, effective January 11, 1994; amended at 18 Ill. Reg. 10362, effective June 15, 1994; amended at 19 Ill. Reg. 13050, effective August 30, 1995; amended at 20 Ill. Reg. 15344, effective November 18, 1996; amended at 23 Ill. Reg. 5105, effective March 31, 1999; amended at 24 Ill. Reg. 1954, effective January 19, 2000; amended at 25 Ill. Reg. 2100, effective January 17, 2001; amended at 26 Ill. Reg. 8978, effective June 5, 2002; amended at 26 Ill. Reg. 12749, effective August 12, 2002; amended at 27 Ill. Reg. 9218, effective June 2, 2003; amended at 28 Ill. Reg. 1152, effective January 4, 2004; emergency amendment at 28 Ill. Reg. 12479, effective August 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15636, effective November 19, 2004; amended at 29 Ill. Reg. 19227, effective November 10, 2005.

## SUBPART A: GENERAL APPLICABILITY AND DEFINITIONS

**Section 390.1010 General Applicability**

- a) All Parts of the IMCSR except for "Transportation of Hazardous Materials;

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

Driving and Parking" (92 Ill. Adm. Code 397) are applicable to:

*Persons employing drivers, drivers and commercial motor vehicles which transport property or passengers in interstate or intrastate commerce.*  
(Section 18b-106 of the Law)

- b) 92 Ill. Adm. Code 397 applies to any employer, employee or motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with "Carriage by Public Highway" (49 CFR 177.823) and to:
  - 1) Each officer or employee of the carrier who performs supervisory duties related to the transportation of hazardous materials; and
  - 2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.
- c) The provisions of 92 Ill. Adm. Code 397 do not apply to the transportation in Illinois of hazardous materials by a farmer when in approved containers and in the amounts and manner specified in 92 Ill. Adm. Code 171.22, Agricultural Exception.
- d) Nothing in the IMCSR shall be construed to prohibit an employer from requiring and enforcing more stringent requirements relating to safety of operation and employee safety and health.
- e) The IMCSR requires knowledge of and compliance with the following:
  - 1) Every employer shall be knowledgeable of and comply with all requirements contained in the IMCSR which are applicable to that motor carrier's operations.
  - 2) Every driver and employee shall comply with all applicable requirements contained in the IMCSR and shall be instructed accordingly.
  - 3) All motor vehicles' equipment and accessories required by the IMCSR shall be maintained in compliance with all applicable performance and design criteria also set forth in the IMCSR.
- f) Except for provisions in Section 13-101 of the Illinois Vehicle Code [625 ILCS

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

5/13-101] or unless otherwise specifically provided, the requirements in the IMCSR do not apply to:

- 1) All school bus operations as defined in Section 390.1020 of this Part;
- 2) Transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States;
- 3) The occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise;
- 4) The transportation of human corpses or sick and injured persons;
- 5) The operation of fire trucks and rescue vehicles while involved in emergency and related operations.

g) The following parts apply to motor carriers and vehicles that transport certain types and quantities of hazardous materials in intrastate commerce (see 49 CFR 385.403 for the list of types and quantities):

- 1) 49 CFR 385, Safety Fitness Procedures, for carriers subject to the requirements of 49 CFR 385.403;
- 2) 49 CFR 386, Procedures and Enforcement;
- 3) 49 CFR 387, Minimum Levels of Financial Responsibility for Motor Carriers, to the extent provided in 49 CFR 387.3; and
- 4) 49 CFR 390.19, Motor carrier identification report, and 49 CFR 390.21, Marking of CMVs, for carriers subject to the requirements of 49 CFR 385.403. Intrastate motor carriers operating prior to January 1, 2005 are excepted from 49 CFR 390.19(a)(1).

Agency Note: See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions, for provisions relating to possible exemptions from the IMCSR for intrastate public utility commercial motor vehicles.

(Source: Amended at 29 Ill. Reg. 19227, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

**Section 390.1020 Definitions**

The following definitions apply to all Parts in the IMCSR unless a specific Part expressly defines a term different than what is used below:

"Accident" means:

Except as provided below, an occurrence involving a commercial motor vehicle operating on a highway that results in:

A fatality;

Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle.

The term accident does not include:

An occurrence involving only boarding and alighting from a stationary motor vehicle; or

An occurrence involving only the loading or unloading of cargo.  
(49 CFR 390.5, October 1, ~~2004~~2002)

*"Agricultural movements" means the operation of a motor vehicle or combination of vehicles controlled and operated by a private motor carrier of property that is using the vehicle to transport nonhazardous or hazardous agricultural crop production fertilizers or agricultural chemicals from a local source of supply to farm or field, or from one farm or field to another, or from farm or field back to the local source of supply. (Section 1-101.6 of the Illinois Vehicle Code (the Code) [625 ILCS 5/1-101.6])*

*"Air mile" means a nautical mile, which is equivalent to 6,076 feet or 1,852 meters. Accordingly, 100 air miles are equivalent to 115.08 statute miles or 185.2 kilometers. (Section 18b-101 of the Law ~~(see P.A. 93-0860, effective~~*

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

~~August 4, 2004~~)

"Alcohol concentration" ~~or "AC"~~(~~AC~~) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. (49 CFR 390.5, October 1, ~~2004~~~~2002~~)

"Bus" means any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs. (49 CFR 390.5, October 1, ~~2004~~~~2002~~)

*"Business district" means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to, hotels, banks, or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway. (Section 1-108 of the Code)*

"Charter transportation of passengers" means transportation, using a bus, of a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. (49 CFR 390.5, October 1, ~~2004~~~~2002~~)

"Code" means the Illinois Vehicle Code [625 ILCS 5].

*"Commerce" means trade, commerce or transportation within the State. (Section 1-111.4 of the Code)*

*"Commercial motor vehicle" ~~or "CMV"~~(~~CMV~~) means:*

*Any self propelled or towed vehicle used on public highways in interstate and intrastate commerce to transport passengers or property when the vehicle has a gross vehicle weight, a gross vehicle weight rating, a gross combination weight, or a gross combination weight rating of 10,001 or more pounds (4,537 or more kilograms); or*

*The vehicle is used or designed to transport more than 15 passengers, including the driver; or*

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

*The vehicle is designed to carry 15 or fewer passengers and is operated by a contract carrier transporting employees in the course of their employment on a highway of this State; or*

*The vehicle is used or designed to transport between 9 and 15 passengers, including the driver, for direct compensation, if the vehicle is being operated beyond a radius of 75 air miles (86.3 statute miles or 138.9 kilometers) from the driver's normal work reporting location; or*

*The vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act.*

*This definition shall not include farm machinery, fertilizer spreaders, and other special agricultural movement equipment described in Section 3-809 of the Code nor implements of husbandry as defined in Section 1-130 of the Code. (Section 18b-101 of the Law ~~(see P.A. 93-0860, effective August 4, 2004)~~)*

"Commercial Vehicle Inspections" means:

Level 1 – North American Standard Inspection: An inspection that includes each of the items specified under the North American Uniform Out-of-Service Criteria.

As a minimum, North American Standard inspections must include examination of: driver's license, medical examiner's certificate and waiver if applicable, alcohol and drugs, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, brake system, steering mechanism, wheels and rims, tires, coupling devices, suspension, frame, fuel system, exhaust system, windshield wipers, lighting devices, safe loading, and hazardous material requirements as applicable.

Level 2 – Walk Around Driver/Vehicle Inspection: An examination that, as a minimum, includes: driver's license, medical examiner's certificate, and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, vehicle inspection report, fire extinguisher, warning devices for stopped vehicles, head lamps, turn signals, stop lamps, windshield wipers, wheels, tires, fuel system, exhaust system, visible brake components, coupling devices, cargo securement, low air warning

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

device, visible suspension components, and hazardous material requirements as applicable. It is contemplated that the walk-around driver/vehicle inspection will be conducted without inspecting underneath the vehicle.

Level 3 – Driver Only Inspection: A roadside examination of the driver's license, medical certification and waiver if applicable, driver's record of duty status as required, hours of service, seat belt, and vehicle inspection report.

Level 4 – Special Inspections: Inspections under this heading typically include a one-time examination of a particular item. These examinations are normally made in support of a study or to verify or refute a suspected trend.

Level 5 – Vehicle-Only Inspection: An inspection that includes each of the vehicle inspection items specified under the North American Standard Inspection (Level 1), without a driver present, conducted at any location.

(Commercial Vehicle Safety Alliance (CVSA), CVSA Operations Manual, January 1996)

"Commercial Vehicle Safety Alliance" or "~~CVSA~~(CVSA)" means the association of state/territory (United States), provincial/territory (Canada), and federal (Mexico) officials responsible for the administration and enforcement of motor carrier safety and hazardous materials laws in the United States, Canada and Mexico working together with the federal governments and industry to improve commercial vehicle safety. (CVSA Operations Manual, January 1996)

"Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated. (49 CFR 390.5, October 1, [20042002](#))

"Department" means the Department of Transportation of the State of Illinois, acting directly or through its duly authorized officers and agents. (Section 1-

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

115.05 of the Code)

"Direct assistance" means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed. (49 CFR 390.5, October 1, ~~2004~~2002)

*"Direct compensation" means payment made to the motor carrier by the passengers or a person acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services. (Section 18b-101 of the Law (see P.A. 93-0860, effective August 4, 2004))*

"Disabling damage" means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.

Exclusions:

Damage which can be remedied temporarily at the scene of the accident without special tools or parts.

Tire disablement without other damage even if no spare tire is available.

Headlamp or taillight damage.

Damage to turn signals, horn or windshield wipers which makes them inoperative. (49 CFR 390.5, October 1, ~~2004~~2002)

"Driving a commercial motor vehicle while under the influence of alcohol" means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by state law; or refusal to undergo such testing as is required by any state or jurisdiction in the enforcement of Table 1 to

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

"Commercial Driver's License Standards; Requirements and Penalties" (49 CFR 383.51) or "Driving of Motor Vehicles" (49 CFR 392.5(a)(2)). (49 CFR 390.5, October 1, [20042002](#))

"Driveaway-towaway operation" means any operation in which a motor vehicle constitutes the commodity being transported and one or more sets of wheels of the vehicle being transported are on the surface of the roadway during transportation. (49 CFR 390.5, October 1, [20042002](#))

"Driver" means any person who operates any commercial motor vehicle. (49 CFR 390.5, October 1, [20042002](#))

"Emergency" means any hurricane, tornado, storm (e.g., thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

A declaration of an emergency by the President of the United States, the Governor of a state, or their authorized representatives having authority to declare emergencies; by the FMCSA Field Administrator for the geographical area in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his designee; or

A request by a police officer for tow trucks to move wrecked or disabled motor vehicles. (49 CFR 390.5, October 1, [20042002](#))

"Emergency relief" means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this Section. (49 CFR 390.5, October 1, [20042002](#))

"Employee" means:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

A driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle);

A mechanic;

A freight handler; and

Any individual, who in the course of his or her employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any state, any political subdivision of a state, or any agency established under a compact between states and approved by the Congress of the United States who is acting within the course of such employment. (49 CFR 390.5, October 1, [20042002](#))

"Employer" means any person engaged in a business affecting interstate or intrastate commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a state, or any agency established under a compact between states approved by the Congress of the United States.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the Federal Motor Carrier Safety Administration (FMCSA) in 49 CFR 372, subpart B. The descriptions are printed in Appendix F to the Federal Motor Carrier Safety Regulations. A driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone. (49 CFR 390.5, October 1, [20042002](#))

"Exempt motor carrier" means a person engaged in transportation exempt from economic regulation by the Federal Motor Carrier Safety Administration (FMCSA) under 49 USC 13506. "Exempt motor carriers" are subject to the requirements set forth in the Illinois Motor Carrier Safety Regulations. (49 CFR 390.5, October 1, [20042002](#))

*"Farm to market agricultural transportation" means the operation of a motor vehicle controlled and operated by a farmer who is a private motor carrier of property; who is using the vehicle to transport agricultural products to or from a farm operated by the farmer, or to transport farm machinery or farm supplies to*

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

*or from a farm operated by the farmer; and who is not using the commercial vehicle to transport hazardous materials of a type or quantity that requires the vehicle to be placarded in accordance with the Illinois Hazardous Materials Transportation Act. (Section 1-119.6 of the Code)*

"Farm machinery" – see definition of "Special Agricultural Movement Equipment" in this Section.

"Farm vehicle driver" means a person who drives only a commercial motor vehicle that is –

Controlled and operated by a farmer as a private motor carrier of property;

Being used to transport either –

Agricultural products, or

Farm machinery, farm supplies, or both, to or from a farm;

Not being used in the operation of a for-hire motor carrier;

Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with 49 CFR 177.823; and

Being used within 150 air-miles of the farmer's farm. (49 CFR 390.5, October 1, [20042002](#))

"Farmer" means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which:

Are owned by that person; or

Are under the direct control of that person. (49 CFR 390.5, October 1, [20042002](#))

"Fatality" means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident. (49 CFR 390.5, October 1, [20042002](#))

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

"Federal Motor Carrier Safety Administrator" means the chief executive of the Federal Motor Carrier Safety Administration, an agency within the United States Department of Transportation. (49 CFR 390.5, October 1, [20042002](#))

"FMCSA Field Administrator" means the Field Administrator, Federal Motor Carrier Safety Administration, for a given geographical area of the United States. (49 CFR 390.5, October 1, [20042002](#))

*"For-hire" means the operation of a vehicle for compensation and subject to federal regulation by the Interstate Commerce Commission or to State regulation by the Illinois Commerce Commission and those vehicles governed by Chapters 8 and 9 under the Code and regulated by the Secretary of State. (Section 1-122.5 of the Code)*

"For-hire motor carrier" means a person engaged in the transportation of goods or passengers for compensation. (49 CFR 390.5, October 1, [20042002](#))

"Gross Combination Weight Rating" or "~~GCWR~~(~~GCWR~~)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon. (49 CFR 390.5, October 1, [20042002](#))

"Gross Vehicle Weight Rating" or "~~GVWR~~(~~GVWR~~)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle. (49 CFR 390.5, October 1, [20042002](#))

"Hazardous material" means a substance or material which has been determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. (49 CFR 390.5, October 1, [20042002](#))

"Hazardous substance" means a material, and its mixtures or solutions, that is identified in Appendix A to 49 CFR 172.101, List of Hazardous Substances and Reportable Quantities when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity (RQ). This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

"General Information, Regulations and Definitions" (49 CFR 171.8) based on the reportable quantity (RQ) specified for the materials listed in Appendix A to 49 CFR 172.101. (49 CFR 390.5, October 1, [20042002](#))

"Hazardous waste" means any material that is subject to the hazardous waste manifest requirements of the EPA specified in "Standards Applicable to Generators of Hazardous Waste" (40 CFR 262) or would be subject to these requirements absent an interim authorization to a state under "State Program Requirements" (40 CFR 123), Subpart F. (49 CFR 390.5, October 1, [20042002](#))

"Highway" means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates. (49 CFR 390.5, October 1, [20042002](#))

"Illinois Motor Carrier Safety Regulations" or "~~IMCSR~~(~~IMCSR~~)" means the requirements established in Parts [380](#), 385, 386, [387](#), 390, 391, 392, 393, 395, 396 and 397 (92 Ill. Adm. Code: Chapter I, Subchapter d).

"Illinois State Police" means any individual officer of the Illinois State Police.

*"Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds, shall be included hereunder. (Section 1-130 of the Code)*

*"Interstate commerce" means transportation between two or more states or transportation originating in one state and passing into or through other states for delivery in another state. (Section 1-133 of the Code)*

"Intrastate commerce" means any trade, traffic, or transportation in Illinois which is not described in the term "interstate commerce." (49 CFR 390.5, October 1, [20042002](#))

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

"Law" means the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

"Medical Examiner" means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. In Illinois, the term includes doctors of medicine, doctors of osteopathy, doctors of chiropractic, physician assistants who have been delegated the performance of medical examinations by his/her supervising physician, and advanced practice nurses who have a written collaborative agreement with a collaborating physician that authorizes him/her to perform physical examinations.

"Motor carrier" means a for-hire motor carrier or a private motor carrier. The term "motor carrier" includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of the IMCSR, the definition of "motor carrier" includes the terms "employer" and "exempt motor carrier." (49 CFR 390.5, October 1, [20042002](#))

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Motor Carrier Safety Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. (49 CFR 390.5, October 1, [20042002](#))

"Multiple-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier. (49 CFR 390.5, October 1, [20042002](#))

"North American Uniform Out-Of-Service Criteria" means a set of guidelines established by the CVSA and recognized by all states, the provinces of Canada, and Mexico as acceptable standards for identifying driver violations and critical vehicle inspection items that may render a driver, a commercial motor vehicle or a hazardous material load out-of-service. The criteria is enforced, in some states, by qualified law enforcement officers of a municipality, county, state or the federal government. In Illinois, only qualified officers of the Illinois State Police and the federal government have authority to enforce the out-of-service criteria.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

"Operator" – see driver.

"Other terms" – any other term used in the IMCSR is used in its commonly accepted meaning, except where such other term has been defined elsewhere in the IMCSR. In that event, the definition therein given shall apply. (49 CFR 390.5, October 1, [20042002](#))

"Out-of-service order" means a declaration by the Illinois State Police or by an authorized enforcement officer of a Federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to 49 CFR 386.72, 49 CFR 392.5, 49 CFR 395.13, 49 CFR 396.9, or 92 Ill. Adm. Code 392.2000(d), or compatible laws, or the North American Uniform Out-of-Service Criteria as defined in this Section.

*"Person" means any natural person or individual, governmental body, firm, association, partnership, copartnership, joint venture, company, corporation, joint stock company, trust, estate or any other legal entity or their legal representative, agent or assigns. (Section 18b-101 of the Law)*

"Planting and harvesting season" means the period of February 1 through November 30 each year.

"Previous employer" means any US DOT or Department regulated person who employed the driver in the preceding 3 years, including any possible current employer.

"Principal place of business" means a single location designated by the motor carrier, normally its headquarters, for purposes of identification under this Subchapter d. The motor carrier must make records required by 49 CFR 382 and 49 CFR 387, as well as Parts 390, 391, 395, 396, and 397 of this Subchapter d, available for inspection at this location within 48 hours (Saturdays, Sundays, and Federal or State holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Motor Carrier Safety Administration or the Illinois Department of Transportation. (49 CFR 390.5, October 1, [20042002](#))

"Private motor carrier" means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier. (49 CFR 390.5, October 1, [20042002](#))

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

"Private motor carrier of passengers (business)" means a private motor carrier engaged in the interstate or intrastate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large. (49 CFR 390.5, October 1, [20042002](#))

"Private motor carrier of passengers (nonbusiness)" means a private motor carrier involved in the interstate or intrastate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). (49 CFR 390.5, October 1, [20042002](#))

"Radar detector" means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the driver's compartment of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and

Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle. (49 CFR 390.5, October 1, [20042002](#))

"Residential district" means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences. (49 CFR 390.5, October 1, [20042002](#))

["Safety permit" means a document issued by the Federal Motor Carrier Safety Administration that contains a permit number and confers authority to transport in commerce the hazardous materials listed in 49 CFR 385.403. \(49 CFR 385.402, October 1, 2004\)](#)

"School bus" means a motor vehicle that meets all of the special requirements for school buses in Sections 12-801, 12-802, 12-803 and 12-805 of the Code and is designed or used to carry more than 10 passengers, including the driver, and is used for transporting preprimary, primary or secondary school students from

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

home to school or from school to home or for intrastate school sanctioned functions.

"School bus operation" means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home and for intrastate school sanctioned functions.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"Single-employer driver" means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis. (49 CFR 390.5, October 1, [20042002](#))

"Special agent" – See 49 CFR Appendix B to Subchapter B of Chapter III.

*"Special agricultural movement equipment" means a vehicle of the second division having a corn sheller, a welldriller, hay press, clover huller, feed mixer and unloader or other farm machinery permanently mounted thereon and used solely for transporting the same, farm wagon type trailers having a fertilizer spreader attachment permanently mounted thereon, having a gross weight of not to exceed 36,000 pounds and farm wagon type tank trailers (i.e., nurse tanks) not to exceed 3,000 gallon capacity. Also includes any single unit self-propelled agricultural fertilizer implement, designed for both on and off road use, equipped with flotation tires and otherwise especially adapted for the application of plant food materials or agricultural chemicals. (Section 3-809 of the Code)*

"State" means a state of the United States and the District of Columbia and includes a political subdivision of a state. (49 CFR 390.5, October 1, [20042002](#))

"Trailer" includes:

"Full trailer" means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle. A semitrailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer. (49 CFR 390.5, October 1, [20042002](#))

"Pole trailer" means any motor vehicle which is designed to be drawn by

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

another motor vehicle and attached to the towing motor vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections. (49 CFR 390.5, October 1, [20042002](#))

"Semitrailer" means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-propelled towing motor vehicle. (49 CFR 390.5, October 1, [20042002](#))

"Truck" means any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property. (49 CFR 390.5, October 1, [20042002](#))

"Truck tractor" means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles. (49 CFR 390.5, October 1, [20042002](#))

"United States" means the 50 states and the District of Columbia. (49 CFR 390.5, October 1, [20042002](#))

"US DOT" means the United States Department of Transportation.

(Source: Amended at 29 Ill. Reg. 19227, effective November 10, 2005)

**Section 390.1030 Rules of Construction**

- a) In the IMCSR unless the context requires otherwise:
  - 1) Words imparting the singular include the plural;
  - 2) Words imparting the plural include the singular; and
  - 3) Words imparting the present tense include the future tense. (49 CFR 390.7, October 1, [20042002](#))
- b) In the IMCSR:

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) "Officer" includes any person authorized by law to perform the duties of the office;
- 2) "Writing" includes printing and typewriting;
- 3) "Shall" is used in an imperative sense;
- 4) "Must" is used in an imperative sense;
- 5) "Should" is used in a recommendatory sense;
- 6) "May" is used in a permissive sense; and
- 7) "Includes" is used as a word of inclusion, not limitation. (49 CFR 390.7, October 1, ~~2004~~2002)

(Source: Amended at 29 Ill. Reg. 19227, effective November 10, 2005)

## SUBPART B: GENERAL REQUIREMENTS AND INFORMATION

**Section 390.2000 Incorporation by Reference**

- a) 49 CFR 390, subpart B is hereby incorporated by reference as that subpart of the Federal Motor Carrier Safety Regulations (FMCSR) (~~49 CFR 380, 385, 387, 390, 391, 392, 393, 395, 396 and 397~~) ~~that was in effect on October 1, 2004, 2002, as amended at 67 FR 61818, October 2, 2002, as amended at 67 FR 63019, October 9, 2002, and as amended at 68 FR 22456, April 28, 2003~~ subject only to the exceptions in subsection (b). No later amendments to or editions of 49 CFR 390, subpart B are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.
- b) The following interpretations of, additions to and deletions from 49 CFR 390, subpart B shall apply for the purposes of this Subpart:
  - 1) 49 CFR 390.9 is deleted and not incorporated.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

- 2) 49 CFR 390.21 applies to the following:
- A) Commercial motor vehicles engaged in interstate commerce; and
  - B) Commercial motor vehicles engaged in intrastate commerce if the carrier requires a safety permit as required by 49 CFR 385.403.

- 2) ~~49 CFR 390.15 is not incorporated and the following is substituted therefor:~~

~~A motor carrier shall make all records and information pertaining to an accident available to an authorized representative or special agent of the Federal Motor Carrier Safety Administration or Illinois Department of Transportation upon request or as part of any inquiry within such time as the request or inquiry may specify. A motor carrier shall give an authorized representative of the Federal Motor Carrier Safety Administration or Illinois Department of Transportation all reasonable assistance in the investigation of any accident including providing a full, true and correct answer to any question of the inquiry.~~

- 3) ~~49 CFR 390.21 applies only to commercial motor vehicles engaged in interstate commerce.~~

- 34) 49 CFR 390.23(a)(2)(i)(A) is not incorporated and the following substituted therefor:

An emergency has been declared by a Federal, State, or local government official having authority to declare an emergency, including but not limited to the Illinois Department of Transportation's Director, Division of Traffic Safety, or his designee.

- 5) ~~49 CFR 390.25 applies only to commercial motor vehicles engaged in interstate commerce.~~

- 6) ~~49 CFR 390.29(b) is not incorporated and the following is substituted therefor:~~

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENTS

~~All records and documents required by this Subchapter d that are maintained at a regional office or driver work reporting location shall be made available for inspection upon request by a special agent or authorized representative of the Federal Highway Administration or Illinois Department of Transportation at the motor carrier's principal place of business or other location specified by the agent or representative within 48 hours after a request is made. Saturdays, Sundays, and Federal and State holidays are excluded from the computation of the 48-hour period of time.~~

- ~~47)~~ Any reference to "this ~~part~~Part" in the incorporated material shall mean 92 Ill. Adm. Code 390.
- ~~58)~~ Any reference to "this ~~chapter~~Chapter" or "this ~~subchapter~~Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter d.
- ~~69)~~ Any reference to a section in the incorporated material shall be read to refer to that Section in the IMCSR.
- ~~740)~~ Any reference to "~~part~~Part 325 of ~~subchapter~~Subchapter A" shall be read to refer to "Compliance with Interstate Motor Carrier Noise Emission Standards" (49 CFR 325, October 1, ~~2004~~2002).

(Source: Amended at 29 Ill. Reg. 19227, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Qualification of Drivers
- 2) Code Citation: 92 Ill. Adm. Code 391
- 3) Section Number: 391.2000                      Adopted Action:  
Amend
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Amendment: November 10, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and the Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5348
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Several grammatical changes were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were necessary.
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendment: By this Notice, the Department has updated the incorporation by reference of 49 CFR 391 to the October 1, 2004 edition, the most recent edition of 49 CFR.

The following summaries provide descriptions of federal rulemakings that are applicable to this Part, that became effective since October 1, 2002, and that are included in the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

October 1, 2004 edition of 49 CFR 391. Therefore, the Department has incorporated changes made by the following Dockets:

(69 FR 56196, September 30, 2003) Made technical amendments to the regulations to correct inadvertent errors and omissions. Made minor editorial changes to improve clarity and consistency.

Docket FMCSA-97-2176 (69 FR 16722, March 30, 2004) Established standards for minimum training requirements for the operators of longer combination vehicles and requirements for the instructors who train those operators.

Docket FMCSA-97-2277 (69 FR 16684, March 30, 2004) Amended the regulations to specify minimum driver safety performance history data that new or prospective employers are required to seek for applicants under consideration for employment as a commercial motor vehicle driver. This action enabled prospective motor carrier employers to make more sound hiring decisions of drivers to improve safety of highways.

Docket FMCSA-97-2176 (69 FR 28846, May 19, 2004) Corrected errors from a final rule of March 30, 2004 concerning requirements for longer combination vehicle operators and the instructors who train them.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 391  
QUALIFICATION OF DRIVERS

## Section

391.1000

General

391.2000

Incorporation ~~by~~ Reference of 49 CFR 391

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15560, effective September 10, 1990; amended at 15 Ill. Reg. 13189, effective August 21, 1991; amended at 16 Ill. Reg. 5362, effective March 23, 1992; amended at 16 Ill. Reg. 14715, effective September 14, 1992; amended at 18 Ill. Reg. 783, effective January 11, 1994; amended at 19 Ill. Reg. 13077, effective August 30, 1995; amended at 20 Ill. Reg. 15365, effective November 18, 1996; amended at 23 Ill. Reg. 5133, effective March 31, 1999; amended at 24 Ill. Reg. 1991, effective January 19, 2000; amended at 25 Ill. Reg. 2126, effective January 17, 2001; amended at 26 Ill. Reg. 8997, effective June 5, 2002; amended at 27 Ill. Reg. 9238, effective June 2, 2003; amended at 29 Ill. Reg. 19251, effective November 10, 2005.

**Section 391.2000 Incorporation ~~by~~ Reference of 49 CFR 391**

- a) The Department hereby incorporates 49 CFR 391 by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR [380](#), [385](#), [387](#), 390, 391, 392, 393, 395, 396, and 397) ~~that~~ was in effect on October 1, ~~2004, 2002, as amended at 67 FR 61818, October 2, 2002~~ subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 391 are incorporated. [Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling \(217\)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.](#)
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR 391.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- c) The following interpretations of, additions to and deletions from 49 CFR 391 shall apply for purposes of this Part.
- 1) Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.
  - 2) 49 CFR 391.11(b)(1) does not apply to the operator of a commercial motor vehicle used in intrastate commerce.
  - 3) *Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle with a gross vehicle weight rating or gross combination weight of over 12,000 lbs., used in the intrastate transportation of property who immediately prior to July 29, 1986 was eligible and licensed to operate a motor vehicle subject to the Illinois Motor Carrier Safety Regulations (IMCSR) and was engaged in operating such vehicles, and who was disqualified on July 29, 1986 by the adoption of 49 CFR 391 by reason of the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time unless such driver has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner. (Section 18b-105 of the Law)*
  - 4) Paragraphs (b)(3) (insulin dependent diabetic) and (b)(10) (minimum visual acuity) of 49 CFR 391.41 shall not apply to the driver of a commercial motor vehicle which either has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of between 10,000 and 12,001 pounds; or which is designed to transport more than 15 passengers, including the driver; or which has a GVWR or GCWR of less than 12,001 pounds and transports hazardous materials in a quantity requiring placarding under the Illinois Hazardous Materials Transportation Act. The vehicle must be used in intrastate transportation. The driver must have been eligible and licensed to operate a motor vehicle subject to the IMCSR and engaged in operating such vehicle immediately prior to January 17, 1992. The driver must have been disqualified on January 17, 1992 by the adoption of Public Act 87-829 which made the IMCSR applicable to vehicles described above. The reason for disqualification

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

must have been the application of paragraphs (b)(3) and (b)(10) of 49 CFR 391.41 with respect to a physical condition existing at that time. This exception does not apply to any driver who has a record of accidents which would indicate a lack of ability to operate a motor vehicle in a safe manner.

- 5) 49 CFR 391.43(a) is not incorporated and the following substituted therefor:

Except as provided by 49 CFR 391.43(b), the medical examination shall be performed by a licensed medical examiner as defined in 92 Ill. Adm. Code 390.1020.

- 6) If a medical examiner determines that the driver is qualified to drive only in intrastate transportation due to the application of the provisions of Section 391.2000(c)(3) or 391.2000(c)(4) above, the following shall appear on the medical examiner's certificate: "Qualified only for intrastate transportation in Illinois."

- 7) 49 CFR 391.49(a) is not incorporated and the following substituted therefor:

A person who is not physically qualified to drive under 49 CFR 391, and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle in interstate or intrastate transportation if the Division Administrator, FMCSA, has granted a Skill Performance Evaluation (SPE) Certificate to that person.

(Source: Amended at 29 Ill. Reg. 19251, effective November 10, 2005)



DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Ms. Cathy Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 392  
DRIVING OF COMMERCIAL MOTOR VEHICLES

## Section

392.1000	General
392.2000	Incorporation by Reference of 49 CFR 392

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15503, effective September 10, 1990; amended at 15 Ill. Reg. 13155, effective August 21, 1991; amended at 18 Ill. Reg. 740, effective January 11, 1994; amended at 18 Ill. Reg. 10359, effective June 15, 1994; amended at 19 Ill. Reg. 13038, effective August 30, 1995; amended at 20 Ill. Reg. 15330, effective November 18, 1996; amended at 23 Ill. Reg. 5093, effective March 31, 1999; amended at 24 Ill. Reg. 1942, effective January 19, 2000; amended at 25 Ill. Reg. 2090, effective January 17, 2001; amended at 26 Ill. Reg. 9002, effective June 5, 2002; amended at 27 Ill. Reg. 9243, effective June 2, 2003; amended at 29 Ill. Reg. 19256, effective November 10, 2005.

**Section 392.2000 Incorporation by Reference of 49 CFR 392**

- a) "Driving of Commercial Motor Vehicles" (49 CFR 392) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR [380](#), [385](#), [387](#), 390, 391, 392, 393, 395, 396, and 397) ~~that~~ was in effect on October 1, ~~2004~~[2002](#). No later amendments to or editions of 49 CFR 392 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in the FMCSR.
- c) The following addition to 49 CFR 392 shall apply for purposes of this Part.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

- d) 49 CFR 392.9a (Operating authority) is not incorporated and the following is substituted therefor:
- 1) Registration required. A motor vehicle providing transportation requiring registration under 49 USC 13902 may not be operated without the required registration or operated beyond the scope of its registration.
  - 2) Penalties. Every motor vehicle providing transportation requiring registration under 49 USC 13902 shall be ordered out-of-service if determined to be operating without registration or beyond the scope of its registration. In addition, the motor carrier may be subject to penalties in accordance with 49 USC 14901.
  - 3) Driver compliance. Upon the issuance of the out-of-service order under subsection (d)(2) of this Section, the driver shall comply immediately with such order.

(Source: Amended at 29 Ill. Reg. 19256, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Parts and Accessories Necessary for Safe Operation
- 2) Code Citation: 92 Ill. Adm. Code 393
- 3) Section Number: 393.2000                      Adopted Action:  
Amend
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Amendment: November 10, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5358
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Several grammatical corrections were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendment: By this Notice, the Department has updated the incorporation by reference of 49 CFR 393 to the October 1, 2004 edition, the most recent edition of 49 CFR.

The following summaries provide descriptions of federal rulemakings that are applicable to this Part, that became effective since October 1, 2002, and that are included in the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

October 1, 2004 edition of 49 CFR 393. Therefore, the Department has incorporated changes made by the following Dockets:

(69 FR 56196, September 30, 2003) Made technical amendments to the regulations to correct inadvertent errors and omissions. Made minor editorial changes to improve clarity and consistency.

Docket FMCSA-02-13589 (69 FR 31302, June 3, 2004) Revised the requirements concerning fuel tank fill rates for gasoline- and methanol-fueled light-duty vehicles. Removed a conflict between the fuel tank fill rate requirements of the regulations and those of the Environmental Protection Agency for gasoline- and methanol-fueled vehicles up to 14,000 pounds gross vehicle weight rating.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 393  
PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

## Section

393.1000 General  
393.2000 Incorporation by Reference of 49 CFR 393

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15537, effective September 10, 1990; amended at 15 Ill. Reg. 13185, effective August 21, 1991; amended at 18 Ill. Reg. 774, effective January 11, 1994; amended at 19 Ill. Reg. 13070, effective August 30, 1995; amended at 20 Ill. Reg. 15362, effective November 18, 1996; amended at 23 Ill. Reg. 5124, effective March 31, 1999; amended at 24 Ill. Reg. 1974, effective January 19, 2000; amended at 25 Ill. Reg. 2117, effective January 17, 2001; amended at 26 Ill. Reg. 9005, effective June 5, 2002; amended at 27 Ill. Reg. 9247, effective June 2, 2003; amended at 28 Ill. Reg. 1157, effective January 4, 2004; amended at 29 Ill. Reg. 19260, effective November 10, 2005.

**Section 393.2000 Incorporation by Reference of 49 CFR 393**

- a) "Parts and Accessories Necessary for Safe Operation" (49 CFR 393) is incorporated by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR [380](#), [385](#), [387](#), 390, 391, 392, 393, 395, 396, and 397) ~~that~~ was in effect on October 1, ~~2004, 2002, as amended at 67 FR 61818, October 2, 2002, and as amended at 67 FR 63966, October 16, 2002~~ subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 393 are incorporated. [Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling \(217\)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.](#)
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- c) The following interpretations of, additions to, and deletions from 49 CFR 393 shall apply for purposes of this Part.
- 1) 49 CFR 393.93 shall not apply to those commercial motor vehicles engaged in intrastate commerce which were manufactured before June 30, 1972 (Section 18b-105(c)(1) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(c)(1)]).
  - 2) 49 CFR 393.86 shall not apply for those vehicles registered as farm trucks under Section 3-815(c) of the Illinois Vehicle Code [\[625 ILCS 5/3-815\(c\)\]](#) ~~(the Code) [625 ILCS 5/3-815(c)]~~ and utilized in intrastate commerce (Section 18b-105(c)(2) of the Law).
  - 3) Authorized Illinois State Police shall place vehicles out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the vehicle out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 29 Ill. Reg. 19260, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Hours of Service of Drivers
  - 2) Code Citation: 92 Ill Adm. Code 395
  - 3) Section Number: 395.2000                      Adopted Action:  
Amend
  - 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
  - 5) Effective Date of Amendment: November 10, 2005
  - 6) Does this rulemaking contain an automatic repeal date? No
  - 7) Does this amendment contain incorporations by reference? Yes
  - 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
  - 9) Notice of Proposal published in Illinois Register: April 29, 2005; 29 Ill. Reg. 5959
  - 10) Has JCAR issued a Statement of Objection to this rulemaking? No
  - 11) Differences between proposal and final version: A grammatical correction was made in agreement with JCAR.
  - 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
  - 13) Will this amendment replace any emergency amendment currently in effect? No
  - 14) Are there any amendments pending on this Part? Yes
- | <u>Section Number</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u>     |
|-----------------------|------------------------|---------------------------------------|
| 395.2000              | Amend                  | 29 Ill. Reg. 18399; November 14, 2005 |
- 15) Summary and purpose of amendment: By this Notice, the Department has updated the incorporation by reference of 49 CFR 395 to the October 1, 2004 edition, the most recent edition of 49 CFR.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

- 16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 395  
HOURS OF SERVICE OF DRIVERS

## Section

395.1000 General  
395.2000 Incorporation by Reference of 49 CFR 395

**AUTHORITY:** Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

**SOURCE:** Adopted at 14 Ill. Reg. 15507, effective September 10, 1990; amended at 15 Ill. Reg. 13161, effective August 21, 1991; amended at 16 Ill. Reg. 14425, effective September 8, 1992; amended at 18 Ill. Reg. 743, effective January 11, 1994; amended at 19 Ill. Reg. 13041, effective August 30, 1995; amended at 20 Ill. Reg. 15335, effective November 18, 1996; amended at 23 Ill. Reg. 5096, effective March 31, 1999; amended at 24 Ill. Reg. 1944, effective January 19, 2000; amended at 25 Ill. Reg. 2092, effective January 17, 2001; amended at 26 Ill. Reg. 9009, effective June 5, 2002; amended at 26 Ill. Reg. 12766, effective August 12, 2002; amended at 27 Ill. Reg. 9251, effective June 2, 2003; amended at 28 Ill. Reg. 1161, effective January 4, 2004; emergency amendment at 28 Ill. Reg. 6654, effective April 14, 2004, for a maximum of 150 days; emergency expired September 10, 2004; amended at 29 Ill. Reg. 19264, effective November 10, 2005.

**Section 395.2000 Incorporation by Reference of 49 CFR 395**

- a) "Hours of Service of Drivers" (49 CFR 395) is incorporated by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR [380, 385, 387, 390, 391, 392, 393, 395, 396, and 397](#)) ~~that~~ was in effect on October 1, ~~2004, 2002, as amended at 68 FR 22456, April 28, 2003 and as amended at 68 FR 56208, September 30, 2003~~ subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 395 are incorporated. [Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling \(217\) 785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.](#)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- c) The following interpretations of, additions to and deletions from 49 CFR 395 shall apply for purposes of this Part.
  - 1) 49 CFR 395.1(h) and 395.1(i) are deleted and not incorporated.
  - 2) 49 CFR 395.1(e) as it applies to intrastate carriers is amended to establish that *drivers shall operate within a 150 air-mile radius of the normal work reporting location to qualify for exempt status.* (Section 18b-105(d) of the Illinois Motor Carrier Safety Law (the Law) [625 ILCS 5/18b-105(d)])
  - 3) 49 CFR 395.13 is not incorporated and the following substituted therefor:
    - A) Authority to declare drivers out-of-service due to any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined in 92 Ill. Adm. Code 390.1020. Every Illinois State Police officer certified to conduct Commercial Vehicle Inspections, Levels 1, 2, 3, 4 or 5 (as defined in 92 Ill. Adm. Code 390) is authorized to declare a driver out-of-service as set forth in subsection (c)(3)(B) and to notify the motor carrier of that declaration upon finding at the time and place of examination that declaring the driver out-of-service is warranted. Notification to the motor carrier is accomplished when the Illinois State Police officer presents the Illinois Commercial Driver/Vehicle Inspection Report (Form ISP 5-238) to the driver.
    - B) Out-of-Service Criteria
      - i) No driver shall drive after being on duty in excess of the maximum periods permitted by 49 CFR 395.
      - ii) No driver required to maintain a record of duty status under 49 CFR 395.8 or 395.15 shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- iii) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but who has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.

## C) Responsibilities of motor carriers

- i) No motor carrier shall:

Require or permit a driver who has been declared out-of-service to operate a commercial motor vehicle until that driver may lawfully do so under the requirements in 49 CFR 395.

Require a driver who has been declared out-of-service for failure to prepare a record of duty status to operate a commercial motor vehicle until that driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395, ~~as amended at 68 FR 22456, April 28, 2003,~~ and is in compliance with this Section. The appropriate consecutive hours off duty period may include sleeper berth time.

- ii) A motor carrier shall, if required (refer to 92 Ill. Adm. Code 396.2010 for requirement), complete the "Notice to Motor Carrier" portion of the Form ISP 5-238 (Illinois Commercial Driver/Vehicle Inspection Report) and deliver the copy of the form either personally or by mail to the Illinois State Police Motor Carrier Safety Section at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

## D) Responsibilities of the Driver:

- i) No driver who has been declared out-of-service shall operate a commercial motor vehicle until that driver may lawfully do so under the requirements of 49 CFR 395.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- ii) No driver who has been declared out-of-service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the driver has been off duty for the appropriate number of consecutive hours required by 49 CFR 395, ~~as amended at 68 FR 22456, April 28, 2003,~~ and is in compliance with this Section.
  - iii) A driver to whom a form has been tendered declaring the driver out-of-service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by motor carrier to receive it.
  - iv) This Section does not alter the hazardous materials requirements prescribed in 92 Ill. Adm. Code 397 pertaining to attendance and surveillance of commercial motor vehicles.
- 4) Part 395 *shall not apply to agricultural movements* that are engaged in intrastate commerce during planting and harvesting season as defined in 92 Ill. Adm. Code 390.1020. (Section 18b-105(c)(6) of the Law)
  - 5) Part 395 *shall not apply to all farm to market agricultural transportation* as defined in 92 Ill. Adm. Code 390.1020 that is engaged in intrastate commerce. (Section 18b-105(c)(6) of the Law)
  - 6) Part 395 *shall not apply to any grain hauling operations* that are engaged in intrastate commerce *within a radius of 200 air miles of the normal work reporting location.* (Section 18b-105(c)(6) of the Law)
- d) *A contract carrier shall limit the hours of service by a driver transporting employees in the course of their employment on a road or highway of this State in a vehicle designed to carry 15 or fewer passengers to 12 hours of vehicle operation per day, 15 hours of on-duty service per day, and 70 hours of on-duty service in 7 consecutive days. The contract carrier shall require a driver who has 12 hours of vehicle operation per day or 15 hours of on-duty service per day to have at least 8 consecutive hours off duty before operating a vehicle again.* (Section 18b-106.1 of the Law)

Agency Note: See 92 Ill. Adm. Code 386, Subpart C: Public Utility Exemptions,

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

for provisions relating to possible exemptions from the IMCSR for applicable intrastate public utility commercial motor vehicles.

(Source: Amended at 29 Ill. Reg. 19264, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Inspection, Repair and Maintenance
- 2) Code Citation: 92 Ill. Adm. Code 396
- 3) Section Number: 396.2000                      Adopted Action: Amend
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Amendment: November 10, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and Division of Traffic Safety and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5363
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Several grammatical corrections were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendment: By this Notice, the Department has updated the incorporation by reference of 49 CFR 396 to the October 1, 2004 edition, the most recent edition of 49 CFR.

The following summary provides a description of a federal rulemaking that is applicable to this Part, that became effective since October 1, 2002, and that is included in the

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

October 1, 2004 edition of 49 CFR 396. Therefore, the Department has incorporated changes made by the following Docket:

(69 FR 56196, September 30, 2003) Made technical amendments to the regulations to correct inadvertent errors and omissions. Made minor editorial changes to improve clarity and consistency.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Cathy Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 396  
INSPECTION, REPAIR AND MAINTENANCE

## Section

396.1000	General
396.2000	Incorporation by Reference of 49 CFR 396
396.2010	Inspection of Vehicles in Operation

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 14 Ill. Reg. 15512, effective September 10, 1990; amended at 15 Ill. Reg. 13167, effective August 21, 1991; amended at 16 Ill. Reg. 14431, effective September 8, 1992; amended at 18 Ill. Reg. 749, effective January 11, 1994; amended at 19 Ill. Reg. 13046, effective August 30, 1995; amended at 20 Ill. Reg. 15340, effective November 18, 1996; amended at 23 Ill. Reg. 5101, effective March 31, 1999; amended at 24 Ill. Reg. 1949, effective January 19, 2000; amended at 25 Ill. Reg. 2097, effective January 17, 2001; amended at 26 Ill. Reg. 9014, effective June 5, 2002; amended at 27 Ill. Reg. 9257, effective June 2, 2003; amended at 29 Ill. Reg. 19271, effective November 10, 2005.

**Section 396.2000 Incorporation by Reference of 49 CFR 396**

- a) The Department incorporates "Inspection, Repair and Maintenance" (49 CFR 396) by reference, as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR [380](#), [385](#), [387](#), 390, 391, 392, 393, 395, 396, and 397) ~~that~~ was in effect on October 1, ~~2004~~~~2002~~, subject only to the exceptions in subsection (c). No later amendments to or editions of 49 CFR 396 are incorporated. Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling (217)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.
- b) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- c) The following interpretations of, additions to and deletions from 49 CFR 396 shall apply for purposes of this Part.
- 1) 49 CFR 396.9 is deleted and not incorporated.
  - 2) Any commercial motor vehicle used in intrastate commerce that is inspected semi-annually pursuant to Section 13-109 of the Illinois Vehicle Code (the Code) [625 ILCS 5/13-109] has complied with the periodic inspection procedures required by 49 CFR 396.17.

(Source: Amended at 29 Ill. Reg. 19271, effective November 10, 2005)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Transportation of Hazardous Materials; Driving and Parking
- 2) Code Citation: 92 Ill. Adm. Code 397
- 3) Section Number: 397.1020                      Adopted Action:  
Amend
- 4) Statutory Authority: Implementing and authorized by Sections 18b-102 and 18b-105 of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B]
- 5) Effective Date of Amendment: November 10, 2005
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's Division of Traffic Safety and in the Office of Chief Counsel and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: April 15, 2005; 29 Ill. Reg. 5368
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Several grammatical corrections were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendment: By this Notice, the Department has updated the incorporation by reference of 49 CFR 397 to the October 1, 2004 edition, the most recent edition of 49 CFR.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENT

Ms. Cathy Allen  
Illinois Department of Transportation  
Division of Traffic Safety  
P.O. Box 19212  
Springfield, Illinois 62794-9212

217/785-1181

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

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER d: MOTOR CARRIER SAFETY REGULATIONSPART 397  
TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING

## Section

397.1000	General
397.1010	Application
397.1020	Incorporation By Reference of 49 CFR 397

AUTHORITY: Implementing, and authorized by Sections 18b-102 and 18b-105 of, the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; codified at 8 Ill. Reg. 17986; recodified from 92 Ill. Adm. Code 397.Subchapter c at 14 Ill. Reg. 3281; Part repealed, new Part adopted at 14 Ill. Reg. 15496, effective September 10, 1990; amended at 15 Ill. Reg. 13158, effective August 21, 1991; amended at 18 Ill. Reg. 736, effective January 11, 1994; amended at 19 Ill. Reg. 13035, effective August 30, 1995; amended at 20 Ill. Reg. 15327, effective November 18, 1996; amended at 23 Ill. Reg. 5090, effective March 31, 1999; amended at 24 Ill. Reg. 1938, effective January 19, 2000; amended at 25 Ill. Reg. 2137, effective January 17, 2001; amended at 26 Ill. Reg. 9017, effective June 5, 2002; amended at 27 Ill. Reg. 9261, effective June 2, 2003; amended at 29 Ill. Reg. 19275, effective November 10, 2005.

**Section 397.1020 Incorporation By Reference of 49 CFR 397**

- a) The Department incorporates "Transportation of Hazardous Materials; Driving and Parking" (49 CFR 397) by reference as that part of the Federal Motor Carrier Safety Regulations (FMCSR) (49 CFR [380](#), [385](#), [387](#), 390, 391, 392, 393, 395, 396, and 397) ~~that~~ was in effect on October 1, ~~2004, 2002, as amended at 67 FR 62191, October 4, 2002,~~ subject only to the exceptions in subsections (b) and (c). No later amendments to or editions of 49 CFR 397 are incorporated. [Copies of the appropriate material are available from the Division of Traffic Safety, 3215 Executive Park Drive, 3<sup>rd</sup> Floor, Springfield, Illinois 62703 or by calling \(217\)785-1181. The FMCSR are available on the National Archives and Records Administration's website at <http://ecfr.gpoaccess.gov>. The Division of Traffic Safety's rules are available on the Department's website at <http://www.dot.il.gov/regulations.html>.](#)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF ADOPTED AMENDMENT

- b) 49 CFR 397.1 is deleted and not incorporated.
- c) 49 CFR 397.2 is deleted and not incorporated.
- d) References to subchapters, parts, subparts, sections or paragraphs shall be read to refer to the appropriate citation in 49 CFR.
- e) The following addition to 49 CFR 397 shall apply for purposes of this Part.

Authorized Illinois State Police shall place drivers out-of-service for any violation of the Illinois Motor Carrier Safety Law [625 ILCS 5/Ch. 18B] or the Illinois Motor Carrier Safety Regulations that warrants placing the driver out-of-service under the "North American Uniform Out-of-Service Criteria" as defined at 92 Ill. Adm. Code 390.1020.

(Source: Amended at 29 Ill. Reg. 19275, effective November 10, 2005)

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: High Technology School-to-Work
- 2) Code Citation: 14 Ill. Adm. Code 110
- 3) Section Number: 110.170      Emergency Action: Amendment
- 4) Statutory Authority: Implementing and authorized by the High Technology School-to-Work Act [20 ILCS 701].
- 5) Effective Date of Amendment: November 14, 2005
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: The Department has not specified an expiration date.
- 7) Date Filed with the Index Department: November 14, 2005
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The change is needed to administer the duties outlined in Section 40 of the High Technology School-to-Work Act. Under the law, the Department has a duty to:

*"Periodically identify high technology industries and occupations for which training programs may be developed pursuant to the requirements of this Act" (20 ILCS 701/40).*

AND

*"Coordinate the administration of the High Technology School-to-Work Program, including targeting of projects, with the Department's technology related planning and economic development initiatives" (20 ILCS 701/20).*

The competitive grant process does not provide the DCEO Director with the flexibility needed to continue funding existing School-to-Work projects. At the time of the initial rulemaking, it was not anticipated that several projects would require additional time and grant resources to fully implement and expand this successful program. An immediate rule change is needed to ensure that the current projects have the resources to continue to operate. Additional grant funds are needed to continue the full implementation of the

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF EMERGENCY AMENDMENT

high school job training program and ensure that the Department's initial investments are not lost.

- 10) A Complete Description of the Subjects and Issues Involved: The goal of the High Technology School-to-Work Program is to improve education and to prepare Illinois' students to transition from school to high skilled, high paying jobs in the areas of science, mathematics, and advanced technology. Increasing the number of trained students entering technology occupations will help meet the workforce demand of Illinois' high technology businesses.

The School-to-Work Program also provides funding for Project Lead the Way which promotes pre-engineering courses for high school students. This initiative forms partnerships with public schools, higher education institutions and the private sector to increase the quantity and quality of engineers and engineering technologist graduating from schools. The program exposes students to the rigor and content of a pre-engineering curriculum to interest more students in engineering careers and promote greater success in collegiate programs.

The change to the current rule is needed to administer the duties outlined in Section 40 of the High Technology School-to-Work Act. Under the law, the Department has a duty to:

*"Coordinate the administration of the High Technology School to Work Program, including targeting of projects, with the Department's technology related planning and economic development initiatives" (20 ILCS 701/20).*

One of the economic development initiatives that the Department administers is the Project Lead the Way Program. This initiative was developed in Fiscal Year 2004 – before the creation of the School-to-Work Program rules. The Project Lead the Way initiative was initially projected to be a one-year pilot project. However, it has been determined that continued funding is needed to support and expand Project Lead the Way. The initiative is part of Opportunity Returns, and is aligned with the Statewide economic development goals of the Department.

The Department is changing *Section 110.170*. The competitive grant process does not provide the DCEO Director with the flexibility needed to continue funding existing School-to-Work projects. An immediate rule change is needed to ensure that the current projects have the resources to continue operating the program.

- 11) Are there any proposed amendments to this Part pending? No

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF EMERGENCY AMENDMENT

- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].
- 13) Information and questions regarding this emergency rulemaking shall be directed to:

Jolene Clarke  
Rules Administrator  
Department of Commerce and Economic Opportunity  
620 East Adams Street  
Springfield, IL 62701

217/557-1820

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

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF EMERGENCY AMENDMENT

## TITLE 14: COMMERCE

## CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## PART 110

## HIGH TECHNOLOGY SCHOOL-TO-WORK PROGRAM

## SUBPART A: ADMINISTRATIVE REQUIREMENTS

## Section

110.10	General Purpose
110.20	Definitions
110.30	Legal Requirements

## SUBPART B: HIGH TECHNOLOGY SCHOOL-TO-WORK GRANT PROGRAM

110. 110	Purpose
110. 120	Coordination With Economic Development Activities
110. 130	Eligible Applicants
110. 140	Authorized Activities
110. 150	Allowable Costs
110. 160	Proposal Content
110. 170	Review Criteria and Negotiation Procedures

**EMERGENCY**

110. 180	Limitations
110. 190	Reporting

AUTHORITY: Implementing and authorized by the High Technology School-to-Work Act [20 ILCS 701].

Source: Adopted at 29 Ill. Reg. 4976, effective March 22, 2005; emergency amendment at 29 Ill. Reg. 19279, effective November 14, 2005, for a maximum of 150 days.

## SUBPART B: HIGH TECHNOLOGY SCHOOL-TO-WORK GRANT PROGRAM

**Section 110.170 Review Criteria and Negotiation Procedures****EMERGENCY**

Grant proposals shall be reviewed [using the criteria outlined in this Section](#) ~~on a competitive basis~~. Based on the ~~competitive~~ review, applicants shall be selected to enter into negotiations with the Department for a grant. The purpose of negotiations shall be to arrive at mutually

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF EMERGENCY AMENDMENT

acceptable grant provisions, which will be reflected in the Grant Agreement, including general, budgetary, and scope-of-work provisions. *The final decision to make a grant award will be made by the Director of the Department. The Department shall use the following criteria when reviewing grant proposals and making awards:*

- a) *the appropriateness of the targeted industries and occupations;*
- b) *the appropriateness of the targeted student population;*
- c) *the efforts to recruit female and minority students into the project;*
- d) *the strength of the local partnership and private sector involvement;*
- e) *the related experience and qualifications of the project staff;*
- f) *the quality of the project work plan;*
- g) *the proposed project costs in relationship to planned outcomes;*
- h) *the relationship of the project to the Department's economic development plans and initiatives;*
- i) *the geographic distribution of grant awards throughout the State; and*
- j) *the quality of presentations made to the Department, if the Department requests information. (Section 45 of the Act)*

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 19279, effective November 14, 2005, for a maximum of 150 days)

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Technology Advancement and Development Act Programs
- 2) Code Citation: 14 Ill. Adm. Code 545
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
545.20	Amend
545.120	Amend
545.510	Repeal
545.520	Repeal
545.530	Repeal
545.540	Repeal
545.550	Repeal
545.560	Repeal
- 4) Statutory Authority: Implementing and authorized by the Technology Advancement and Development Act [20 ILCS 700].
- 5) Effective Date of Repealer: November 3, 2005
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: The Department has not set an earlier expiration date.
- 7) Date Filed with the Index Department: November 3, 2005
- 8) A statement that a copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection: The Department maintains a copy of the adopted rule including any referenced materials in its principal office in Springfield, Illinois and is available for public inspection.
- 9) Reason for Emergency: Emergency adoption of the rules will expedite the delivery of financial assistance to business and not-for-profits engaged in homeland security product development and service delivery, expand the availability of tools available in this critical national industry, and generate economic activity within the State.
- 10) A Complete Description of the Subjects and Issues Involved: The Homeland Security Market Development grant was established for the Department of Commerce and Economic Opportunity to provide financial incentives to public or private entities

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

engaged in homeland security product research and development; product improvement or commercialization; planning and coordination; or for the improvement of services.

- 11) Are there any proposed amendments to this Part pending? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Number:</u>
545.20	Amend	29 Ill. Reg. 14599
545.120	Amend	29 Ill. Reg. 14599
545.520	New Section	29 Ill. Reg. 14599
545.530	New Section	29 Ill. Reg. 14599
545.540	New Section	29 Ill. Reg. 14599
545.550	New Section	29 Ill. Reg. 14599
545.560	New Section	29 Ill. Reg. 14599

- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805].

- 13) Information and questions regarding this Emergency Rulemaking shall be directed to:

Jolene Clarke  
Rules Administrator  
Department of Commerce and Economic Opportunity  
620 East Adams Street  
Springfield IL 62701

217/557-1820

The full text of the Emergency Rulemaking begins on the next page:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS~~ECONOMIC OPPORTUNITY~~

PART 545

TECHNOLOGY ADVANCEMENT AND DEVELOPMENT ACT PROGRAMS

SUBPART A: ADMINISTRATIVE REQUIREMENTS

Section

545.10 General Purpose

545.20 Definitions

EMERGENCY

545.30 Administrative Requirements

SUBPART B: TECHNOLOGY CHALLENGE GRANT PROGRAM

Section

545.110 Purpose

545.120 Authorized Programs and Activities

EMERGENCY

545.130 Eligible Applicants

SUBPART C: ENTERPRISE DEVELOPMENT AND INVESTMENT PROGRAM

Section

545.210 Purpose

545.220 Direct Investment Strategy

545.230 Portfolio Investment Strategy

545.240 Illinois Technology Enterprise Development Centers

SUBPART D: BUSINESS MODERNIZATION PROGRAM

Section

545.310 Purpose

545.320 Modernization Retooling Loan Program

545.330 Modernization Grants Program

545.340 Development Corporations

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

- 545.350 Manufacturing Extension Program  
 545.360 Manufacturing and Export Base Services Program

SUBPART E: DIRECT GRANT, INVESTMENT, AND  
LOAN APPLICATION PROCEDURES

## Section

- 545.410 Methods of Direct Grant, Investment, and Loan Application Submittal  
 545.420 Application Content  
 545.430 Screening of Applications  
 545.440 General Review Criteria  
 545.450 Program Specific Criteria

~~SUBPART F: HOMELAND SECURITY PROGRAM GRANT LINE~~

## Section

- 545.510 Purpose  
EMERGENCY  
 545.520 Authorized Programs and Activities  
EMERGENCY  
 545.530 Eligible Applicants  
EMERGENCY  
 545.540 Eligible Costs  
EMERGENCY  
 545.550 Ineligible Costs  
EMERGENCY  
 545.560 Reporting Requirements  
EMERGENCY

AUTHORITY: Implementing and authorized by the Technology Advancement and Development Act [20 ILCS 700].

SOURCE: Emergency rules adopted at 13 Ill. Reg. 19753, effective December 1, 1989, for a maximum of 150 days; emergency expired April 30, 1990; adopted at 14 Ill. Reg. 9016, effective, May 29, 1990; amended at 15 Ill. Reg. 15040, effective October 4, 1991; amended at 18 Ill. Reg. 8415, effective May 23, 1994; amended at 18 Ill. Reg. 17213, effective, November 17, 1994; old Part repealed, new Part adopted at 25 Ill. Reg. 15997, effective November 29, 2001; emergency amendment at 29 Ill. Reg. 15045, effective September 21, 2005, for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

November 3, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 18950, effective November 3, 2005, for a maximum of 150 days.

## SUBPART A: ADMINISTRATIVE REQUIREMENTS

**Section 545.20 Definitions****EMERGENCY**

- a) Definitions in the Act: The following words and phrases, for the purpose of this rule, have the same meaning respectively ascribed to them in Section 1003 of the Act [20 ILCS 700/1003].

*"Advanced technology project" means any area of basic or applied research or development which is designed to foster greater knowledge or understanding, or which is designed for the purposes of improving, designing, developing, prototyping, producing or commercializing new products, techniques, processes or technical devices in present or emerging fields of health care and biomedical research, information and communication systems, computing and computer services, electronics, manufacturing, robotics and materials research, transportation and aerospace, agriculture and biotechnology, and finance and services.*

*"Business expense" includes working capital financing, the purchase or lease of machinery and equipment, or the lease or purchase of real property, including construction, renovation, or leasehold improvements, but does not include refinancing current debt.*

*"Business project" means any specific economic development activity of a commercial, industrial, manufacturing, agricultural, scientific, financial, service or other not-for-profit nature, which is expected to yield an increase in jobs or to result in the retention of jobs or an improvement in production efficiency.*

*"Department" means the Illinois Department of Commerce and Community Affairs~~Economic Opportunity~~.*

*"Director" means the Director of the Illinois Department of Commerce and Community Affairs~~Economic Opportunity~~.*

*"Financial assistance" means a loan, investment, grant or the purchase of qualified securities or other means whereby financial aid is made available to or*

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

*on behalf of a business project or advanced technology project.*

"Illinois Coalition" means a not-for-profit, nonpartisan private-public partnership of the State's top leaders from business, labor, government, education, and research dedicated to strengthening Illinois' economy through science and technology. The Coalition develops statewide policy, positions, plans and programs that directly address the growth of the State's science and technology-based economy. The Coalition focuses development activities in the following areas: education, State and federal funding priorities, information technology, life sciences, advanced manufacturing, access to capital, and marketing and development. The Coalition works in concert with other industry associations, government entities, private enterprises and elected officials to accomplish its mission.

*"Intermediary organization" means any participating organization including not-for-profit entities, for-profit entities, State development authorities, institutions of higher education, other public or private corporations, which may include the Illinois Coalition, ~~the Illinois Terrorism Task Force, or other governmental or private or other~~ entities necessary or desirable to further the purpose of this Act engaged by the Department through any contract, agreement, memoranda of understanding, or other cooperative arrangement to deliver programs authorized under the Act.*

*"Investment loan" means any loan structured so that the applicant repays the principal and interest and provides a qualified security investment to serve both as additional loan security and as an additional source of repayment.*

*"Loan" means acceptance of any note, bond, debenture, or evidence of indebtedness, whether unsecured or secured by a mortgage, pledge, deed of trust, or other lien on any property, or any certificate of, receipt for, participation in, or an option to any of the foregoing. A loan shall bear such interest rate, with such terms of repayment, secured by such collateral, with other terms and conditions, as the Department shall deem necessary or appropriate.*

*"Participating lender or investor" means any trust company, bank, savings bank, credit union, merchant bank, investment bank, broker, investment trust, pension fund, building and loan association, savings and loan association, insurance company, venture capital company or other institution, community or State development corporation, development authority authorized to do business by an Act of this State, or other public or private financing intermediary approved by*

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

*the Department whose purposes include financing, promoting, or encouraging economic development financing.*

*"Qualified security investments" means any stock, convertible security, treasury stock, limited partnership interest, certificate of interest or participation in any profit sharing agreement, preorganization certificate or subscription, transferable share, investment contract, certificate of interest or participation in a patent or application or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing, but not including any instrument which contains voting rights or which can be converted to contain voting rights in the possession of the Department.*

## b) Other Definitions:

"Act" means the Technology Advancement and Development Act [20 ILCS 700].

~~"Leveraged dollar award" means grant funds awarded to the grant applicant intended to be used as leverage to secure additional funding from other public or philanthropic sources.~~

~~"Partnerships" or "Joint venture" means any organization, formed either through contract or mutual agreement, where two or more persons agree to do business together.~~

~~"Product" means a commodity or service with commercial value that is either further developed or brought to market through use of grant funds.~~

"Recipient" means any entity receiving financial assistance under the Act.

~~"Service" means any service that would advance the commercialization of a technology with applicability to the homeland security industry. This would include, but is not limited to, the protection of intellectual property rights, business continuity and recovery, research and development, and technology integration.~~

"Small and medium size business" means any for-profit business with 1,000 or fewer employees assigned to work locations within the State of Illinois.

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005, for a maximum of 150 days; emergency repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the 150 days)

## SUBPART B: TECHNOLOGY CHALLENGE GRANT PROGRAM

**Section 545.120 Authorized Programs and Activities****EMERGENCY**

- a) Grants may be awarded for the activities specified at Section 2002 of the Act, including:
  - 1) Advanced Technology Projects – The Department may award initial grant funds for applied innovation research projects that *respond to unique, advanced technology projects and which foster the development of Illinois' economy through the advancement of the State's economic, scientific, and technological assets.*
  - 2) Leveraged Technology Projects – The Department may award initial grant funds for applied innovation research projects *to assist eligible applicants in the State to apply for, or qualify for and leverage, federal funds awarded for advanced technology projects concerning research and development, business innovation research or technical development, or transfer of useful technology to the private sector.*
  - 3) University-Industry Partnerships – The Department may grant funds for joint university and industry initiatives that create high-skill employment opportunities and internship activities that enable graduates and faculty to stay and work in Illinois. The Department may also grant funds for joint university and industry initiatives designed to strengthen the relationship between industry and academia, so that applied university research is responsive to the needs of Illinois' industries.
  - 4) Technology Commercialization Centers – The Department may award grant funds to create and operate *centers of excellence in technology commercialization, innovation evaluation, and intellectual property management that encourages the growth of new enterprises based on technologies developed at Illinois research centers, including technology partnerships, technology consortiums or research centers, and industry technology associations that are, or will be, established to perform*

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

*research and development in present and emerging technologies that can be developed for use by commerce and industry.*

- 5) Technology Transfer Projects – The Department may award grant funds for *technology transfer projects involving promotion of new or innovative technologies among small and medium-sized Illinois manufacturers where the technologies have immediate commercial application.*
  - 6) Continuous Improvement Projects – The Department may award grant funds to provide for *planning and operational support for statewide support that improves practices in technology commercialization, including needs assessment and evaluation of the status of technology implementation throughout the State.* [20 ILCS 700/2002]
  - ~~7) Capacity and Program Development Projects—The Department may award grant funds to qualified not for profit organizations or educational institutions in order to support service delivery improvements projects, extend Department capacity in relation to implementation of homeland security market development programs, or for the operation of legislatively directed councils or coordinating bodies~~
  - ~~8) Product and Service Development Projects—The Department may award grant funds to individual companies or partnerships with operations in Illinois for products or professional services that address unique or emerging national needs in homeland security, safety or defense, or support the development of solutions to these needs.~~
- b) Allowable Costs – Allowable costs are specified in Section 2002(b) of the Act, including costs for *capital improvements, equipment, contractual services, commodities, personnel, support costs, including telecommunications, electronic data and commodities, or other costs.* All costs are subject to the approval of the Department. Indirect costs shall be limited to no more than 15% of direct grant costs. [20 ILCS 700/2002(b)]
  - c) Combination with Technology Enterprise Development Centers – As a means of increasing cost efficiency of program delivery, the Department may combine program responsibilities for activities authorized under subsection (a)(4), Technology Commercialization Centers, with activities authorized under Technology Enterprise Development Centers, as described in Section 545.240 of this Part. As authorized by the Department through an agreement, Technology

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

Enterprise Development Centers may serve as Technology Commercialization Centers.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005, for a maximum of 150 days; emergency repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the 150 days)

~~SUBPART F: HOMELAND AND SECURITY PROGRAM GRANT LINE~~~~Section 545.510 Purpose~~~~**EMERGENCY**~~

~~In accordance with the general intent of Section 2001 of the Act [20 ILCS 700/2001] the Homeland Security Market Development Grant Line is intended to support the development and/or application of homeland security related products or services, conditioned upon these products or services addressing demonstrated needs in homeland security and/or defense.~~

(Source: Added by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005 for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the 150 days)

~~Section 545.520 Authorized Programs and Activities~~~~**EMERGENCY**~~

~~The grant line may be used for activities generally consistent with the intent of Section 2002 of the Act, such as *providing investments, loans, or grants to individual businesses, partnerships or joint ventures that provide or commercialize products or services that meet homeland security or defense needs. Further, grant monies may be used to fund not-for-profit or educational institutions that make available resources and expertise that further homeland security prevention, recovery, planning, or service delivery; support development of the technical or managerial skills for business owners and entrepreneurs; aid commercial ventures in locating financing product or service development; and help new companies or partnerships with product development.*~~

(Source: Added by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005 for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective November 3, 2005 for the remainder of the 150 days)

~~Section 545.530 Eligible Applicants~~~~**EMERGENCY**~~

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

~~The Department may provide an award of grant funds to any entity, partnership, or joint venture located, or with substantial operations, in the State of Illinois. Grant funding will be awarded based on the qualifications and expertise of the entity and the ability of the entity to demonstrate a sufficient need for its proposed project.~~

(Source: Added by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005 for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the 150 days)

~~Section 545.540 Eligible Costs~~~~**EMERGENCY**~~

~~Grant funds may be used toward the development, production, or commercialization of any product or service with application in both homeland security and another commercial sector. Grant funds may be used to hire technical staff, to engage third party consultants and professional service providers or for other uses as the Department deems appropriate in order to assist with homeland security product or service development, the support of programs that contribute to product or service development, or activities that accelerate commercial application of the product or service.~~

(Source: Added by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005 for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the 150 days)

~~Section 545.550 Ineligible Costs~~~~**EMERGENCY**~~

~~Grant funds are not intended to finance long term research projects. They are intended to accelerate the development and production of homeland security products. Funds may not be used for general or routine administrative purposes.~~

(Source: Added by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005 for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the 150 days)

~~Section 545.560 Reporting Requirements~~~~**EMERGENCY**~~

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF REPEAL OF EMERGENCY AMENDMENTS

~~Unless otherwise specified in the agreement between the Department and the recipient, an entity receiving financial assistance shall report financial and programmatic data to the Department on a regular basis using formats provided by the Department. Report formats and content shall be customized to the specific program and form of financial assistance. The Department requires quarterly reporting of expenditures and program achievements at a level of detail sufficient to provide for program accountability.~~

- a) ~~Expenditures—Unless otherwise specified in the agreement with the Department or an intermediary organization, an entity receiving financial assistance shall report actual expenditure of financial assistance using expenditure formats supplied by the Department. Expenditure summaries are to be submitted to the Department by the 15<sup>th</sup> day following the end of each fiscal quarter in which any expenditure of financial assistance is made. All award dollars must be expended within 24 months after receipt. Failure to do so may trigger the Department to initiate fund recovery activities.~~
  
- b) ~~Program Report—Unless otherwise specified in the agreement with the Department or an intermediary organization, an entity receiving financial assistance shall submit a program report in a format provided by the Department. The program report shall include a narrative describing the entity's progress toward achievement of objectives and activities as specified in the agreement with the Department or an intermediary organization. Program reports shall be submitted to the Department by the 15<sup>th</sup> day following the end of each fiscal quarter.~~

(Source: Added by emergency rulemaking at 29 Ill. Reg. 15045, effective September 21, 2005 for a maximum of 150 days; emergency amendment repealed at 29 Ill. Reg. 19284, effective November 3, 2005, for the remainder of the 150 days)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Transfer of Creditable Service Time from IMRF to Article 3 Police Pension Fund
- 2) Code Citation: 50 Ill. Adm. Code 4403
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
4403.10	New Section
4403.20	New Section
4403.30	New Section
4403.40	New Section
4403.50	New Section
4403.60	New Section
4403.70	New Section
4403.80	New Section
4403.90	New Section
4403.100	New Section
4403.110	New Section
ILLUSTRATION A	New Section
- 4) Statutory Authority: Implementing Section 3-110(e) and Section 7-139.11, and authorized by Section 3-110(e)(1)(3) of the Illinois Pension Code [40 ILCS 5/3-110(e), 7-139.11 and 3-110(e)(1)(3)].
- 5) Effective Date of Rules: November 9, 2005
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: No earlier expiration date will be assigned.
- 7) Date Filed with Index Department: November 9, 2005
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Division of Insurance's principal office of the Division of Insurance and is available for public inspection.
- 9) Reason for Emergency: HB 0373 was signed into law on July 29, 2005. Because PA 94-0356 indicates that officers only have until January 1, 2006, to request the transfer of creditable service time, the Public Pension Division is initiating emergency rulemaking to set the regulatory framework facilitating such action.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

- 10) A Complete Description of the Subjects and Issues Involved: The passage of HB 0373, allowing a benefit to officers serving our communities and enhancing the ability of municipalities to hire, transfer and keep personnel that are at the peak of their performance, has been successful. PA 94-0356 will enable officers to request that service time be combined and transferred. This emergency rule sets forth the procedural standards for initiating the process; identifying the role of both the IMRF and Article 3 police pension funds and their responsibilities and well as setting for the formulary for calculating the “true cost” as required by law.
- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rule 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.
- 13) Information and questions regarding this amendment shall be directed to:

Scott J. Brandt  
Acting Chief Administrator  
Public Pension Division  
Department of Financial and Professional Regulation  
Division of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001

(217) 558-6454

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

## TITLE 50: INSURANCE

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER aaa: PENSIONS

## PART 4403

TRANSFER OF CREDITABLE SERVICE TIME FROM IMRF TO  
ARTICLE 3 POLICE PENSION FUND

## Section

4403.10 Purpose

EMERGENCY

4403.20 Applicability

EMERGENCY

4403.30 Definitions

EMERGENCY

4403.40 Application for Transfer of Creditable Service from IMRF to Article 3 Police  
Pension Fund

EMERGENCY

4403.50 Article 3 Police Pension Fund Notification Requirement

EMERGENCY

4403.60 Method for Calculation of the True Cost

EMERGENCY

4403.70 IMRF Notification Requirement

EMERGENCY

4403.80 Article 3 Police Pension Fund Determination of Creditable Service Time to be  
Credited and Notification to the Police Officer

EMERGENCY

4403.90 Final Authorization to Transfer or Withdraw

EMERGENCY

4403.100 Transfer of Creditable Service Time

EMERGENCY

4403.110 Article 3 Police Pension Fund Reporting Requirements

EMERGENCY

4403.ILLUSTRATION A IDFPR Information Request for an Officer's Creditable Service  
Transfer

AUTHORITY: Implementing Section 3-110(e) and Section 7-139.11 and authorized by Section 3-110(e)(1)(3) of the Illinois Pension Code [40 ILCS 5/3-110(e), 7-139.11 and 3-110(e)(1)(3)].

SOURCE: Emergency rules adopted at 29 Ill. Reg. 19296, effective November 9, 2005, for a maximum of 150 days.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

**Section 4403.10 Purpose  
EMERGENCY**

The purpose of this Part is to set forth the requirements for application; notification; reporting as well as identifying the underlying calculations involved concerning the transfer of creditable service time from the Article 7 pension fund, IMRF, to the police officer's Article 3 police pension fund, pursuant to Sections 3-110 and 7-139.11 of the Illinois Pension Code [40 ILCS 5/3-110 and 7-139.11].

**Section 4403.20 Applicability  
EMERGENCY**

This Part applies to any active participant of a pension fund established under Article 3 of the Illinois Pension Code [40 ILCS 5/Art. 3] with less than 8 years of service in the Article 7 pension fund, IMRF, who applies by January 1, 2006, for a transfer of creditable service from IMRF.

**Section 4403.30 Definitions  
EMERGENCY**

Active Member shall be defined as an officer that is in active service and a participant of a pension fund established pursuant to Article 3 of the Illinois Pension Code.

Article 3 Fund means a police pension fund created under the authority of Article 3 of the Illinois Pension Code [40 ILCS 5/Art. 3].

Creditable Service shall be defined by Section 3-110 of the Illinois Pension Code [40 ILCS 5/3-110].

Date of Refund shall be defined as the date the officer received a refund from a pension fund pursuant to Section 3-124 of the Illinois Pension Code [40 ILCS 5/3-124].

Date of Transfer, for purposes of calculating creditable service time to be transferred, shall be defined as the date the officer's application for transfer of creditable service time is received by the Article 3 fund. [40 ILCS 5/3-110.7(a)(1)].

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

Department means the Illinois Department of Financial and Professional Regulation.

Director shall be defined as the Director of the Division of Insurance.

Division of Insurance means the Illinois Department of Financial and Professional Regulation – Division of Insurance.

Illinois Municipal Retirement Fund (IMRF) means the pension fund created under the authority of Article 7 of the Illinois Pension Code [40 ILCS 5/Art. 7].

Police Officer or Officer shall be defined by Section 3-106 of the Illinois Pension Code [40 ILCS 5/3-106].

Public Pension Division means the Public Employee Pension Division of the Division of Insurance. [40 ILCS 5/1A-101].

Qualified Actuary shall be defined as either a member of the American Academy of Actuaries, or an individual who has demonstrated to the satisfaction of the Director that he or she possesses the educational background necessary for the practice of actuarial science, who also possesses not less than 7 years of relevant actuarial experience.

Refund shall be defined as the amount of contributions an officer received pursuant to Section 3-124 of the Illinois Pension Code [40 ILCS 5/3-124].

True Cost shall be defined as the increase in the actuarial accrued liability or reserve amount, as applicable, calculated pursuant to Section 4403.60 of this Part and Section 3-110 of the Illinois Pension Code [40 ILCS 5/3-110], resulting from the transfer of creditable service from the IMRF to the Article 3 Fund.

**Section 4403.40 Application for Transfer of Creditable Service from IMRF to Article 3 Police Pension Fund  
EMERGENCY**

Any police officer who is an active member of an Article 3 fund must submit a written application by no later than January 1, 2006, to their Article 3 fund board of trustees as well as a duplicate copy to the IMRF, identifying, by date and time frame, the accumulated creditable service to be transferred from the Article 7 Fund. The police officer must also identify any creditable service time which the officer is required to reinstate pursuant to Section 7-139.11(b)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

of the Illinois Pension Code [40 ILCS 5] in order for it to qualify as creditable service time for which the officer is applying to transfer.

**Section 4403.50 Article 3 Police Pension Fund Notification Requirement  
EMERGENCY**

Within 14 days after receipt of the police officer's application, the Article 3 fund shall provide written notification to both the requesting officer and the IMRF verifying receipt of such request. The Article 3 fund shall obtain verification of the creditable service time on record with IMRF, as well as the amount the IMRF will transfer to the Article 3 fund as calculated pursuant to Section 7-139.11 and the amount the police officer is required to pay the IMRF in order to reinstate service as calculated pursuant to Section 7-139.11(b). At this time the Article 3 fund shall also provide written notification to the applicable qualified actuary or to the Public Pension Division, requesting the actuarial amounts to be used in the true cost determination. If the Public Pension Division is asked to prepare the actuarial true cost calculation, Illustration A of this Part must accompany such request.

**Section 4403.60 Method for Calculation of the True Cost  
EMERGENCY**

- a) The qualified actuary shall provide the Article 3 pension fund with the actuarial accrued liability assuming continuation of active status, and the amount of reserve for each possible status that may apply to the officer as set forth in subsection (b) of this Section. The actuarial accrued liability and reserve amounts shall be computed utilizing the actuarial cost method and the same assumptions that were used for determining the most recent actuarial valuation for the Article 3 fund.
- b) The possible status choices which may be considered, in addition to the requirement of remaining active as an officer until the completion of the transfer, are: retirement, deferred retirement, disability and withdrawal. For each applicable status choice, the actuary shall provide the Article 3 fund with two actuarial accrued liability, or reserve, amounts. The first amount shall be the actuarial accrued liability, or reserve, computed using the combined years of service in the Article 3 fund and IMRF. The second amount shall be the actuarial accrued liability, or reserve, computed using only the years of service in the Article 3 fund. These amounts shall be computed as of the date the Article 3 fund receives the request for transfer of creditable service. The benefit amounts used in computing the actuarial accrued liability, and reserve, amounts shall be consistent with the years of service used in each separate actuarial accrued liability, or reserve, amount calculation. The true cost for each status shall be

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

equal to the excess of the amount computed using the combined years of service in both the IMRF and Article 3 funds over the amount computed using the years of service in the Article 3 fund.

- c) The method of calculating the true cost of transferring creditable service time shall be dependent on the anticipated status of the officer as determined by the Article 3 fund at the time of the service transfer, or immediately thereafter. It is the Article 3 fund's responsibility to determine the most likely status of the officer after the transfer of creditable service time.
- d) The Article 3 fund board of trustees shall determine the true cost for the requested period of creditable service time with information provided to the Article 3 pension fund by either:
  - 1) the Public Pension Division, upon written request submitted in the format prescribed by Illustration A of this Part. The Public Pension Division will return the information requested within 30 days after receipt of such request, if the Public Pension Division's actuarial valuation was used for determining the most recent funding requirements of the Article 3 fund, or
  - 2) the qualified actuary who was retained by the municipality or pension fund to determine the most recent actuarial valuation used for determining the funding requirements of the Article 3 fund.

**Section 4403.70 IMRF Notification Requirement  
EMERGENCY**

Within 30 days after receipt of the police officer's application, the IMRF shall provide written notification that verifies receipt of the application required by Section 4403.40 of this Part to both the requesting officer and the Article 3 fund. The IMRF must also verify the creditable service time on record, and identify the amount of money due to be transferred to the Article 3 fund on behalf of the officer as calculated pursuant to Article 7, Section 7-139.11(a), specifically broken down into categories including employee contributions, employer contributions, and interest. In the event that a refund has been taken, the IMRF must also notify the officer and the Article 3 fund of the amount of money that is owed to the IMRF in order to reinstate the service time. The IMRF's notification to the officer and the Article 3 fund must identify that portion of the amount owed for reinstatement that is attributable to the refund received by the officer and that portion of the amount that is attributable to the interest on the refund.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

**Section 4403.80 Article 3 Police Fund Determination of Creditable Service Time to be Credited and Notification to the Police Officer**  
**EMERGENCY**

Within 14 days after receipt of the IMRF notification, the Article 3 fund shall notify the requesting officer of creditable service time that will be credited to the Article 3 fund in accordance with Article 3, Section 110(e)(2). The amount of service to be credited in the Article 3 fund shall equal the portion of the creditable service time accumulated in the IMRF after applying to that service the ratio of the amount of monies transferred from IMRF required by Article 7, Section 139.11(a) to the appropriate true cost amount as determined under Section 4403.60 of this Part. If the ratio of the amount transferred from IMRF to the appropriate true cost amount is greater than one, only the amount of actual creditable service time accumulated in IMRF is credited to the Article 3 fund.

$$\begin{array}{r} \text{Service Credited} \\ \text{in Police Fund} \end{array} = \begin{array}{r} \text{Service Accumulated} \\ \text{in IMRF} \end{array} \times \begin{array}{r} \text{(Monies Transferred from IMRF)} \\ \text{( Appropriate True Cost )} \end{array}$$

**Section 4403.90 Final Authorization to Transfer or Withdraw**  
**EMERGENCY**

Within 30 days after receiving notification from the Article 3 fund, which must include the actual creditable service to be credited in the Article 3 fund and the reinstatement amount to be paid to the IMRF, the officer must either:

- a) Provide an irrevocable written authorization to transfer creditable service time to the Article 3 fund, and if applicable, repay the IMRF any refund with interest; or
- b) Submit a written request to withdraw the initial application for transferring creditable service to the Article 3 pension fund; or
- c) If the officer fails to take action by the 31<sup>st</sup> day, pursuant to either subsection (a) or (b) of this Section, the initial request to transfer the designated creditable service time will be automatically withdrawn.

**Section 4403.100 Transfer of Creditable Service Time**  
**EMERGENCY**

Within 30 days after the IMRF receives a copy of the officer's final authorization and the repayment of any refund with interest, if applicable, the IMRF must transfer the creditable service time to the Article 3 fund along with the payment of all monies required to be transferred.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

Upon receipt of the monies from the IMRF, the Article 3 fund shall credit the police officer with the appropriate service time.

**Section 4403.110 Article 3 Police Pension Fund Reporting Requirements  
EMERGENCY**

Within 30 days after the designated creditable service time has been transferred to the Article 3 fund, the Article fund must file a report with the Public Pension Division. The report must contain the following:

- a) The name and FEIN of the Article 3 fund to which creditable service time was transferred;
- b) The name and Social Security Number of the officer for whom creditable service time was transferred;
- c) The beginning and ending dates for all periods of creditable service time transferred from IMRF;
- d) The actual creditable service time accumulated in the IMRF for which the applicant applied to transfer to the Article 3 fund;
- e) The amount of monies transferred from IMRF, including a breakdown of the total to include:
  - 1) Total Member Contributions and Total Interest;
  - 2) Total Employer Contributions;
  - 3) Reinstatement Cost Interest;
- f) Total Reinstatement Cost to IMRF;
- g) The creditable service time credited to the Article 3 fund;
- h) In addition, the report must also contain the date that the designated creditable service time was credited to the Article 3 fund;
- i) The true cost of transferred creditable service time; and

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULES

- j) If the actuarial accrued liability and reserve amounts used in determining the true cost of transferring creditable service time were calculated by a qualified actuary pursuant to Section 4403.60(d)(2) of this Part, then an actuarial certification must be filed by the Article 3 pension fund and must contain a statement that the actuarial accrued liabilities or reserves were calculated by the undersigned actuary in compliance with Section 4403.60(a), (b) and (c) of this Part.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY RULES

**Section 4403.ILLUSTRATION A - IDFPD Information Request for an Officer's Creditable Service Transfer  
EMERGENCY**

Please Forward This Request To:

Illinois Department of Financial & Professional Regulation  
Division of Insurance  
Public Pension Division  
320 West Washington Street  
Springfield, Illinois 62767-0001

Within 30 working days after the Public Pension Division receives this request the Public Pension Division will provide the Article 3 fund with the actuarial accrued liability, and reserve, amounts to be used in determining the true cost of transferring creditable service time.

1. Officer's Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_  
 State: \_\_\_\_\_  
 Zip: \_\_\_\_\_
2. SS#: \_\_\_\_\_
3. D.O.B.: \_\_\_\_\_
4. Entry Date into Article 3 Fund: \_\_\_\_\_
5. Date Article 3 Fund Received Request for Transfer of Creditable Service:  
 \_\_\_\_\_
6. Officer's Age at the Time the Article 3 Fund Receives the Request for Transfer of Creditable Service:  
 \_\_\_\_\_
7. Article 3 Annual Salary of the Officer as of the Date the Article 3 Fund Received the Request for Transfer of Creditable Service:  
 \_\_\_\_\_
8. Years, Months and Days of Creditable Service Time in Article 3 Fund to Date Article 3 Fund Receives Request for Transfer of Creditable Service:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY RULES

---

9. Date(s) of Any Service Breaks from Article 3 Fund Where Service Credit Was Not Given: \_\_\_\_\_

10. Entry Date into IMRF: \_\_\_\_\_

11. Date of Termination from IMRF: \_\_\_\_\_

12. Years, Months and Days of Creditable Service Time Applying For Transfer from IMRF: \_\_\_\_\_

13. Date(s) of Any Service Breaks from IMRF Where Service Credit Was Not Given: \_\_\_\_\_

14. Article 3 Fund Contact Person, Mailing Address and Telephone Number:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

15. Article 3 Fund Trustee Name, Address, Telephone Number, Signature and Date:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## ILLINOIS STATE TREASURER

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: College Savings Pool
- 2) Code Citation: 23 Ill. Adm. Code 2500
- 3) 

<u>Section Numbers</u> :	<u>Emergency Action</u> :
2500.30	Amendment
2500.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].
- 5) Effective Date of Amendment: November 14, 2005
- 6) If this amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire when the proposed amendment is adopted.
- 7) Date Filed with the Index Department: November 14, 2005
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Emergency adoption of this amendment will accommodate those families that do not have the resources to meet the minimum contribution amounts and would be at a disadvantage if they had to wait through the standard rulemaking period for the amendment to take effect.
- 10) A Complete Description of the Subjects and Issues Involved: This amendment removes the minimum initial contribution amount associated with the application process into the College Savings Pool, in order to open up participation to more applicants. Removing the minimum initial contribution level will make the Pool available to more middle and lower income families.  
  
The Treasurer's direct-sold Bright Start College Savings Program has effectively served a portion of individuals seeking a college savings investment vehicle. However, a significant number of potential College Savings Pool participants are in need of a product sold through their financial advisor. This amendment recognizes that fact and allows the implementation of such an advisor-sold product.
- 11) Are there any proposed amendments to this Part pending? Yes

ILLINOIS STATE TREASURER

NOTICE OF EMERGENCY AMENDMENTS

<u>Section Number:</u> 2500.30	<u>Proposed Action:</u> Amend	<u>Illinois Register Number:</u> 29 Ill. Reg. 16410
-----------------------------------	----------------------------------	--

- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Daniel Yabut  
Legal Division  
The Honorable Judy Baar Topinka  
Office of the Illinois State Treasurer  
100 W. Randolph, Suite 15-600  
Chicago IL 60601

(312) 814-8950

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

## ILLINOIS STATE TREASURER

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
CHAPTER XVI: TREASURERPART 2500  
COLLEGE SAVINGS POOL

## Section

2500.10	Purpose
2500.20	Definition of Terms
2500.30	Participation Requirements
<a href="#">EMERGENCY</a>	
2500.40	Deposits at Participating Financial Institutions
2500.50	Investment Policy
2500.60	Record Keeping
2500.70	Withdrawals
2500.80	Administrative Expenses
<a href="#">EMERGENCY</a>	
2500.90	Account Limits
2500.100	Debt
2500.110	Program Documents
2500.120	Private Contractors
2500.130	Amendment of Rules

AUTHORITY: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].

SOURCE: Adopted by emergency rule at 24 Ill. Reg. 6118, effective March 24, 2000, for a maximum of 150 days; emergency expired August 20, 2000; adopted at 24 Ill. Reg. 14441, effective September 12, 2000; emergency amendment at 25 Ill. Reg. 13323, effective October 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 3747, effective February 20, 2002; emergency amendment at 29 Ill. Reg. 19308, effective November 14, 2005, for a maximum of 150 days.

**Section 2500.30 Participation Requirements****[EMERGENCY](#)**

- a) Participants on behalf of designated beneficiaries shall make contributions to the pool. Any person residing in the United States at the time the account is processed may be a participant. Any person may be a designated beneficiary. Contributions may be made only in cash and not in property. Cash contributions

## ILLINOIS STATE TREASURER

## NOTICE OF EMERGENCY AMENDMENTS

may be made by check, money order or similar methods. Cash contributions may not be made by credit card.

- b) New accounts in the pool shall be processed through participating financial institutions. A participating financial institution may charge a processing fee that does not exceed \$30, until the year 2001, to a participant to open an account in the pool. Participating financial institutions shall be responsible for collecting the processing fee directly from an applicant. On January 2, 2001 and on January 2 of every year thereafter, the Treasurer shall adjust the maximum processing fee based on the Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics pursuant to 26 USC 2 for the immediately preceding calendar year. Participating financial institutions shall be notified by the Treasurer or its agent of such adjustment.
- c) The Treasurer shall create applications for participation in the pool to be completed by the applicant and the participating financial institution. The applicant and the participating financial institution shall be responsible for providing all of the information requested by the Treasurer. The Treasurer shall keep all information received from applicants confidential and may only share the information with third parties to the extent required to operate the pool. Participating financial institutions shall be required to provide information regarding the participating financial institution on the application to enable the Treasurer to open an account for the applicant and verify that the Account was processed through a participating financial institution. Applications that have the relevant section completed by the participating financial institution shall be deemed to be processed through the participating financial institution. Completed applications must be sent to a mailing address specified in the application form.
- d) Applications shall include an initial contribution to the pool of an amount that is at least \$25 in the form of a check or money order payable to the pool. Applications that are incomplete and applications that fail to meet the guidelines established by the Treasurer in an effort to comply with Section 529 of the Internal Revenue Code shall be rejected.
- e) Subsequent contributions to the pool shall be ~~in an amount of at least \$15 and may be~~ made by the participant directly to the pool. Subsequent contributions may be made electronically or in the form of a check or money order, payable to the pool.
- f) ~~The minimum initial contribution and minimum subsequent contribution limits~~

## ILLINOIS STATE TREASURER

## NOTICE OF EMERGENCY AMENDMENTS

~~are waived for contributions made to the pool through an employer offered payroll deduction program.~~

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 19308, effective November 14, 2005, for a maximum of 150 days)

**Section 2500.80 Administrative Expenses****EMERGENCY**

- a) The administrative expenses of the College Savings Pool shall be paid from its earnings.
- b) Administrative expenses shall be paid from earnings and shall be allocated among the pool's underlying investment portfolios in an equitable manner determined by the Treasurer. Investment earnings in excess of the administrative expenses of the pool and all monies collected by the pool as penalties as a result of withdrawals that are not used to pay qualified expenses, after the payment of expenses shall be credited or paid monthly to participants in the pool in a manner that equitably reflects the differing amounts of their respective investments in the pool and the differing periods of time for which those amounts were in the custody of the pool, and shall be allocated among the pool's underlying investment portfolios in a manner equitably determined by the Treasurer.
- c) In the event that the Treasurer is obligated to pay administrative expenses of the pool, but the pool has insufficient earnings to make such payment, the obligation to pay the administrative expenses may accrue, but the Treasurer shall not pay the administrative expenses until such time as the pool has sufficient earnings to support such payment.
- d) The Treasurer may permit a third party service provider to provide compensation to participating financial institutions or other financial services providers that promote the pool to their customers, provided that the cost of the compensation is not passed on to participants. This provision shall not apply to the imposition of any initial or continuing sales charges approved by the Treasurer.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 19308, effective November 14, 2005, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 8, 2005 through November 14, 2005 and have been scheduled for review by the Committee at its December 13, 2005 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/22/05	<u>Department of Natural Resources</u> , Off-Highway Vehicle Recreational Trails Grant Program (17 Ill. Adm. Code 3045)	9/16/05 29 Ill. Reg. 13978	12/13/05
12/22/05	<u>Department of Corrections</u> , Transitional Housing Licensure for Sex Offenders on Parole, Probation, or Supervision (20 Ill. Adm. Code 800)	9/23/05 29 Ill. Reg. 14145	12/13/05
12/28/05	<u>Department of Human Rights</u> , Housing Discrimination (71 Ill. Adm. Code 2300)	9/9/05 29 Ill. Reg. 13635	12/13/05
12/28/05	<u>Department of Human Rights</u> , Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)	9/9/05 29 Ill. Reg. 13617	12/13/05

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

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

<u>Section Number:</u>	<u>Proposed Action:</u>
140.442	Amendment
- 4) Date Notice of Proposed Amendment Published in the Illinois Register: October 7, 2005;  
29 Ill. Reg. 14646
- 5) Reason for the Withdrawal: This proposed rulemaking concerning prior approval of prescription drugs imposes a limitation concerning the dispensing of brand name prescription drugs to medical assistance clients. Some therapeutic classes of drugs, which are specified in the proposed changes, will not be subject to this policy. However, certain information regarding policy exceptions to these new provisions was inadvertently omitted from the proposed amendment. Because of this, the proposed rulemaking is being withdrawn. A corrected rulemaking was published on October 28, 2005 at 29 Ill. Reg. 16151.

## ILLINOIS RACING BOARD

## NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Pick (N) Pools
- 2) Code Citation: 11 Ill. Adm. Code 308
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
308.40	Withdraw
308.90	Withdraw
- 4) Date Notice of Proposed Amendment Published in the Illinois Register: July 29, 2005;  
29 Ill. Reg. 11758
- 5) Reason for the Withdrawal: This rulemaking is being withdrawn because the agency will re-submit the proposed amendment with additional language.

## PROCLAMATIONS

**2005-374  
SOLAR ENERGY DAY**

WHEREAS, rising fossil fuel prices are driving up energy costs. As oil and natural gas prices soar, Americans are paying more and more to fuel their cars and heat their homes; and

WHEREAS, emissions from the combustion of fossil fuels threatens human health and the environment and failing to reduce these emissions will continue to exact financial and environmental costs; and

WHEREAS, harnessing clean, renewable homegrown energy sources such as solar power can reduce pollution, protect public health and improve our energy independence; and

WHEREAS, on November 9, the Social Security Administration will celebrate the completion of one of the Midwest's largest solar energy projects, celebrate the benefits of clean, state-of-the-art renewable technologies and kick off a meeting of the Million Solar Roofs Initiative and the Chicago Solar Partnership; and

WHEREAS, according to the United States Environmental Protection Agency, this solar project will displace more than four million pounds of carbon dioxide and will save the equivalent of nearly 6,000 barrels of oil:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 9, 2005 as **SOLAR ENERGY DAY** to promote the use of alternative energy sources that are consumer and environmentally friendly.

Issued by the Governor on November 8, 2005.

Filed with the Secretary of State November 8, 2005.

**2005-375  
SCIENCE TEACHER DAYS**

WHEREAS, science is an essential and vital field of study. It helps answer critical questions such as how we think and behave, what happened in the past, and what comprises the universe; and

WHEREAS, as these are complex questions, it is no surprise that science is a complex subject. Consequently, teaching science is a difficult task that requires devotion and continual study of the latest developments in the profession; and

WHEREAS, this year, approximately 5,000 science teachers from around the country will converge on Chicago for the National Science Teachers Association Convention from November 10-12; and

WHEREAS, at the convention, science teachers will learn more about their profession and the latest research and technology in their fields. They will also learn new teaching skills and techniques that will maximize student comprehension and understanding of science; and

WHEREAS, in addition to those professional benefits, science teachers will have a wonderful opportunity to network with their colleagues and build relationships beyond their own classrooms, buildings, and local school districts that will help them become better professionals:

## PROCLAMATIONS

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 10-12, 2005 as **SCIENCE TEACHER DAYS** in Illinois as they meet in Chicago for the National Science Teachers Association Convention, and in recognition of their contributions to human knowledge and education.

Issued by the Governor on November 8, 2005.

Filed with the Secretary of State November 8, 2005.

**2005-374 (Revised)**  
**SOLAR ENERGY DAY**

WHEREAS, rising fossil fuel prices are driving up energy costs. As oil and natural gas prices soar, Americans are paying more and more to fuel their cars and heat their homes.

WHEREAS, emissions from the combustion of fossil fuels threatens human health and the environment and failing to reduce these emissions will continue to exact financial and environmental costs.

WHEREAS, harnessing clean, renewable homegrown energy sources such as solar power can reduce pollution, protect public health and improve our energy independence; and

WHEREAS, on November 9, the Social Security Administration will celebrate the completion of one of the Midwest's largest solar energy projects, celebrate the benefits of clean, state-of-the-art renewable technologies and kick off a meeting of the Million Solar Roofs Initiative and the Chicago Solar Partnership; and

WHEREAS, according to the United States Environmental Protection Agency, this solar project will displace more than four million pounds of carbon dioxide and will save the equivalent of nearly 6,000 barrels of oil.

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 9, 2005 as **SOLAR ENERGY DAY** in Illinois to promote the use of alternative energy sources that are consumer and environmentally friendly.

Issued by the Governor on November 8, 2005.

Filed with the Secretary of State November 9, 2005.

**2005-376**  
**HUMAN RIGHTS DAY**

WHEREAS, all people are entitled to the same opportunities regardless of age, citizenship, ethnicity, gender, race, religion, disability or sexual orientation; and

WHEREAS, equality is a birthright affirmed by our nation's founders who declared: "We hold these truths to be self-evident, that all men are created equal." Although that promise went unfulfilled for too many Americans for far too long, those words speak a truth that we all hold dear; and

WHEREAS, we have a rich legacy we all can be proud of. Although our nation's history is wrought with shameful acts and deeds, it is also filled with wonderful moments of hope and

## PROCLAMATIONS

triumph such as the abolition of slavery, the nineteenth amendment that guaranteed all women the right to vote, and the Civil Rights Acts of 1964 and 1965; and

WHEREAS, here in Illinois, we embrace that legacy and our contributions to it. It was our favorite son, President Abraham Lincoln, who guided us through the nation's greatest crisis and with a masterful stroke of his pen emancipated four million slaves; and

WHEREAS, ever since then, Illinois has progressively expanded human rights, and in 1979, we passed a comprehensive human rights act to prohibit discrimination in employment, housing, credit transactions, and public accommodations based on age, citizenship, ethnicity, gender, race, disability and religion; and

WHEREAS, just this year, we took a monumental step in human rights by amending the Illinois Human Rights Act to include sexual orientation. Regardless of sexual orientation, we are all entitled to the same opportunities for success and advancement; and

WHEREAS, legislation by itself will not prevent discrimination. That is why the Illinois Department of Human Rights and the Illinois Human Rights Commission are vested with full authority to investigate and adjudicate all violations of human rights; and

WHEREAS, we have a long road ahead of us before the human rights of all are protected, but as we celebrate the 25th anniversary of the Illinois Human Rights Act, we have much to be proud of in our State's and our nation's history:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 16, 2005 as **HUMAN RIGHTS DAY** in Illinois to reaffirm the noble truths so eloquently proclaimed by our founders and articulated by our favorite son, to honor the remarkable heritage of human rights in our State, and to thank all those who have contributed to the pursuit of equality in Illinois.

Issued by the Governor on November 10, 2005.

Filed with the Secretary of State November 10, 2005.

**2005-377****GEOGRAPHY AWARENESS WEEK AND  
GEOGRAPHIC INFORMATION SCIENCE DAY**

WHEREAS, the study of geography is a significant component of a well-rounded education, allowing students to appreciate and understand the world around them; and

WHEREAS, technological innovations such as map making, socioeconomic analyses, and navigational aids have increased the usage and applicability of geography in academics, business, and everyday life; and

WHEREAS, in an effort to promote geographic literacy in schools, communities, and organizations, the National Geographic Society established Geography Awareness Week in 1987 with the support of President Ronald Reagan; and

WHEREAS, during Geographic Awareness Week, geographic information systems vendors and users meet with schools, businesses, and the general public on Geographic Information Science Day, a grassroots event to showcase real-world applications of this important technology; and

## PROCLAMATIONS

WHEREAS, this year, Geography Awareness Week is from November 13-19, and Geographic Information Science Day falls on November 16:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 13-19, 2005 as GEOGRAPHY AWARENESS WEEK and November 16, 2005 as **GEOGRAPHIC INFORMATION SCIENCE DAY** in Illinois to raise awareness about the benefits of studying geography.

Issued by the Governor on November 10, 2005.

Filed with the Secretary of State November 10, 2005.

**2005-378****INTERNATIONAL EDUCATION WEEK**

WHEREAS, international education is critical for our future welfare. By studying, learning, and exchanging experiences, we develop a greater appreciation and respect for other people and their cultures, and breakdown barriers to understanding and cooperation, which are vital to peace and prosperity; and

WHEREAS, foreign student exchange programs are just one wonderful opportunity to learn about other people and cultures. Approximately 600,000 international students study in the United States every year; and

WHEREAS, International Education Week is from November 14-18, and the United States Departments of State and Education are teaming up to promote similar efforts during that week that enrich our comprehension of international education; and

WHEREAS, in the past, schools throughout the country have invited Americans who have lived or traveled overseas and international residents or visitors who are currently living in their communities to share personal stories and experiences. Cultural fairs have also been a terrific way for students to learn about other places and their history; and

WHEREAS, indeed, there are many creative events and activities that engage our children during International Education Week. This year, students from a local school will work with the staff at the Johnson Space Center on a downlink with the crew of the International Space Station, and an exhibition at the Department of Education will feature visual art and writing of children from around the world:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 14-18, 2005 as **INTERNATIONAL EDUCATION WEEK** in Illinois, and join the campaign by the United States Departments of State and Education to encourage international education.

Issued by the Governor on November 10, 2005.

Filed with the Secretary of State November 10, 2005.

**2005-379****COURAGEOUS KID RECOGNITION WEEK**

## PROCLAMATIONS

WHEREAS, cancer claims the lives of more children in the United States than any other disease, including asthma, diabetes, cystic fibrosis, and AIDS combined. An estimated 12,500 children and adolescents are diagnosed with cancer every year; and

WHEREAS, fortunately, there have been many spectacular strides in research. While less than 10 percent of children diagnosed with cancer were cured in the 1950s, nearly 80 percent of childhood cancer patients become long-term survivors today thanks to the help of a number of institutions and organizations; and

WHEREAS, indeed, there are many wonderful institutions and organizations committed and dedicated to helping children with cancer and their families. The American Cancer Fund for Children and Kids Cancer Connection are just two of them; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection provide a variety of vital patient psychosocial services to children undergoing cancer treatment at the University of Chicago Medical Center's Comer Children's Hospital, as well as participating hospitals throughout the country; and

WHEREAS, through its uniquely sensitive and comforting Magical Caps for Kids program, Kids Cancer Connection distributes thousands of beautifully handmade caps and decorated baseball caps for children to wear following the trauma of chemotherapy, surgery, and radiation treatments; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection also sponsor award ceremonies and hospital celebrations in recognition of courageous children battling childhood cancer:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 14-21, 2005 as **COURAGEOUS KID RECOGNITION WEEK** in Illinois to raise awareness of childhood cancer, and in support of efforts by institutions and organizations such as the American Cancer Fund for Children and Kids Cancer Connection to help children with cancer and their families.

Issued by the Governor on November 10, 2005.

Filed with the Secretary of State November 10, 2005.

**2005-379 (Revised)****COURAGEOUS KID RECOGNITION WEEK**

WHEREAS, cancer claims the lives of more children in the United States than any other disease, including asthma, diabetes, cystic fibrosis, and AIDS combined. An estimated 12,500 children and adolescents are diagnosed with cancer every year; and

WHEREAS, fortunately, there have been many spectacular strides in research. While less than 10 percent of children diagnosed with cancer were cured in the 1950s, nearly 80 percent of childhood cancer patients become long-term survivors today thanks to the help of a number of institutions and organizations; and

WHEREAS, indeed, there are many wonderful institutions and organizations committed and dedicated to helping children with cancer and their families. The American Cancer Fund for Children and Kids Cancer Connection are just two of them; and

## PROCLAMATIONS

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection provide a variety of vital patient psychosocial services to children undergoing cancer treatment at the University of Chicago Comer Children's Hospital, as well as participating hospitals throughout the country; and

WHEREAS, through its uniquely sensitive and comforting Magical Caps for Kids program, Kids Cancer Connection distributes thousands of beautifully handmade caps and decorated baseball caps for children to wear following the trauma of chemotherapy, surgery, and radiation treatments; and

WHEREAS, the American Cancer Fund for Children and Kids Cancer Connection also sponsor award ceremonies and hospital celebrations in recognition of courageous children battling childhood cancer, and will honor children at Comer Children's Hospital during the week of November 14:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 14-21, 2005 as **COURAGEOUS KID RECOGNITION WEEK** in Illinois to raise awareness of childhood cancer, and in support of efforts by institutions and organizations such as the American Cancer Fund for Children and Kids Cancer Connection to help children with cancer and their families.

Issued by the Governor on November 10, 2005.

Filed with the Secretary of State November 14, 2005.

# ILLINOIS ADMINISTRATIVE CODE

## Issue Index - With Effective Dates

Rules acted upon in Volume 29, Issue 48 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

### PROPOSED RULES

44 - 5000	.....	18977
80 - 303	.....	19000
14 - 110	.....	19006
20 - 120	.....	19009
35 - 1500	.....	19017
89 - 148	.....	19043
56 - 100	.....	19064
56 - 120	.....	19082
56 - 220	.....	19106
56 - 280	.....	19118
11 - 308	.....	19125
11 - 1318	.....	19130
86 - 750	.....	19134
86 - 760	.....	19141
86 - 770	.....	19147
23 - 2500	.....	19151

### ADOPTED RULES

83 - 729	12/01/2005.....	19153
92 - 1501	12/01/2005.....	19174
92 - 1515	12/01/2005.....	19178
92 - 1605	12/01/2005.....	19183
38 - 1050	11/10/2005.....	19187
92 - 380	11/10/2005.....	19208
92 - 385	11/10/2005.....	19216
92 - 387	11/10/2005.....	19222
92 - 390	11/10/2005.....	19227
92 - 391	11/10/2005.....	19251
92 - 392	11/10/2005.....	19256
92 - 393	11/10/2005.....	19260
92 - 395	11/10/2005.....	19264
92 - 396	11/10/2005.....	19271
92 - 397	11/10/2005.....	19275

### EMERGENCY RULES

14 - 110	11/14/2005.....	19279
14 - 545	11/03/2005.....	19284
50 - 4403	11/09/2005.....	19296
23 - 2500	11/14/2005.....	19308

### EXECUTIVE ORDERS AND PROCLAMATIONS

05 - 375	11/08/2005.....	19316
05 - 374	11/08/2005.....	19316
05 - 376	11/10/2005.....	19317
05 - 374	11/08/2005.....	19317
05 - 377	11/10/2005.....	19318
05 - 379	11/10/2005.....	19319
05 - 378	11/10/2005.....	19319
05 - 379	11/10/2005.....	19320

**OTHER INFORMATION REQUIRED BY LAW TO BE  
PUBLISHED IN THE ILLINOIS REGISTER**

89 - 140	.....19314
11 - 308	.....19315

## ORDER FORM

<input type="checkbox"/> Subscription to the Illinois Register (52 Issues) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Electronic Version of the Illinois Register (E-mail Address Required) <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register 1977 – 2001 Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Cumulative/Sections Affected Indices 1990 - 2002 Specify Year(s) _____	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 1.50
<b>TOTAL AMOUNT OF ORDER</b> \$ _____	

Check    Make Checks Payable To: **Secretary of State**

VISA     Master Card     Discover    (There is a \$1.50 processing fee for credit card purchases.)

Card #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

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

**Send Payment To:** Secretary of State  
 Department of Index  
 Administrative Code Division  
 111 E. Monroe  
 Springfield, IL 62756

**Fax Order To:** (217) 524-0308

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail: