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RULES
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AGENCIES



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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Children's Respite Care Center Demonstration Program Code
- 2) Code Citation: 77 Ill. Adm. Code 260
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
260.1000	Amendment
260.1050	Amendment
260.1100	Amendment
260.1200	Amendment
260.1300	Amendment
260.1400	Amendment
260.1800	Amendment
260.2000	Amendment
260.2200	Amendment
260.2400	Amendment
- 4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- 5) A Complete Description of the Subjects and Issues Involved: Part 260 (Children's Respite Care Center Demonstration Program Code) establishes licensing requirements for Children's Respite Care Centers. The name of the centers (and the title of Part 260) is being changed to "Children's Community-Based Health Care Center Demonstration Program Code." Throughout Part 260, "Respite" is struck out and "Community-Based Health" is inserted.

In Section 260.1000 (Definitions), definitions for "Children with Special Health Care Needs," "Diagnostic Studies," "Medical Day Care," "Technology Dependent Children," and "Weekend Camps" are being added. Other definitions are being amended to conform to Public Act 93-402, which amended the Alternative Health Care Delivery Act [210 ILCS 3].

Section 260.1050 (Incorporated and Referenced Materials) is being amended to add the Abused and Neglected Child Reporting Act [325 ILCS 5] and to update the National Fire Protection Association standard.

Section 260.1300 (Obligations and Privileges of Children's Respite Care Center Models) is being amended to change the Section heading and to add statutory language regulating who is eligible for care in a children's community-based health care center and statutory language spelling out the kind of care offered in the centers.

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Section 260.1800 (Admission Practices) is being amended to change the Section heading to "Admission and Participation Practices" and to add language, authorized by statute, regulating transitions to home settings; criteria for medical day care; weekend camps; and diagnostic studies.

Section 260.2000 (Child Care Services) is being amended to limit the number of allowable children in a community-based health care center to 12, in order to conform to the Act.

Section 260.2200 (Personnel) is being amended to add language requiring centers to adhere to the Abused and Neglected Child Reporting Act [325 ILCS 5].

Section 260.2400 (Physical Plant) is being amended to match the National Fire Protection Association standard updated in Section 260.1050.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data, used to compare this rulemaking: None
- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain any incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

- 13) Initial Regulatory Flexibility Analysis:
 - A) Type of small businesses, small municipalities and not-for-profit corporations affected: Children's Respite Care Center Demonstration Programs
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 260

CHILDREN'S ~~COMMUNITY-BASED HEALTH~~~~RESPIRE~~ CARE CENTER
DEMONSTRATION PROGRAM CODE

Section

260.1000	Definitions
260.1050	Incorporated and Referenced Materials
260.1100	Demonstration Program Elements
260.1200	Application for and Issuance of a License to Operate a Children's Community-Based Health Respite Care Center Model
260.1300	Obligations and Privileges of Children's Community-Based Health Respite Care Center Models
260.1400	Inspections and Investigations
260.1500	Notice of Violation and Plan of Correction
260.1600	Adverse Licensure Action
260.1700	Policies and Procedures
260.1750	Health Care Worker Background Check
260.1800	Admission and Participation Practices
260.1900	Child's Rights
260.2000	Child Care Services
260.2100	Medication Administration
260.2200	Personnel
260.2300	Food Service
260.2400	Physical Plant
260.2500	Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 22 Ill. Reg. 3899, effective February 20, 1998; amended at 24 Ill. Reg. 14016, effective August 31, 2000; amended at 26 Ill. Reg. 11974, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7937, effective April 30, 2003, for a maximum of 150 days; emergency expired September 26, 2003; amended at 27 Ill. Reg. 18070, effective November 12, 2003; amended at 30 Ill. Reg. 883, effective January 9, 2006; amended at 30 Ill. Reg. _____, effective _____.

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Section 260.1000 Definitions

The following terms shall have the meanings ascribed to them here whenever the term is used in this Part.

Abuse – any physical or mental injury or sexual assault inflicted on a patient other than by accidental means in a centerfacility. Abuse includes:

Abuse means:

Physical abuse refers to the infliction of injury on a patient that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to patients or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Act – the Alternative Health Care Delivery Act [210 ILCS 3].

Affiliate –means:

With respect to a partnership, each partner thereof;

With respect to a corporation, each officer, director and stockholder thereof;

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With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

Board – *the State Board of Health.* (Section 10 of the Act)

Charitable Care – the intentional provision of free or discounted services to persons who cannot afford to pay.

Children with Special Health Care Needs – those children who have or are at increased risk for chronic physical ailments who require health and related services of a type or amount beyond that required by children generally.

Children's Representative – a person authorized by ~~the~~ law to act on behalf of the child.

Children's ~~Community-Based Health~~Respite Care Center ~~or Center~~ – *a designated site that provides nursing care, clinical support services, and therapies for a period of one to 14 days for short-term stays and one to 120 days to facilitate transitions to home or other appropriate settingsrespite for medically fragile children, technology dependent children, and children with special health care needs who are deemedfrail, ~~technologically~~ clinically stable by a physician and are younger than 22 years of age. This care is to be provided in a home-like environment that serves no more than 12 children at a time. ~~children, up to age 18, for a period of one to 14 days in a home-like environment that serves no more than 10 children at a time.~~ (Section 35(3) of the Act)*

Demonstration Program or Program – *a program to license and study alternative health care models authorized under the Act.* (Section 10 of the Act)

Department – *the Illinois Department of Public Health.* (Section 10 of the Act)

Diagnostic Studies – any analytic tests, including, but not limited to, heart monitoring or sleep tests, used in identifying the nature or cause of an illness, disorder or problem that are typically done in the home and that are conducted in a Children's Community-Based Health Care Center for children with special health care needs.

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~~Dietitian~~Dietician – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30]. is eligible for registration by the American Dietetic Association; or has a baccalaureate degree with major studies in food and nutrition, dietetics, and food service management, has one year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.

Director – the *Director of Public Health* or designee. (Section 10 of the Act)

Hospital – a facility licensed pursuant to the Hospital Licensing Act [210 ILCS 85].

Inspection – any survey, evaluation or investigation of the Children's Community-Based Health~~Respite~~ Care Center Model's compliance with the Act and this Part by the Department or designee.

Licensee – the person or entity licensed to operate the Children's Community-Based Health~~Respite~~ Care Center Model.

Medical Day Care – care provided by a Children's Community-Based Health Care Center for children with special health care needs for no more than 12 in 24 hours, in accordance with Section 260.1800(c) of this Part.

Medically Fragile Children – children who are medically stable but require skilled nursing care, specialized therapy, and specialized medical equipment and supplies to enhance or sustain their lives. "Medically fragile children" may include, but is not limited to, children who have neuro-muscular disease, heart disease, cancer, seizure disorder, spina bifida, chronic lung disease, or other medical conditions that threaten the child's ability to thrive and to survive without proper medical care.

Neglect – a failure in a center~~facility~~ to provide adequate medical or personal care or maintenance, ~~resulting~~which failure results in physical or mental injury to a patient or in the deterioration of a patient's physical or mental condition.

Neglect~~This~~ shall include any situation in which~~allegation where~~:

~~the alleged~~ failure to provide adequate medical or personal care or maintenance ~~causing~~ injury or deterioration that is ongoing or repetitious; or

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failure to provide adequate medical or personal care or maintenance results in a patient ~~requiring~~required medical treatment ~~as a result of the alleged failure~~; or ~~the~~

failure to provide adequate medical or personal care or maintenance causes~~is alleged to have caused~~ a noticeable negative impact on a patient's health, behavior or activities for more than 24 hours.

Physician – a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60].

Registered Nurse – a person who is licensed as a registered professional nurse under the ~~Illinois~~ Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65].

Substantial Compliance – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 260.1200.

Technology Dependent Children – medically fragile children who require the constant or regular intermittent use of technology to meet their medical needs. This may include, but is not limited to, devices that assist or support breathing, monitor bodily functions, or provide nutrition.

Weekend Camps – a planned program for medically fragile children, technology dependent children, or children with special health care needs that consists typically of Friday afternoon through Sunday evening.

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

Section 260.1050 Incorporated and Referenced Materials

- a) The following Illinois statutes and administrative rules of the Department of Public Health are referenced in this Part:
 - 1) State of Illinois Statutes:
 - A) Hospital Licensing Act [210 ILCS 85]

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- B) Illinois Health Facilities Planning Act [20 ILCS 3960]
 - C) Medical Practice Act of 1987 [225 ILCS 60]
 - D) ~~Illinois~~ Nursing and Advanced Practice Nursing Act of 1987 [225 ILCS 65]
 - E) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
 - F) Abused and Neglected Child Reporting Act [325 ILCS 5]
- 2) Department of Public Health Administrative rules:
- A) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
 - B) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
 - C) Food Service Sanitation Code (77 Ill. Adm. Code 750)
 - D) Drinking Water Systems Code (77 Ill. Adm. Code 900)
 - E) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 - F) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 - G) Control of Tuberculosis Code (77 Ill. Adm. Code 696)
- b) The following private and professional association standards are incorporated in this Part:
- National Fire Protection Association (NFPA) standard No. 101: Life Safety Code, ~~2000+1994~~ edition, chapter 23, "Existing Residential Board and Care Occupancies, Impractical", which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts ~~02169-7471~~02269.
- c) All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any ~~amendments or editions~~additions or deletions subsequent to the date specified.

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

Section 260.1100 Demonstration Program Elements

- a) The Children's Community-Based HealthRespite Care Center Demonstration Program shall be reviewed annually by the Board to determine if it should continue operation for a period of up to five years, commencing with February 20, 1998~~the effective date of this Part.~~
- b) A Children's Community-Based HealthRespite Care Center Model shall be licensed pursuant to this Part to be considered a participant in the Program.
- c) Applications for participation in the Program shall be considered only when a vacancy exists in one of the allocated Program slots for the relevant geographic area.
- d) *At the midpoint and end of the Program, the Board shall evaluate and make recommendations to the Governor and the General Assembly, through the Department, regarding the Program, in accordance with Section 20(b) of the Act.*
- e) *The Department shall deposit all application fees, renewal fees and fines collected under the Act and this Part into the Regulatory Evaluation and Basic Enforcement Fund in the State Treasury. (Section 25(d) of the Act)*

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

Section 260.1200 Application for and Issuance of a License to Operate a Children's Community-Based HealthRespite Care Center Model

- a) Applications for a license to operate a Children's Community-Based HealthRespite Care Center Model shall be in writing on forms provided by the Department. The application shall be made under oath and shall contain the following:
 - 1) Proof of a Certificate of Need to establish and operate a Children's Community-Based HealthRespite Care Center Model issued by the Health Facilities Planning Board under the Illinois Health Facilities Planning Act [20 ILCS 3960];

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- 2) The name of the proposed Model;
 - 3) The address of the proposed Model;
 - 4) A precise description of the site of the proposed Model;
 - 5) The maximum occupancy of the Model;
 - 6) The name and address of the registered agent or other individual authorized to receive Service of Process for the Model ~~license~~licensee;
 - 7) The name of the person or persons under whose management or supervision the ~~center~~facility will be operated;
 - 8) Documentation of compliance with Section 260.2300 of this Part; and
 - 9) The Model's admission policies and procedures in accordance with Section 260.1800 of this Part.
- b) An application for initial licensure shall be accompanied by an application fee of \$500 plus \$100 for each bed.
 - c) Upon receipt and review of a complete application for licensure, the Department shall conduct an inspection to determine compliance with the Act and this Part.
 - d) If the proposed Model is found to be in substantial compliance with the Act and this Part, the Department shall issue a license for a period of one year. The license shall not be transferable; it is issued to the licensee and for the specific location and number of beds identified in the application.
 - e) An application for license renewal shall be filed with the Department 90 to 120 days prior to the expiration of the license, on forms provided by the Department.
 - 1) The renewal application shall comply with the requirements of subsections (a) and (b) of this Section; and
 - 2) Upon receipt and review of a complete application for license renewal, the Department may conduct a survey. The Department shall renew the license in accordance with subsection (d) of this Section.

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- f) *The Department may issue a provisional license to any Children's Community-Based HealthRespite Care Center Model that does not substantially comply with the provisions of the Act and this Part:*
- 1) A provisional license may be issued only if the Department finds that:
 - A) *The Model has undertaken changes and corrections which upon completion will render the Model in substantial compliance with the Act; and*
 - B) *The health and safety of the patients in the Model will be protected during the period for which the provisional license is issued. (Section 30(c) of the Act)*
 - 2) *The Department shall advise the applicant or licensee of the conditions under which the provisional license is issued, including:*
 - A) *The manner in which the Model fails to comply with the provisions of the Act;*
 - B) *The changes and corrections that shall be completed;*
 - C) *The time within which the necessary changes and corrections shall be completed (Section 30(c) of the Act); and*
 - D) *The interim actions that are necessary to protect the health and safety of the patients.*
- g) The Children's Community-Based HealthRespite-Care Center Model license or provisional license shall be prominently displayed in an area accessible to the public.

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

Section 260.1300 Obligations and Privileges of Children's Community-Based HealthRespite Care Center Models

- a) Children's Community-Based HealthRespite Care Center Models shall, within 30 days after licensure, seek certification under Titles XVIII and XIX of the federal Social Security Act. (Section 30(d) of the Act) *Coverage for services provided by*

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the Illinois Department of ~~Healthcare and Family Services~~ ~~Public Aid~~ is contingent upon federal waiver approval and is provided only to Medicaid eligible clients participating in the Home and Community Based Services waiver designated in ~~section~~ ~~Section~~ 1915(c) of the Social Security Act for medically frail and technologically dependent children. (Section 35(3) of the Act)

- b) Children's ~~Community-Based Health~~ ~~Respite~~ Care Center Models shall provide charitable care consistent with that provided by comparable health care providers in the geographic area. (Section 30(d) of the Act)
- ~~c)~~ Children's Community-Based Health Care Center services must be available through the model to all families, including those whose care is paid for through the Department of Healthcare and Family Services, the Department of Children and Family Services, the Department of Human Services, and insurance companies who cover home health care services or private duty nursing care in the home. (Section 35(3) of the Act)
- ~~d)~~ e) A licensed Children's ~~Community-Based Health~~ ~~Respite~~ Care Center Model that continues to be in substantial compliance after the conclusion of the demonstration program shall be eligible for annual license renewals unless and until a different licensure program for that type of health care model is established by legislation. (Section 30(c) of the Act)
- ~~e)~~ d) Each Children's ~~Community-Based Health~~ ~~Respite~~ Care Center Model location shall be ~~a facility~~ physically separate and apart from any other facility licensed by the Department of Public Health. (Section 35(3) of the Act)
- ~~f)~~ e) ~~At a minimum,~~ Children's ~~Community-Based Health~~ ~~Respite~~ Care Center Models shall provide the following services: ~~provide out-of-home~~ respite care; registered nursing or licensed practical nursing care; ~~hospital to home training for families and caregivers;~~ ~~short term~~ transitional care to facilitate home placement or other appropriate settings and reunite families; medical day care; weekend camps; and diagnostic studies typically done in the home setting ~~and training for foster care parents; and parent and family support groups.~~ (Section 35(3) of the Act)

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

Section 260.1400 Inspections and Investigations

- a) The Department shall perform licensure inspections of Children's ~~Community-~~

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Based Health Respite Care Center Models, as deemed necessary, to ensure compliance with the Act and this Part. (Section 25(c) of the Act)

- b) All centers~~facilities~~ to which this Part applies shall be subject to and shall be deemed to have given consent to all inspections by properly identified personnel of the Department, or by other such properly identified persons as the Department might designate. In addition, representatives of the Department shall have access to and may reproduce or photocopy any books, records and other documents maintained by the center~~facility~~ or the licensee to the extent necessary to carry out the Act and this Part.
- c) *The Department shall investigate an applicant or licensee whenever it receives a verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for the denial of an application for a license, refusal to renew a license, or suspension or revocation of a license. (Section 50 of the Act)*
- d) *The Department may also investigate an applicant or licensee on its own motion or based upon complaints received by mail, telephone or in person. (Section 50 of the Act)*

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

Section 260.1800 Admission and Participation Practices

- a) The center~~facility~~ shall establish admission criteria for short-term stays that provide for:
- 1) The admission of children for no more than 14 days;
 - 2) The admission of children whose service plan can be met by the center~~facility~~; and
 - 3) Nondiscrimination toward~~The nondiscrimination of~~ children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- b) To facilitate transitions to home or other appropriate settings, the center shall establish admission criteria that provide for:
- 1) The admission of children for no more than 120 days;

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- 2) The admission of children whose service plan can be met by the center; and
 - 3) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- c) The center shall establish participation criteria for medical day care that provide for:
- 1) The participation of children for no more than 12 hours in 24 hours;
 - 2) The participation of children whose service plan can be met by the center; and
 - 3) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- d) The center shall establish participation criteria for weekend camps that provide for:
- 1) The participation of children whose service plan can be met by the center; and
 - 2) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- e) The center shall establish criteria for diagnostic studies that provide for:
- 1) Conducting only those diagnostic studies ordered by a physician and that are typically conducted in the home;
 - 2) Meeting all provisions for short-term stays, in accordance with subsection (a), if children are admitted overnight;
 - 3) The participation of children whose service plan can be met by the center; and

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4) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.

f)b) At the time each child is admitted, the licensee must assure that the centerfacility has conducted an assessment and has a service plan to meet the child's needs. A service plan shall consist of at least the following:

- 1) Provided by the parent or child's representative:
 - A) a description of the child's usual routine,
 - B) the child's food preferences,
 - C) the child's allergies, if any,
 - D) instructions for the child's personal care,
 - E) information on the child's educational program, if applicable,
 - F) an emergency phone number where the parents, guardian or other responsible person can be contacted during the child's stay, and
 - G) any other information that will help the child's stay to be safe and enjoyable.
- 2) Provided by a physician:
 - A) medication orders, if any,
 - B) treatments, if any,
 - C) nursing orders, if any,
 - D) any activity restrictions,
 - E) documentation of the child's current immunization status, and
 - F) any other information that will help the child's stay to be safe and

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enjoyable.

~~g)e~~ Only those children shall be admitted or served for whom the center~~facility~~ has the trained personnel, equipment, and supplies to meet the service plan.

~~h)d~~ A personal physician shall be identified for each child admitted. The service plan shall document the method for contacting this physician at any time.

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

Section 260.2000 Child Care Services

~~a~~ No more than 12 children shall be served at a time.

~~b)a~~ The licensee shall provide services as necessary to implement and support the child's service plan and overall needs, including provisions for:

- 1) Case management;
- 2) Fostering maximum independence of the child; and
- 3) Protection of the child's rights, privacy and dignity.

~~c)b~~ The licensee shall have one or more transfer agreements with hospitals to provide emergency care to children.

~~d)e~~ The licensee shall provide recreational and leisure activities for children during their stay.

~~e)d~~ A written summary of the child's stay shall be sent home with each child. The summary shall contain documentation of any extreme (positive or negative) occurrences and any information that will increase continuity of services.

~~f)e~~ All information related to the child, the child's representative or the child's service plan is confidential and shall be accessible only to those individuals who need the information to assure appropriate service delivery.

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

Section 260.2200 Personnel

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- a) Each center facility shall develop and maintain written personnel policies; that which are followed in the operation of the center facility.
- b) The center shall establish policies to screen all current and prospective employees and volunteers that shall include at least the following:
- 1) Conduct a check of the Department of Children and Family Services (DCFS) Central Registry, in a form and a manner prescribed by DCFS.
 - 2) Conduct a check of the Sex Offender Registry in a form and a manner prescribed by the Illinois State Police (ISP).
 - 3) Maintain records of these checks in the employee's personnel file or the volunteer's file.
- c) The center shall define in policy whether individuals with findings on the DCFS Central Registry will be eligible for hire or to volunteer and, if so, the Center shall define the level of supervision that will be provided.
- d) All employees and volunteers shall be considered mandated reporters as defined in the Abused and Neglected Child Reporting Act.
- 1) Reports of suspected child abuse or neglect shall be immediately reported to the DCFS State Central Registry (1-800-25A-BUSE) or local law enforcement.
 - 2) Reports of suspected child abuse or neglect shall be immediately reported to the Department of Public Health's Central Complaint Registry (1-800-252-4343).
 - 3) The center shall provide orientation to current staff and volunteers within 30 days after September 30, 2006 regarding their responsibilities under the Abused and Neglected Child Reporting Act.
 - 4) The center shall provide orientation to new staff and volunteers within 14 days after the first day of employment or volunteering.
 - 5) This orientation shall include, at least, definitions of what constitutes abuse and neglect, the individual's responsibility under the Abused and

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Neglected Child Reporting Act, and the center's policy on reporting abuse and neglect.

- e)b) Each employee shall have an initial health evaluation, which shall be used to ensure that employees are not placed in positions that would pose undue risk of infection to themselves, other employees, children or visitors.
- 1) The initial health evaluation shall be completed no more than 30 days prior to or 30 days after the employee's first day of employment.
 - 2) The initial health evaluation shall include a health inventory from the employee, including an evaluation of the employee's immunization status.
 - 3) The initial health evaluation shall include tuberculin testing in accordance with the Control of Tuberculosis Code (77 Ill. Adm. Code 696).
- f)e) The licensee shall provide adequate, properly trained and supervised staff to meet each child's service plan.
- g)d) The licensee shall designate a centerfacility manager.
- h)e) There shall be at least one registered nurse at the centerfacility at all times that a child is present. At least one other staff person shall be present at the centerfacility at all times that a child is present.
- i)f) The centerfacility shall have a medical director who is a physician with expertise in chronic diseases of children. The medical director shall have responsibilities for reviewing medical protocols, resolving issues with children's personal physicians and providing medical advice when a child's personal physician is not available.
- j)g) The licensee shall define, through job descriptions, minimum education and experience requirements for all staff, consultants and contract staff providing services to the Children's Community-Based HealthRespite Care Center Model.
- k)h) The licensee shall provide an initial orientation and routine, pertinent training to all staff. This training may include return demonstration, one-on-one training, small group exercises or lecture. All training shall be documented with:
- 1) date;

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- 2) instructors;
- 3) short description of content; and
- 4) participants' written and printed signatures.

li) Prior to employing any individual in a position that requires a State license, the licensee shall contact the Illinois Department of **Financial and Professional Regulation**-**Division of Professional Regulation** to verify that the individual's license is active. A copy of the license shall be placed in the individual's personnel file.

m)j) The licensee shall check the status of all applicants with the Nurse Aide Registry prior to hiring.

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

Section 260.2400 Physical Plant

- a) Buildings shall meet the requirements established in the National Fire Protection Association Standard 101, Life Safety Code, **2000+1994** edition, Chapter 23, "Existing Residential Board and Care Occupancies, Impractical", and other referenced chapter requirements.
- b) Buildings shall be only one story in height, **at grade level**, or if a building has multiple stories, children shall be served only on the **grade level**~~main~~ story.
- c) Children over six years of age occupying the same bedroom shall be of the same gender unless the children are siblings.
- d) An individual shall not need to go through a child's bedroom to reach any other area of the building.
- e) The **center**~~facility~~ shall be kept in a clean, safe, and orderly condition and in good repair.
 - 1) Electrical, mechanical, heating/air conditioning, fire protection and sewage disposal systems shall be maintained.

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- 2) Furnishings and furniture shall be maintained in a clean, safe condition.
 - 3) Attics, basements, stairways, and similar areas shall be kept free of accumulation of refuse, newspapers, boxes, and other items.
 - 4) Bathtubs, shower stalls and lavatories shall not be used for janitorial, laundry or storage purposes.
 - 5) All cleaning compounds, insecticides and ~~all~~ other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms.
- f) Every ~~center~~~~facility~~ shall have an effective means of supplying clean linen.
- 1) Clean linen shall be protected from contamination during handling, transport and storage.
 - 2) Soiled linen shall be handled, transported and stored in a manner that protects individuals and the environment from contamination. Soiled diapers shall be placed in special diaper receptacles immediately after removal from the patient.
- g) Each child shall be provided with a bed that meets his/her developmental needs and size.
- h) The water supply shall comply with all applicable State codes and local ordinances. Each ~~center~~~~facility~~ shall be served by:
- 1) Water from a municipal water system; or
 - 2) A water supply that complies with the Department's rules ~~entitled~~ ~~"Drinking Water Systems Code"~~ (77 Ill. Adm. Code 900); or
 - 3) A water supply that complies with the Department's rules ~~entitled~~ ~~"Public Area Sanitary Practice Code"~~ (77 Ill. Adm. Code 895).
- i) All sewage and liquid wastes shall be discharged into a public sewage disposal system; or shall be collected, treated, and disposed of in a private sewage disposal system that is designed, constructed, maintained and operated in accordance with the Department's rules entitled ~~"Private Sewage Disposal Code"~~ (77 Ill. Adm. Code 905).

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

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
140.990	New Section
140.991	New Section
140.992	New Section
140.993	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These new Sections establish what provider types can be a primary care provider (PCP) in the Primary Care Cost Management (PCCM) program, what obligations a PCP would have, and which recipients are eligible to participate in the program. In addition, the amendments set forth the monthly management fees that the Department would pay to PCPs.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.569	Amendment	30 Ill. Reg. 1231; 01/27/06
140.534	Amendment	30 Ill. Reg. 6230; 04/14/06
140.560	Amendment	30 Ill. Reg. 6230; 04/14/06
140.490	Amendment	30 Ill. Reg. 12066; 07/14/06
140.492	Amendment	30 Ill. Reg. 12066; 07/14/06
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

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- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

217/557-7157

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Health care providers
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because: the rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

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The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 13909:

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.210 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: The rulemaking corrects an error made during an earlier rulemaking for this Part 148.210(d), which became effective June 1, 2004. That rulemaking referenced 89 Ill. Adm. Code 140.80 hospital assessment fees as a non-allowable Medicaid cost. The reference to this Section is being stricken because hospital assessment fees are, in fact, an allowable cost.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
148.126	Amendment	30 Ill. Reg. 2681; 03/10/06
148.126	Amendment	30 Ill. Reg. 9399; 05/26/06
148.140	Amendment	30 Ill. Reg. 13268; 08/11/06
148.295	Amendment	30 Ill. Reg. 9399; 05/26/06

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Tamara Tanzillo Hoffman
Chief of Administration and Rules
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

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

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

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 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
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a

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- 148.170 Population of Over Three Million
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)
- 148.390 Hearings

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148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments
148.404	Medicaid High Volume Adjustment Payments
148.406	Intensive Care Adjustment Payments
148.408	Trauma Center Adjustment Payments
148.410	Psychiatric Rate Adjustment Payments
148.412	Rehabilitation Adjustment Payments
148.414	Supplemental Tertiary Care Adjustment Payments
148.416	Crossover Percentage Adjustment Payments
148.418	Long Term Acute Care Hospital Adjustment Payments
148.420	Obstetrical Care Adjustment Payments
148.422	Outpatient Access Payments
148.424	Outpatient Utilization Payments
148.426	Outpatient Complexity of Care Adjustment Payments
148.428	Rehabilitation Hospital Adjustment Payments
148.430	Perinatal Outpatient Adjustment Payments
148.432	Supplemental Psychiatric Adjustment Payments
148.434	Outpatient Community Access Adjustment Payments

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].

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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 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;

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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 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

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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; 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 the remainder of the 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 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. _____, effective _____.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.210 Filing Cost Reports

- a) All hospitals in Illinois, those hospitals in contiguous states providing 100 or more paid acute inpatient days of care to Illinois Medicaid Program participants, and all hospitals located in states contiguous to Illinois that elect to be reimbursed

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under the methodology described in 89 Ill. Adm. Code 149 (the Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)), shall be required to file Medicaid and Medicare cost reports within 150 days after the close of that provider's fiscal year.

- 1) Any hospital certified in the Medicare Program (Title XVIII) and electing, for the first time, to be reimbursed under the DRG PPS must include a copy of the two most recently audited Medicare cost reports at the time of enrollment.
 - 2) Any hospital accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) not eligible for or subject to Medicare certification shall be required to file financial statements, a statement of revenues and expenses by program, and census logs by program and financial class. The Office of Health Finance may request an audit of the financial statements by an independent Certified Public Accountant (CPA) firm if the financial statements are to be used as the base year for rate analysis. Should the hospital elect not to comply with the audit request, or the financial statements are given other than an unqualified opinion, the hospital will receive an alternate rate as described in Section 148.270.
- b) No extension of the Medicaid cost report due date will be granted by the Department unless the Centers for Medicare and Medicaid Services (CMS) grants an extension of the due date for the Medicare cost report. Should CMS extend the Medicare cost report due date, the Department will extend the Medicaid and Medicare cost reports due date by an equivalent period of time.
- c) If the hospital has not filed the required Medicaid cost reports within 150 days after the close of the hospital's fiscal year, the Department shall suspend payment for covered medical services until the Department receives the required information.
- d) The assessment or license fees described in 89 Ill. Adm. Code ~~140.80~~, 140.82, 140.84, 140.94 and 140.95, may not be reported as allowable Medicaid costs on the Medicaid cost report.

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

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

<u>Section Numbers</u> :	<u>Proposed Action</u> :
307.1001	Amend
307.1005	Amend
307.1006	New Section
307.1101	Amend
307.2003	Amend
307.2400	Amend
307.2410	Amend
307.3001	Amend
307.3002	Amend
307.3121	Amend
307.3404	Amend
307.6503	Amend
307.6505	Amend
307.7401	Amend
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3, and 27
- 5) Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in the docket R06-13 rulemaking of which the amendments to Part 307 are a single segment. Also affected is 35 Ill. Adm. Code 310, which is covered by a separate notice in this issue of the Illinois Register. A comprehensive description is contained in the Board's opinion and order of August 4, 2006, proposing amendments in docket R06-13, which opinion and order is available from the address below.

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

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

USEPA adopted requirements for electronic filing of required documents, such as permit applications and reports, under the various federal programs, including

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

federally authorized state programs. The Cross-Media Electronic Reporting Rule (CROMERR) affects, *inter alia*, the wastewater pretreatment regulations.

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

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

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

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

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

Tables appear in the Board's opinion and order of August 4, 2006 in docket R06-13 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the August 4, 2006 opinion and order in docket R06-13.

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

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NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes. Part 307 sets forth the body of the federally derived categorical pretreatment standards. This Part accomplishes this in large part by incorporation of the federal standards by reference. The present amendments update incorporations by reference to include the pretreatment segments of the December 13, 2005 federal amendments:

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

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

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

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

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

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

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

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

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

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

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

- 10) Are there any other amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b) (2002)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R06-13 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

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

Michael J. McCambridge
Staff Attorney
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago, IL 60601
Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works.

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- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer.
- 14) Regulatory agenda on which this rulemaking was summarized: December 2005

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 307
SEWER DISCHARGE CRITERIA

SUBPART A: GENERAL PROVISIONS

Section	
307.101	Preamble (Renumbered)
307.102	General Requirements (Renumbered)
307.103	Mercury (Renumbered)
307.104	Cyanide (STORET number 00720) (Renumbered)
307.105	Pretreatment Requirements (Repealed)
307.1001	Preamble
307.1002	Definitions
307.1003	Test Procedures for Measurement
307.1005	Toxic Pollutants
<u>307.1006</u>	<u>Electronic Reporting</u>

SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section	
307.1101	General and Specific Requirements
307.1102	Mercury
307.1103	Cyanide

SUBPART F: DAIRY PRODUCTS PROCESSING

Section	
307.1501	Receiving Stations
307.1502	Fluid Products
307.1503	Cultured Products
307.1504	Butter
307.1505	Cottage Cheese and Cultured Cream Cheese
307.1506	Natural and Processed Cheese
307.1507	Fluid Mix for Ice Cream and other Frozen Desserts
307.1508	Ice Cream, Frozen Desserts, Novelties, and Other Dairy Desserts
307.1509	Condensed Milk

POLLUTION CONTROL BOARD

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- 307.1510 Dry Milk
- 307.1511 Condensed Whey
- 307.1512 Dry Whey

SUBPART G: GRAIN MILLS

Section

- 307.1601 Corn Wet Milling
- 307.1602 Corn Dry Milling
- 307.1603 Normal Wheat Flour Milling
- 307.1604 Bulgur Wheat Flour Milling
- 307.1605 Normal Rice Milling
- 307.1606 Parboiled Rice Milling
- 307.1607 Animal Feed
- 307.1608 Hot Cereal
- 307.1609 Ready-to-Eat Cereal
- 307.1610 Wheat Starch and Gluten

SUBPART H: CANNED AND PRESERVED FRUITS AND VEGETABLES

Section

- 307.1700 General Provisions
- 307.1701 Apple Juice
- 307.1702 Apple Products
- 307.1703 Citrus Products
- 307.1704 Frozen Potato Products
- 307.1705 Dehydrated Potato Products
- 307.1706 Canned and Preserved Fruits
- 307.1707 Canned and Preserved Vegetables
- 307.1708 Canned and Miscellaneous Specialties

SUBPART I: CANNED AND PRESERVED SEAFOOD

Section

- 307.1801 Farm-Raised Catfish
- 307.1815 Fish Meal Processing Subcategory

SUBPART J: SUGAR PROCESSING

Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 307.1901 Beet Sugar Processing
- 307.1902 Crystalline Cane Sugar Refining
- 307.1903 Liquid Cane Sugar Refining

SUBPART K: TEXTILE MILLS

- Section
- 307.2000 General Provisions
 - 307.2001 Wool Scouring
 - 307.2002 Wool Finishing
 - 307.2003 Low Water Use Processing
 - 307.2004 Woven Fabric Finishing
 - 307.2005 Knit Fabric Finishing
 - 307.2006 Carpet Finishing
 - 307.2007 Stock and Yarn Finishing
 - 307.2008 Nonwoven Manufacturing
 - 307.2009 Felted Fabric Processing

SUBPART L: CEMENT MANUFACTURING

- Section
- 307.2101 Nonleaching
 - 307.2102 Leaching
 - 307.2103 Materials Storage Piles Runoff

SUBPART M: CONCENTRATED ANIMAL FEEDING OPERATIONS

- Section
- 307.2201 General
 - 307.2202 Ducks

SUBPART N: ELECTROPLATING

- Section
- 307.2300 General Provisions
 - 307.2301 Electroplating of Common Metals
 - 307.2302 Electroplating of Precious Metals
 - 307.2304 Anodizing
 - 307.2305 Coatings
 - 307.2306 Chemical Etching and Milling

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- 307.2307 Electroless Plating
- 307.2308 Printed Circuit Boards

SUBPART O: ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

Section

- 307.2400 General Provisions
- 307.2401 Rayon Fibers
- 307.2402 Other Fibers
- 307.2403 Thermoplastic Resins
- 307.2404 Thermosetting Resins
- 307.2405 Commodity Organic Chemicals
- 307.2406 Bulk Organic Chemicals
- 307.2407 Specialty Organic Chemicals
- 307.2410 Indirect Discharge Point Sources
- 307.2490 Non-Complexed Metal-Bearing and Cyanide-Bearing Waste Streams
- 307.2491 Complexed Metal-Bearing Waste Streams

SUBPART P: INORGANIC CHEMICALS MANUFACTURING

Section

- 307.2500 General Provisions
- 307.2501 Aluminum Chloride Production
- 307.2502 Aluminum Sulfate Production
- 307.2503 Calcium Carbide Production
- 307.2504 Calcium Chloride Production
- 307.2505 Calcium Oxide Production
- 307.2506 Chlor-Alkali Process (Chlorine and Sodium or Potassium Hydroxide Production)
- 307.2508 Hydrofluoric Acid Production
- 307.2509 Hydrogen Peroxide Production
- 307.2511 Potassium Metal Production
- 307.2512 Potassium Dichromate Production
- 307.2513 Potassium Sulfate Production
- 307.2514 Sodium Bicarbonate Production
- 307.2516 Sodium Chloride Production
- 307.2517 Sodium Dichromate and Sodium Sulfate Production
- 307.2520 Sodium Sulfite Production
- 307.2522 Titanium Dioxide Production
- 307.2523 Aluminum Fluoride Production
- 307.2524 Ammonium Chloride Production

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NOTICE OF PROPOSED AMENDMENTS

307.2527	Borax Production
307.2528	Boric Acid Production
307.2529	Bromine Production
307.2530	Calcium Carbonate Production
307.2531	Calcium Hydroxide Production
307.2533	Carbon Monoxide and Byproduct Hydrogen Production
307.2534	Chrome Pigments Production
307.2535	Chromic Acid Production
307.2536	Copper Salts Production
307.2538	Ferric Chloride Production
307.2540	Fluorine Production
307.2541	Hydrogen Production
307.2542	Hydrogen Cyanide Production
307.2543	Iodine Production
307.2544	Lead Monoxide Production
307.2545	Lithium Carbonate Production
307.2547	Nickel Salts Production
307.2549	Oxygen and Nitrogen Production
307.2550	Potassium Chloride Production
307.2551	Potassium Iodide Production
307.2553	Silver Nitrate Production
307.2554	Sodium Bisulfite Production
307.2555	Sodium Fluoride Production
307.2560	Stannic Oxide Production
307.2563	Zinc Sulfate Production
307.2564	Cadmium Pigments and Salts Production
307.2565	Cobalt Salts Production
307.2566	Sodium Chlorate Production
307.2567	Zinc Chloride Production

SUBPART R: SOAP AND DETERGENTS

Section	
307.2701	Soap Manufacturing by Batch Kettle
307.2702	Fatty Acid Manufacturing by Fat Splitting
307.2703	Soap Manufacturing by Fatty Acid Neutralization
307.2704	Glycerine Concentration
307.2705	Glycerine Distillation
307.2706	Manufacture of Soap Flakes and Powders
307.2707	Manufacture of Bar Soaps

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

307.2708	Manufacture of Liquid Soaps
307.2709	Oleum Sulfonation and Sulfation
307.2710	Air-Sulfur Trioxide Sulfation and Sulfonation
307.2711	Sulfur Trioxide Solvent and Vacuum Sulfonation
307.2712	Sulfamic Acid Sulfation
307.2713	Chlorosulfonic Acid Sulfation
307.2714	Neutralization of Sulfuric Acid Esters and Sulfonic Acids
307.2715	Manufacture of Spray Dried Detergents
307.2716	Manufacture of Liquid Detergents
307.2717	Manufacturing of Detergents by Dry Blending
307.2718	Manufacture of Drum Dried Detergents
307.2719	Manufacture of Detergent Bars and Cakes

SUBPART S: FERTILIZER MANUFACTURING

Section	
307.2801	Phosphate
307.2802	Ammonia
307.2803	Urea
307.2804	Ammonium Nitrate
307.2805	Nitric Acid
307.2806	Ammonium Sulfate Production
307.2807	Mixed and Blend Fertilizer Production

SUBPART T: PETROLEUM REFINING

Section	
307.2901	Topping
307.2902	Cracking
307.2903	Petrochemical
307.2904	Lube
307.2905	Integrated

SUBPART U: IRON AND STEEL MANUFACTURING

Section	
307.3000	General Provisions
307.3001	Cokemaking
307.3002	Sintering
307.3003	Ironmaking

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NOTICE OF PROPOSED AMENDMENTS

307.3004	Steelmaking
307.3005	Vacuum Degassing
307.3006	Continuous Casting
307.3007	Hot Forming
307.3008	Salt Bath Descaling
307.3009	Acid Pickling
307.3010	Cold Forming
307.3011	Alkaline Cleaning
307.3012	Hot Coating
307.3013	Other Operations

SUBPART V: NONFERROUS METALS MANUFACTURING

Section	
307.3100	General Provisions
307.3101	Bauxite Refining
307.3102	Primary Aluminum Smelting
307.3103	Secondary Aluminum Smelting
307.3104	Primary Copper Smelting
307.3105	Primary Electrolytic Copper Refining
307.3106	Secondary Copper
307.3107	Primary Lead
307.3108	Primary Zinc
307.3109	Metallurgical Acid Plants
307.3110	Primary Tungsten
307.3111	Primary Columbium-Tantalum
307.3112	Secondary Silver
307.3113	Secondary Lead
307.3114	Primary Antimony
307.3115	Primary Beryllium
307.3116	Primary and Secondary Germanium and Gallium
307.3117	Secondary Indium
307.3118	Secondary Mercury
307.3119	Primary Molybdenum and Rhenium
307.3120	Secondary Molybdenum and Vanadium
307.3121	Primary Nickel and Cobalt
307.3122	Secondary Nickel
307.3123	Primary Precious Metals and Mercury
307.3124	Secondary Precious Metals
307.3125	Primary Rare Earth Metals

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NOTICE OF PROPOSED AMENDMENTS

307.3126	Secondary Tantalum
307.3127	Secondary Tin
307.3128	Primary and Secondary Titanium
307.3129	Secondary Tungsten and Cobalt
307.3130	Secondary Uranium
307.3131	Primary Zirconium and Hafnium

SUBPART X: STEAM ELECTRIC POWER GENERATING

Section	
307.3301	Steam Electric Power Generating

SUBPART Y: FERROALLOY MANUFACTURING

Section	
307.3401	Open Electric Furnaces With Wet Air Pollution Control Devices
307.3402	Covered Electric Furnaces and Other Smelting Operations with Wet Air Pollution Control Devices
307.3403	Slag Processing
307.3404	Covered Calcium Carbide Furnaces With Wet Air Pollution Control Devices
307.3405	Other Calcium Carbide Furnaces
307.3406	Electrolytic Manganese Products
307.3407	Electrolytic Chromium

SUBPART Z: LEATHER TANNING AND FINISHING

Section	
307.3500	General Provisions
307.3501	Hair Pulp, Chrome Tan, Retan-Wet Finish
307.3502	Hair Save, Chrome Tan, Retan-Wet Finish
307.3503	Hair Save or Pulp, Non-Chrome Tan, Retan-Wet Finish
307.3504	Retan-Wet Finish-Sides
307.3505	No Beamhouse
307.3506	Through-the-Blue
307.3507	Shearling
307.3508	Pigskin
307.3509	Retan-Wet Finish-Splits
307.3590	Potassium Ferricyanide Titration Method

SUBPART BA: GLASS MANUFACTURING

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section

307.3601	Insulation Fiberglass
307.3602	Sheet Glass Manufacturing
307.3603	Rolled Glass Manufacturing
307.3604	Plate Glass Manufacturing
307.3605	Float Glass Manufacturing
307.3606	Automotive Glass Tempering
307.3607	Automotive Glass Laminating
307.3608	Glass Container Manufacturing
307.3610	Glass Tubing (Danner) Manufacturing
307.3611	Television Picture Tube Envelope Manufacturing
307.3612	Incandescent Lamp Envelope Manufacturing
307.3613	Hand Pressed and Blown Glass Manufacturing

SUBPART BB: ASBESTOS MANUFACTURING

Section

307.3701	Asbestos-Cement Pipe
307.3702	Asbestos-Cement Sheet
307.3703	Asbestos Paper (Starch Binder)
307.3704	Asbestos Paper (Elastomeric Binder)
307.3705	Asbestos Millboard
307.3706	Asbestos Roofing
307.3707	Asbestos Floor Tile
307.3708	Coating or Finishing of Asbestos Textiles
307.3709	Solvent Recovery
307.3710	Vapor Absorption
307.3711	Wet Dust Collection

SUBPART BC: RUBBER MANUFACTURING

Section

307.3801	Tire and Inner Tube Plants
307.3802	Emulsion Crumb Rubber
307.3803	Solution Crumb Rubber
307.3804	Latex Rubber
307.3805	Small-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3806	Medium-Sized General Molded, Extruded, and Fabricated Rubber Plants
307.3807	Large-Sized General Molded, Extruded, and Fabricated Rubber Plants

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NOTICE OF PROPOSED AMENDMENTS

307.3808	Wet Digestion Reclaimed Rubber
307.3809	Pan, Dry Digestion, and Mechanical Reclaimed Rubber
307.3810	Latex-Dipped, Latex-Extruded, and Latex-Molded Rubber
307.3811	Latex Foam

SUBPART BD: TIMBER PRODUCTS PROCESSING

Section

307.3900	General Provisions
307.3901	Barking
307.3902	Veneer
307.3903	Plywood
307.3904	Dry Process Hardboard
307.3905	Wet Process Hardboard
307.3906	Wood Preserving – Water Borne or Nonpressure
307.3907	Wood Preserving – Steam
307.3908	Wood Preserving – Boulton
307.3909	Wet Storage
307.3910	Log Washing
307.3911	Sawmills and Planing Mills
307.3912	Finishing
307.3913	Particleboard Manufacturing
307.3914	Insulation Board
307.3915	Wood Furniture and Fixture Production without Water Wash Spray Booths or without Laundry Facilities
307.3916	Wood Furniture and Fixture Production with Water Wash Spray Booths or with Laundry Facilities

SUBPART BE: PULP, PAPER, AND PAPERBOARD

Section

307.4000	General Provisions
307.4001	Dissolving Kraft
307.4002	Bleached Papergrade Kraft and Soda
307.4003	Unbleached Kraft
307.4004	Dissolving Sulfite
307.4005	Papergrade Sulfite
307.4006	Semi-Chemical
307.4007	Mechanical Pulp
307.4008	Non-Wood Chemical Pulp

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307.4009	Secondary Fiber Deink
307.4010	Secondary Fiber Non-Deink
307.4011	Fine and Lightweight Papers from Purchased Pulp
307.4012	Tissue, Filter, Non-Woven, and Paperboard from Purchased Pulp
307.4013	Groundwood-Thermo-Mechanical (Repealed)
307.4014	Groundwood-CMN Papers (Repealed)
307.4015	Groundwood-Fine Papers (Repealed)
307.4016	Soda (Repealed)
307.4017	Deink (Repealed)
307.4018	Nonintegrated-Fine Papers (Repealed)
307.4019	Nonintegrated-Tissue Papers (Repealed)
307.4020	Tissue From Wastepaper (Repealed)
307.4021	Papergrade Sulfite (Drum Wash) (Repealed)
307.4022	Unbleached Kraft and Semi-Chemical (Repealed)
307.4023	Wastepaper-Molded Products (Repealed)
307.4024	Nonintegrated-Lightweight Papers (Repealed)
307.4025	Nonintegrated-Filter and Nonwoven Papers (Repealed)
307.4026	Nonintegrated-Paperboard (Repealed)

SUBPART BF: BUILDERS' PAPER AND BOARD MILLS

Section

307.4101	Builder's Paper and Roofing Felt (Repealed)
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SUBPART BG: MEAT PRODUCTS

Section

307.4201	Simple Slaughterhouse
307.4202	Complex Slaughterhouse
307.4203	Low-Processing Packinghouse
307.4204	High-Processing Packinghouse
307.4205	Small Processor
307.4206	Meat Cutter
307.4207	Sausage and Luncheon Meats Processor
307.4208	Ham Processor
307.4209	Canned Meats Processor
307.4210	Renderer

SUBPART BH: METAL FINISHING

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NOTICE OF PROPOSED AMENDMENTS

Section

- 307.4300 General Provisions
- 307.4301 Metal Finishing

SUBPART BL: CENTRALIZED WASTE TREATMENT

Section

- 307.4700 General Provisions
- 307.4701 Metals Treatment and Recovery
- 307.4702 Oils Treatment and Recovery
- 307.4703 Organics Treatment and Recovery
- 307.4704 Multiple Waste Streams

SUBPART BN: PHARMACEUTICAL MANUFACTURING

Section

- 307.4900 General Provisions
- 307.4901 Fermentation Products
- 307.4902 Extraction Products
- 307.4903 Chemical Synthesis Products
- 307.4904 Mixing/Compounding and Formulation
- 307.4905 Research (Repealed)

SUBPART BQ: TRANSPORTATION EQUIPMENT CLEANING

Section

- 307.5200 General Provisions
- 307.5201 Tank Trucks and Intermodal Tank Containers Transporting Chemical and Petroleum Cargos
- 307.5202 Rail Tank Cars Transporting Chemical and Petroleum Cargos
- 307.5203 Tank Barges and Ocean/Sea Tankers Transporting Chemical and Petroleum Cargos
- 307.5204 Tanks Transporting Food Grade Cargos

SUBPART BR: PAVING AND ROOFING MATERIALS (TARS AND ASPHALT)

Section

- 307.5301 Asphalt Emulsion
- 307.5302 Asphalt Concrete
- 307.5303 Asphalt Roofing

POLLUTION CONTROL BOARD

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307.5304 Linoleum and Printed Asphalt Felt

SUBPART BS: WASTE COMBUSTORS

Section

307.5401 Commercial Hazardous Waste Combustor

SUBPART BT: LANDFILLS

Section

307.5500 General Provisions

307.5501 RCRA Subtitle C Hazardous Waste Landfill

307.5502 RCRA Subtitle D Non-Hazardous Waste Landfill

SUBPART BU: PAINT FORMULATING

Section

307.5601 Oil-Base Solvent Wash Paint

SUBPART BV: INK FORMULATING

Section

307.5701 Oil-Base Solvent Wash Ink

SUBPART CD: PESTICIDE CHEMICALS

Section

307.6500 General Provisions

307.6501 Organic Pesticide Chemicals Manufacturing

307.6502 Metallo-Organic Pesticides Chemicals Manufacturing

307.6503 Pesticide Chemicals Formulating and Packaging

307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments

SUBPART CG: CARBON BLACK MANUFACTURING

Section

307.6801 Carbon Black Furnace Process

307.6802 Carbon Black Thermal Process

307.6803 Carbon Black Channel Process

307.6804 Carbon Black Lamp Process

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SUBPART CJ: BATTERY MANUFACTURING

Section	
307.7100	General Provisions
307.7101	Cadmium
307.7102	Calcium
307.7103	Lead
307.7104	Leclanche
307.7105	Lithium
307.7106	Magnesium
307.7107	Zinc

SUBPART CL: PLASTICS MOLDING AND FORMING

Section	
307.7300	General Provisions
307.7301	Contact Cooling and Heating Water
307.7302	Cleaning Water
307.7303	Finishing Water

SUBPART CM: METAL MOLDING AND CASTING

Section	
307.7400	General Provisions
307.7401	Aluminum Casting
307.7402	Copper Casting
307.7403	Ferrous Casting
307.7404	Zinc Casting

SUBPART CN: COIL COATING

Section	
307.7500	General Provisions
307.7501	Steel Basis Material
307.7502	Galvanized Basis Material
307.7503	Aluminum Basis Material
307.7504	Canmaking

SUBPART CO: PORCELAIN ENAMELING

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Section

307.7600	General Provisions
307.7601	Steel Basis Material
307.7602	Cast Iron Basis Material
307.7603	Aluminum Basis Material
307.7604	Copper Basis Material

SUBPART CP: ALUMINUM FORMING

Section

307.7700	General Provisions
307.7701	Rolling With Neat Oils
307.7702	Rolling With Emulsions
307.7703	Extrusion
307.7704	Forging
307.7705	Drawing With Neat Oils
307.7706	Drawing With Emulsions or Soaps

SUBPART CQ: COPPER FORMING

Section

307.7800	General Provisions
307.7801	Copper Forming
307.7802	Beryllium Copper Forming

SUBPART CR: ELECTRICAL AND ELECTRONIC COMPONENTS

Section

307.7901	Semiconductor
307.7902	Electronic Crystals
307.7903	Cathode Ray Tube
307.7904	Luminescent Materials

SUBPART CT: NONFERROUS METALS FORMING AND METAL POWDERS

Section

307.8100	General Provisions
307.8101	Lead-Tin-Bismuth Forming
307.8102	Magnesium Forming

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307.8103	Nickel-Cobalt Forming
307.8104	Precious Metals Forming
307.8105	Refractory Metals Forming
307.8106	Titanium Forming
307.8107	Uranium Forming
307.8108	Zinc Forming
307.8109	Zirconium-Hafnium Forming
307.8110	Metal Powders

307.APPENDIX A References to Previous Rules (Repealed)

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

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

SUBPART A: GENERAL PROVISIONS

Section 307.1001 Preamble

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

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

Section 307.1005 Toxic Pollutants

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

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

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Section 307.1006 Electronic Reporting

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

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

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

SUBPART B: GENERAL AND SPECIFIC PRETREATMENT REQUIREMENTS

Section 307.1101 General and Specific Requirements

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

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

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

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

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

SUBPART K: TEXTILE MILLS

Section 307.2003 Low Water Use Processing

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

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

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

SUBPART O: ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

Section 307.2400 General Provisions

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

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

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

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

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

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

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

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

Section 307.2410 Indirect Discharge Point Sources

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

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

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

SUBPART U: IRON AND STEEL MANUFACTURING

Section 307.3001 Cokemaking

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

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

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

Section 307.3002 Sintering

- a) Applicability. This Section applies to discharges resulting from sintering operations conducted by the heating of iron bearing wastes (mill scale and dust from blast furnaces and steelmaking furnaces) together with fine iron ore, limestone and coke fines in an ignition furnace to produce an agglomerate for charging to the blast furnace.
- b) Specialized definitions. The Board incorporates by reference 40 CFR 420.21 ~~(2005)~~, as added at 67 Fed. Reg. 64216 (October 17, 2002).
- c) Existing sources.
 - 1) The Board incorporates by reference 40 CFR 420.25 ~~(2005)(2002)~~, as amended at 67 Fed. Reg. 64216 (October 17, 2002). This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.
- d) New sources.
 - 1) The Board incorporates by reference 40 CFR 420.26 ~~(2005)(2002)~~, as amended at 70 Fed. Reg. 73625 (December 13, 2005) ~~64216 (October 17, 2002)~~. This incorporation includes no later amendments or editions.

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

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

SUBPART V: NONFERROUS METALS MANUFACTURING

Section 307.3121 Primary Nickel and Cobalt

- a) Applicability. This Section applies to discharges resulting from the production of nickel or cobalt by primary nickel or cobalt facilities processing ore concentrate raw materials.
- b) Specialized definitions. The Board incorporates by reference 40 CFR ~~421.231 (2005)421.131 (2003)~~. This incorporation includes no later amendments or editions.
- c) Existing sources. These sources must comply with the general and specific pretreatment requirements of Subpart B of this Part.
- d) New sources.
 - 1) The Board incorporates by reference 40 CFR 421.236 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
 - 2) No person subject to the pretreatment standards incorporated by reference in subsection (d)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

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

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

SUBPART Y: FERROALLOY MANUFACTURING

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

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

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

SUBPART CD: PESTICIDE CHEMICALS

Section 307.6503 Pesticide Chemicals Formulating and Packaging

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

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

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

Section 307.6505 Repackaging of Agricultural Pesticides Performed at Refilling Establishments

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

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

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

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

SUBPART CM: METAL MOLDING AND CASTING

Section 307.7401 Aluminum Casting

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

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c) Existing sources.

- 1) The Board incorporates by reference 40 CFR 464.15 ~~(2005)(2003)~~. This incorporation includes no later amendments or editions.
- 2) No person subject to the pretreatment standards incorporated by reference in subsection (c)(1) of this Section may cause, threaten, or allow the discharge of any contaminant to a POTW in violation of such standards.

d) New sources.

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

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

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

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

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310.801 Amend
310.912 Amend

- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 13.3, and 27
- 5) Complete Description of the Subjects and Issues Involved: The amendments to Part 310 are a single segment of the docket R06-13 rulemaking that also affects 35 Ill. Adm. Code 307, which is covered by a separate notice in this issue of the Illinois Register. To save space, a more detailed description of the subjects and issues involved in the docket R06-13 rulemaking in this Illinois Register only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 307. A comprehensive description is contained in the Board's opinion and order of August 4, 2006, proposing amendments in docket R06-13, which opinion and order is available from the address below.

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

Tables appear in the Board's opinion and order of August 4, 2006 in docket R06-13 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the August 4, 2006 opinion and order in docket R06-13.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Do these proposed amendments contain incorporations by reference? Yes. Section 310.107 is the centralized location of all documents incorporated by reference for the purposes of Part 310. It is also the centralized location of all documents incorporated by reference for the purposes of Part 307, except for the categorical pretreatment standards of 40 C.F.R. 405 through 499. The categorical standards are the only pretreatment standards incorporated by reference in appropriate segments of Part 307, rather than in Section 310.107.

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

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

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

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

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

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

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

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

- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS

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805/3(b) (2002)].

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R06-13 and be addressed to:

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago, IL 60601

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

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

Phone: 312-814-6924
E-mail: mccambm@ipcb.state.il.us

Request copies of the Board's opinion and order at 312-814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works.
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records.
- C) Types of professional skills necessary for compliance: Compliance with the

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existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer.

- 14) Regulatory Agenda on which this rulemaking was summarized: December 30, 2005

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

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NOTICE OF PROPOSED AMENDMENTS

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

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310.103	Federal Law
310.104	State Law
310.105	Confidentiality
310.106	Electronic Reporting
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310.110	Definitions
310.111	New Source
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310.230	Concentration and Mass Limits
310.232	Dilution Prohibited as a Substitute for Treatment
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SUBPART C: REMOVAL CREDITS

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310.303	Conditions for Authorization to Grant Removal Credits
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SUBPART D: PRETREATMENT PERMITS

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310.501	Pretreatment Programs Required
310.502	Deadline for Program Approval

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310.503	Incorporation of Approved Programs in Permits
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310.510	Pretreatment Program Requirements
310.511	Receiving Electronic Documents
310.521	Program Approval
310.522	Contents of Program Submission
310.524	Content of Removal Allowance Submission
310.531	Agency Action
310.532	Defective Submission
310.533	Water Quality Management
310.541	Deadline for Review
310.542	Public Notice and Hearing
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310.601	Definition of Control Authority (Repealed)
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310.603	Compliance Schedule
310.604	Report on Compliance with Deadline
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310.606	Notice of Potential Problems
310.610	Monitoring and Analysis
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SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

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SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

Section	
310.801	Net/Gross Calculation by USEPA

SUBPART I: UPSETS

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310.901	Definition
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310.910	Definitions
310.911	Bypass Not Violating Applicable Pretreatment Standards or Requirements
310.912	Notice
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SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

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Section	
310.920	General
310.921	Substantial Modifications Defined
310.922	Approval Procedures for Substantial Modifications
310.923	Approval Procedures for Non-Substantial Modifications
310.924	Incorporation of Modifications into the Permit

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Section	
310.930	Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL

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

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

SUBPART A: GENERAL PROVISIONS

Section 310.106 Electronic Reporting

The filing of any document pursuant to any provision of this Part as an electronic document is subject to this Section.

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- a) Scope and Applicability.
- 1) The USEPA, the Board, the Agency, or the Control Authority may allow for the filing of electronic documents. This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic filing of any report or document that must be submitted to the appropriate of the following:
 - A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
 - B) To the Board, the Agency, or the Control Authority pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
 - 2) Electronic document filing under this Section can begin only after USEPA has first done as follows:
 - A) As to filing with USEPA, USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations in an electronic format; or
 - B) As to filing with the State or the Control Authority, USEPA has granted approval of any electronic document receiving system established by the Board, the Agency, or the Control Authority that meets the requirements of 40 CFR 3.2000, incorporated by reference in Section 611.102(c).
 - 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) of this Section:
 - A) Any document submitted via facsimile;
 - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or

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- C) Any data transfer between USEPA, any state, or any local government and any of the Board, the Agency, or the Control Authority as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring approval for the filing of any types of documents as electronic documents, as described in subsection (a)(2)(B) of this Section, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and the date on which the Board or the Agency will begin to receive those submissions. In the event of cessation of USEPA approval or receiving any type of document as an electronic document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register. A Control Authority must publish the notices required of the Board or the Agency by any means calculated to inform its industrial users.

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

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

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

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- d) Procedures for submission of electronic documents to the Board, the Agency, or the Control Authority.
- 1) The Board, the Agency, or the Control Authority may, but is not required to, establish procedures for the electronic submission of documents that meet the requirements of 40 CFR 3.2 and 3.2000, incorporated by reference in Section 611.102(c). The Board or the Agency must establish any such procedures under the Administrative Procedure Act [5 ILCS 100/5]. The Control Authority must establish such procedures pursuant to applicable State and local laws.
 - 2) The Board, the Agency, or the Control Authority may not accept electronic documents under this Section until after USEPA has approved the procedures in writing, and the Board, the Agency, or the Control Authority has published a notice of such approval in the Illinois Register. Nothing in this subsection (d) limits the authority of the Board, the Agency, or the Control Authority under the Illinois Environmental Protection Act [415 ILCS 5] to accept documents filed electronically.

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

- e) Effects of submission of an electronic document.
- 1) If a person who submits a document as an electronic document fails to comply with the requirements this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
 - 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
 - 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

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- 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

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

- f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its filing, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:

- 1) The Administrative Procedure Act [5 ILCS 100];
- 2) The Freedom of Information Act [5 ILCS 140];
- 3) The State Records Act [5 ILCS 160];
- 4) The Electronic Commerce Security Act [5 ILCS 175];
- 5) The Environmental Protection Act [415 ILCS 5];
- 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
- 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).

- g) Nothing in this Section or in any provisions adopted pursuant to subsection (c)(1) of this Section will create any right or privilege to submit any document as an electronic document.

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

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

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

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Section 310.107 Incorporations by Reference

a) The following publications are incorporated by reference:

~~1) The consent decree in NRDC v. Costle, 1978 WL 23471, 12 Environment Reporter Cases 1833 (D.C. Cir. August 16, 1978).~~

~~2) Standard Industrial Classification Manual (1987) (document no. PB87-100012), available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.~~

Combined Sewer Overflow (CSO) Control Policy (1994) (USEPA document number EPA-830/Z-94-001) available from NCEPI, 11029 Kenwood Rd., Bldg. 5, Cincinnati, OH 45242; fax (513) 891-6685, referenced in Section 310.320.

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

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

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

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

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

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

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

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

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

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

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

40 CFR 128.140(b) (1977)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d) This Part incorporates no future editions or amendments.

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

Section 310.110 Definitions

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

"Agency" means the Illinois Environmental Protection Agency.

"Approval Authority" means the Agency.

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

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

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

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

"Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 310.201(a) and (c) and

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310.202. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

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

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

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

"Board" means the Illinois Pollution Control Board.

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

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

"Control Authority " refers to the appropriate of the following: is as defined in Section 310.601.

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

The Agency, if the submission has not been approved.

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

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

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

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

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

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

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

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

The person has caused pass through or interference; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"NPDES ~~permit~~Permit" means a permit issued to a POTW pursuant to Section 402 of the CWA, or Section 12(f) of the Act and Subpart A of 35 Ill. Adm. Code 309.

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

"O and M" means operation and maintenance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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"Pretreatment standard" or "~~Standard~~standard" means any regulation containing pollutant discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits established pursuant to Section 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101. This term also includes more stringent prohibitions and standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code 307.1101, 307.1102, and 307.1103. The term also includes local limits pursuant to Section 310.211 that are a part of an approved pretreatment program.
BOARD NOTE: Derived from 40 CFR [403.3\(l\) \(2005\), as renumbered at 70 Fed. Reg. 60134 \(Oct. 14, 2005\)](#)~~403.3(j) (2003)~~.

"Process wastewater" means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
BOARD NOTE: Derived from 40 CFR 401.11(q) ~~(2005)~~(2003).

"Process wastewater pollutants" means pollutants present in process wastewater.
BOARD NOTE: Derived from 40 CFR 401.11(r) ~~(2005)~~(2003).

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

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

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

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

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POTW from enforcement.

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

"Significant industrial user" means significant industrial user as defined in Section 310.112.~~the following:~~

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

~~Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process waste stream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority, as defined in Section 310.601, on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with Section 310.510(f)); except, upon a finding that an industrial user meeting the criteria of this second subsection of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority, as defined in Section 310.601, may at any time, on its own initiative or in response to a petition received from an industrial user or POTW may determine in accordance with Section 310.510(f) that such industrial user is not a significant industrial user.~~

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

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

BOARD NOTE: Derived from 40 CFR 403.3(k)(2) (2005), as renumbered at 70

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Fed. Reg. 60134 (Oct. 14, 2005), 403.3(i) and 403.7(a) (2005)(2003).

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

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

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

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

"Unit of local government" means a unit of local government, as defined by Art. 7, Sec. 1 of the Illinois Constitution, having jurisdiction over disposal of sewage. Unit of local government includes, but is not limited to, municipalities, and sanitary districts.

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

"USEPA" means the United States Environmental Protection Agency.

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

Section 310.111 New Source

- a) "New ~~source~~**Source**" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the date specified in 35 Ill. Adm. Code 307 for the particular source~~that~~ category or subcategory to which the source, provided that one of the following is true:
- 1) The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - 2) The building, structure, facility, or installation totally replaces the process

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or production equipment that causes the discharge of pollutants at an existing source; or

- 3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- b) Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility, or installation ~~that meets~~meeting the criteria of ~~subsections~~subsections (a)(2) or (a)(3) of this Section, but ~~which~~ otherwise alters, replaces, or adds to existing process or production equipment.
- c) Construction of a new source, as defined in this Section, has commenced if the owner or operator has done ~~either one~~ of the following:
 - 1) ~~It has begun~~Begun or caused ~~either one~~ of the following to begin as part of a continuous onsite construction program:
 - A) Any placement assembly or installation of facilities or equipment; or
 - B) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - 2) ~~It has entered~~Entered into a binding contractual obligation for the purchases of facilities or equipment that are intended to be used in its operation within a reasonable time. ~~An option~~Options to purchase or ~~a contract~~contracts that can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies ~~does~~do not constitute a contractual obligation under this subsection (c)(2).
- d) ~~A new source~~New Sources must install and have in operating condition and must "start-up" all pollution control equipment required to meet applicable pretreatment

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standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), a new ~~sourcesources~~ must meet all applicable pretreatment standards.

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

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

Section 310.112 Significant Industrial User

- a) Except as provided in subsections (b) and (c) of this Section, the term "significant industrial user" means the following:
- 1) An industrial user subject to any of the categorical pretreatment standards under Sections 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307; and
 - 2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with Section 310.510(f)).
- b) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under Sections 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307 is a non-significant categorical industrial user, rather than a significant industrial user, on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard), and the industrial user meets the following conditions:
- 1) That, prior to the Control Authority's finding, the industrial user has consistently complied with all applicable categorical pretreatment standards and requirements;

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- 2) That the industrial user annually submits the certification statement required in Section 310.636, together with any additional information necessary to support the certification statement; and
- 3) The industrial user never discharges any untreated concentrated wastewater.
- c) Upon a finding that an industrial user meeting the criteria in subsection (a)(2) of this Section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with Section 310.510(f), determine that such industrial user is not a significant industrial user.

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

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

SUBPART B: PRETREATMENT STANDARDS

Section 310.202 Specific Prohibitions

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

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

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

Section 310.210 LocalSpecific Limits Developed by POTW

- a) Each POTW that is required to develop a pretreatment program must develop and enforce, as part of the program, localspecific limits to implement the prohibitions listed in Sections 310.201(a) and 310.202. Each POTW with an approved pretreatment program must continue to develop these local limits as necessary and to effectively enforce such limits.

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- b) A POTW that is not required to develop a pretreatment program must, in cases where pollutants contributed by one or more industrial users result in interference or pass through, and such violation is likely to recur, develop and enforce ~~local specific discharge~~ limits for industrial users, which, together with appropriate changes in the POTW treatment plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's NPDES permit, and sludge requirements.
- c) Prior to developing ~~local specific discharge~~ limits, a POTW must give individual notice and an opportunity to respond to persons or groups that have requested notice.
- d) A POTW may develop best management practices (BMPs) to implement subsections (a) and (b) of this Section. Such BMPs are to be considered local limits and pretreatment standards for the purposes of this Part.
- ~~e) The POTW must base limitations developed pursuant to this Section on the characteristics and treatability of the wastewater by the POTW, effluent limitations that the POTW must meet, sludge requirements, water quality standards in the receiving stream, and the pretreatment standards and requirements of this Part and 35 Ill. Adm. Code 307.~~

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

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

Section 310.211 Status of Local Limits

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

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

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

Section 310.220 Categorical Standards

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

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

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

Section 310.221 Source Category Determination Request

- a) Application deadline.
 - 1) The industrial user or POTW may request that the Agency provide written certification as to whether the industrial user falls within that particular source category or subcategory. If an existing industrial user adds or changes a process or operation that may be included in a source category or subcategory, the existing industrial user must request this certification prior to commencing discharge from the added or changed processes or operation. With respect to new standards, the following apply:
 - A) The POTW or industrial user must direct to USEPA any source category determination requests for pretreatment standards adopted by USEPA prior to authorization of the Illinois program.
 - B) After authorization of the Illinois program, the POTW or industrial user must direct to the Agency any source category determination requests within 60 days after the Board adopts or incorporates by reference a pretreatment standard for a source category or subcategory under which an industrial user may be included.
 - 2) A new source must request this certification prior to commencing discharge.
 - 3) If a request for certification is submitted by a POTW, the POTW must notify any affected industrial user of such applications. The industrial user may provide written comments on the POTW submissions to the Agency

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within 30 days of notification.

- b) Contents of application. Each request must contain a statement that includes the following information:

- 1) Describing which source category or subcategories might be applicable; and
- 2) Citing evidence and reasons why a particular source category or subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this Section must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- c) Deficient requests. The Agency must act only on written requests for determinations that contain all of the information required. The Agency must notify persons who have made incomplete submissions that their requests are deficient and that, unless the time period is extended, they have 30 days to correct the deficiency. If the deficiency is not corrected within 30 days, or within an extended period allowed by the Agency, the Agency must deny the request for a determination.
- d) Final determination.
 - 1) When the Agency receives a submission, the Agency shall, if it determines that the submission contains all of the information required by subsection (b) of this Section, consider the submission, any additional evidence that may have been requested and any other available information relevant to the request. The Agency must then make a written determination of the

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applicable source category or subcategory and state the reasons for the determination.

- 2) The Agency must forward the determination described in subsection (d)(1) of this Section to USEPA. If USEPA does not modify the Agency's decision within 60 days after its receipt, the Agency's decision is final.
 - 3) If USEPA modifies the Agency's decision, USEPA's decision will be final.
 - 4) The Agency must send a copy of the determination to the affected industrial user and the POTW. If the final determination is made by USEPA, the Agency must send a copy of the determination to the user.
- e) Requests for hearing or legal decision.
- 1) Within 30 days following the date of receipt of notice of the final determination as provided for by subsection (d)(4) of this Section, the requester may submit a petition to reconsider or contest the decision to USEPA, which will act pursuant to 40 CFR 403.6(a)(5).
 - 2) Within 35 days following the date of receipt of notice of the final determination as provided for by subsection (c), (d)(2), or (d)(4) of this Section, the requester may appeal a final decision made by the Agency to the Board.

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

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

Section 310.222 Deadline for Compliance with Categorical Standards

- a) If a compliance date for an existing or new source categorical pretreatment standard is adopted or incorporated by reference in 35 Ill. Adm. Code 307, then industrial users must comply with the standard by the latest of the following times:
 - 1) The date specified or incorporated by reference; or
 - 2) The date the Board adopts or incorporates the standard by reference; or

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

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

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

Section 310.230 Concentration and Mass Limits

- a) Pollutant discharge limits in categorical pretreatment standards will be expressed either as concentration or mass limits. Limits in categorical pretreatment standards must apply to the discharge from the process regulated by the standard or as otherwise specified by the standard.
- b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
- c) A Control Authority calculating equivalent mass-per-day limitations under subsection (b) of this Section must calculate such limitations by multiplying the limits in the standard by the industrial user's average rate of production. This average rate of production must be based not upon the designed production capacity, but rather upon a reasonable measure of the industrial user's actual long-term daily production during a representative year. For new sources, actual production must be estimated using projected production.

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- d) A Control Authority calculating equivalent concentration limitations under subsection (b) of this Section must calculate such limitations by dividing the mass limitations derived under subsection (c) of this Section by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate must be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.
- e) When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the Control Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Control Authority may establish equivalent mass limits only if the industrial user meets all the following conditions in subsections (e)(1)(A) through (e)(1)(E) of this Section.
- 1) To be eligible for equivalent mass limits, the industrial user must undertake the following actions:
- A) It must employ or demonstrate that it will employ water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;
- B) It must currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and it must not have used dilution as a substitute for treatment;
- C) It must provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;
- D) It must not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

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- E) It must have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.
- 2) An industrial user subject to equivalent mass limits must undertake the following actions:

 - A) It must maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - B) It must continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - C) It must continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subsection (e)(1)(C) of this Section. Upon notification of a revised production rate, the Control Authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - D) It must continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (e)(1)(A) of this Section so long as it discharges under an equivalent mass limit.
- 3) A Control Authority that chooses to establish equivalent mass limits must undertake the following actions:

 - A) It must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated processes of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
 - B) Upon notification of a revised production rate, it must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

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- C) It may retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 310.232. The industrial user must also be in compliance with Subpart J of this Part (regarding the prohibition of bypass).
- 4) The Control Authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants that cannot appropriately be expressed as mass.
- f) The Control Authority may convert the mass limits of the categorical pretreatment standards of Subparts O, T, and CD of 35 Ill. Adm. Code 307 to concentration limits for purposes of calculating limitations applicable to individual industrial users under the following conditions. When converting such limits to concentration limits, the Control Authority must use the concentrations listed in the applicable provisions of Subparts O, T, and CD of 35 Ill. Adm. Code 307 and document that dilution is not being substituted for treatment as prohibited by Section 310.232.
- g)e) Equivalent limitations calculated in accordance with subsections (c) through (f) and (d) of this Section are deemed pretreatment standards. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the industrialIndustrial users must be required to comply with the equivalent limitations instead of the promulgated categorical standards from which the equivalent limitations were derived.
- h)f) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average or four-day average limitations. Where such standards are being applied, the same production or flow figure must be used in calculating both the average and the maximum equivalent limitationstypes of equivalent limitations.
- i)g) Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard must notify the Control Authority within two business days after the user has a

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reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Control Authority of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

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

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

Section 310.232 Dilution Prohibited as a Substitute for Treatment

Except where expressly authorized to do so by an applicable categorical pretreatment standard or requirement, no industrial user may increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Control Authority may impose mass limitations on industrial users that are using dilution to meet applicable pretreatment standards or in other cases where the imposition of mass limitations is appropriate. ~~A POTW may allow dilution to meet local limits developed under Section 310.210.~~

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

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

Section 310.233 Combined Waste Stream Formula

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

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immediately report any such material or significant change to the Control Authority. Where appropriate, the Control Authority must calculate new alternative categorical limits within 30 days.

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

- 1) Alternative concentration limit.

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

where

- C = The alternative concentration limit for the combined waste stream.
- C_i = The categorical pretreatment standard concentration limit for a pollutant in the regulated stream i.
- F_i = The average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.
- ΣG_i = The sum of the results of calculation G for streams i = 1 to i = N.
- N = The total number of regulated streams.
- T = The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes F_i, D and unregulated streams).
- D = The average daily flow (at least a 30-day average) from:
- A) Boiler blowdown streams, non-contact cooling streams, stormwater streams and demineralizer backwash streams, subject to

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the proviso of subsection (d) of this Section;

- B) Sanitary waste streams where such waste streams are not regulated by a categorical pretreatment standard; and
- C) From any process waste streams that were or could have been entirely exempted from categorical pretreatment standards as specified in subsection (e) of this Section.

2) Alternative mass limit.

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

where

- M = The alternative mass limit for a pollutant in the combined waste stream.
- M_i = The categorical pretreatment standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate measure of production).
- F_i = The average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.
- $\sum G_i$ means the sum of the results of calculation G for streams $i = 1$ to $i = N$.
- N = The total number of regulated streams.
- T = The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes F_i , D and unregulated streams).
- D = The average daily flow (at least a 30-day average)

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from:

- A) Boiler blowdown streams, non-contact cooling streams, stormwater streams and demineralizer backwash streams subject to the proviso of subsection (d) of this Section;
 - B) Sanitary waste streams where such waste streams are not regulated by a categorical pretreatment standard; and
 - C) From any process waste streams that were or could have been entirely exempted from categorical pretreatment standards, as specified in subsection (e) of this Section.
- b) Alternative limits below detection. An alternative pretreatment limit must not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.
- c) Self-monitoring. Self-monitoring required to insure compliance with the alternative categorical limit must be as follows:
- 1) The type and frequency of sampling, analysis, and flow measurement must be determined by reference to the self-monitoring requirements of the appropriate categorical pretreatment standards.
 - 2) Where the self-monitoring schedules for the appropriate standards differ, monitoring must be done according to the most frequent schedule.
 - 3) Where flow determines the frequency of self-monitoring in a categorical pretreatment standard, the sum of all regulated flows (F_i) is the flow that must be used to determine self-monitoring frequency.
- d) Proviso to subsections (a)(1) and (a)(2) of this Section. Where boiler blowdown, non-contact cooling streams, stormwater streams, and demineralizer backwash streams contain a significant amount of a pollutant, and the combination of such streams, prior to pretreatment, with the industrial user's regulated process waste streams will result in a substantial reduction of that pollutant, the Control Authority, upon application of the industrial user, must determine whether such

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waste streams should be classified as diluted or unregulated. In its application to the Control Authority, the industrial user must provide engineering, production, sampling, and analysis and such other information so the Control Authority can make its determination.

- e) Exemptions from categorical pretreatment standards. Process waste streams were or could have been entirely exempted from categorical pretreatment standards pursuant to paragraph 8 of the NRDC v. Costle consent decree, incorporated by reference in Section 310.107, for one or more of the following reasons (see [appendix D to 40 CFR 403](#), ~~Appendix D~~, incorporated by reference in Section 310.107):
- 1) The pollutants of concern are not detectable in the discharge from the industrial user;
 - 2) The pollutants of concern are present only in trace amounts and are neither causing nor are likely to cause toxic effects;
 - 3) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to USEPA;
 - 4) The waste stream contains only pollutants that are compatible with the POTW.
- f) Where a treated regulated process waste stream is combined prior to treatment with wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste stream for the purpose of determining compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process waste stream, it must apply the applicable categorical pretreatment standard. If the user chooses to monitor the combined waste stream, it must apply an alternative discharge limit calculated using the combined waste stream formula as provided in this Section. The industrial user may change monitoring points only after receiving approval from the Control Authority. The Control Authority must ensure that any change in an industrial user's monitoring point or points will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

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

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

SUBPART C: REMOVAL CREDITS

Section 310.301 Special Definitions

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

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

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

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

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

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

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

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

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

"Sludge requirements" is as defined in Section 310.110.

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

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

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

Section 310.303 Conditions for Authorization to Grant Removal Credits

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

- a) The POTW applies for and receives authorization from the Agency to grant a removal credit in accordance with the requirements and procedures specified in Sections 310.330 and 310.340.
- b) The POTW demonstrates and continues to achieve consistent removal of the pollutant.
- c) The POTW has an approved pretreatment program in accordance with and to the extent required by this Part; provided, however, that a POTW that does not have an approved pretreatment program may, pending approval of such a program, give removal credits conditionally as provided in Section 310.330.
- d) The granting of removal credits will not cause the POTW to violate sludge requirements that apply to the sludge management method chosen by the POTW. ("Sludge requirements" is defined in Section 310.110.) Alternatively, the POTW demonstrates to the Agency that even though it is not presently in compliance with applicable sludge requirements, it will be in compliance when each industrial user to whom the removal credit would apply is required to meet its categorical pretreatment standard as modified by the removal credit. Removal credits may be made available for any of the following pollutants:
 - 1) For any pollutant listed in appendix G, section I of 40 CFR 403, incorporated by reference in Section 310.107, for the use or disposal practice employed by the POTW, when the requirements in 40 CFR 503, incorporated by reference in Section 310.107, for that practice are met;

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- 2) For any pollutant listed in appendix G, section II of 40 CFR 403, incorporated by reference in Section 310.107, for the use or disposal practice employed by the POTW when the concentration for a pollutant listed in appendix G, section II of 40 CFR 403 in the sewage sludge that is used or disposed of does not exceed the concentration for the pollutant in appendix G, section II of 40 CFR 403; or
- 3) For any pollutant in sewage sludge when the POTW disposes all of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in 35 Ill. Adm. Code 810 through 813 that are derived from 40 CFR 258.

- e) The granting of removal credits will not cause a violation of the POTW's NPDES permit limitations or conditions. Alternatively, the POTW demonstrates to the Agency that even though it is not presently in compliance with applicable limitations and conditions in its NPDES permit, it will be in compliance when each industrial user to whom the removal credit would apply is required to meet its categorical pretreatment standard, as modified by the removal credit.

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

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

Section 310.320 Compensation for Overflow

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

- a) The industrial user provides containment or otherwise ceases or reduces discharges from the regulated processes that contain the pollutant for which an allowance is requested during all circumstances in which an overflow event can reasonably be expected to occur at the POTW or at a sewer to which the industrial user is connected. Discharges must cease or be reduced, or pretreatment must be increased, to the extent necessary to compensate for the removal not being provided by the POTW. The Agency must allow allowances under this subsection only if the POTW demonstrates the following to the Agency:
 - 1) That all industrial users to which the POTW proposes to apply this

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subsection (a) have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an overflow event can reasonably be expected to occur, discharges from the regulated processes that contain pollutants for which an allowance is requested;

- 2) That the POTW has identified circumstances in which an overflow event can reasonably be expected to occur, and has a notification or other viable plan to insure that industrial users will learn of an impending overflow in sufficient time to contain, cease, or reduce discharging to prevent untreated overflows from occurring. The POTW must also demonstrate that it will monitor and verify the data required in subsection (a)(3) of this Section to insure that industrial users are containing, ceasing, or reducing operations during POTW system overflow; and
- 3) That all industrial users to which the POTW proposes to apply this subsection have demonstrated the ability and commitment to collect and make available upon request by the POTW or the Agency daily flow reports or other data sufficient to demonstrate that all discharges from regulated processes containing the pollutant for which the allowance is requested were contained, reduced, or otherwise stopped as appropriate during all circumstances in which an overflow event was reasonably expected to occur; or

b) Reduction in removal.

- 1) The consistent removal claimed is reduced pursuant to the following equation:

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

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

where:

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

r_c = Removal corrected by the overflow factor.

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

- 2) The industrial user can claim consistent removal only where the POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree that affects combined sewer overflows. These requirements include, but are not limited to, any combined sewer overflow requirements that conform to the "Combined Sewer Overflow (CSO) Control Policy," USEPA document number EPA-830/Z-94-001, incorporated by reference in Section 310.107. Conditions for use of formula.
- A) ~~The POTW can claim consistent removal only where efforts to correct conditions resulting in untreated discharges by the POTW are underway and in accordance with its NPDES permit requirements. The POTW must make revisions to discharge limits in categorical pretreatment standards only where the POTW has committed to efforts to minimize pollution from overflows. At a minimum, the POTW must have completed the analysis required by its NPDES permit and be making an effort to implement the plan.~~
- B) ~~If a POTW has begun the analysis required by its NPDES permit but, due to circumstances beyond its control, has not completed the analysis, the POTW may, subject to approval of the Agency, continue to claim consistent removal according to the formula in this subsection, so long as the POTW acts in a timely fashion to complete the analysis and makes an effort to implement the nonstructural, cost-effective measures identified by the analysis. Subject to the approval of the Agency, according to the formula in this subsection where the POTW has completed and the Agency has accepted the analysis required by the POTW's NPDES permit and the POTW has requested inclusion in its NPDES permit of an acceptable compliance schedule providing for timely implementation of cost-effective measures identified in the~~

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~~analysis. In considering what is timely implementation, the Agency must consider the availability of funds, cost of control measures, and seriousness of the water quality problem.~~

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

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

SUBPART E: POTW PRETREATMENT PROGRAMS

Section 310.510 Pretreatment Program Requirements: Development and Implementation by POTW

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

- a) Legal authority. The POTW must operate pursuant to legal authority enforceable in federal, State, or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of this Part and 35 Ill. Adm. Code 307. Such authority may be contained in a statute, ordinance or series of joint powers agreements that the POTW is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority must enable the POTW to:
 - 1) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit;
 - 2) Require compliance with applicable pretreatment standards and requirements by industrial users;
 - 3) Control, through ordinance, permit, order, or similar means, the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements, and in the case of each significant industrial users, as defined at 35 Ill. Adm. Code 310.110, this control must be achieved through individual permits or

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equivalent individual control mechanisms issued to each such user except as follows; such control mechanisms must be enforceable and contain, at a minimum, the following conditions:

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

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

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

- i)A) A statement of duration (in no case more than five years);
- ii)B) A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- iii)C) Effluent limits, including best management practices, based on applicable general pretreatment standards in this Part and 35 Ill. Adm. Code 307, categorical pretreatment standards, local limits, and local law;
- iv)D) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Section 310.605(b), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards of this Part

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and 35 Ill. Adm. Code 307, categorical pretreatment standards, local limits, and local law; ~~and~~

~~v)E)~~ A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; however, such schedules may not extend the compliance date beyond applicable federal deadlines; ~~and~~

~~vi)~~ Requirements to control slug discharges, if such are determined by the POTW to be necessary;

- 4) Require the following:
 - A) The development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements; and
 - B) The submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including, but not limited, to the reports required in Subpart F of this Part;
- 5) Carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW must be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under Section 310.634 to assure compliance with pretreatment standards. Such authority must be at least as extensive as the authority provided under section 308 of the federal CWA (33 USC 1318), incorporated by reference in Section 310.107(c);
- 6) Obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement.
 - A) All POTWs must be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards or

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requirements. All POTWs must also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by industrial users of pretreatment standards and requirements.

- B) Pretreatment requirements that will be enforced through the remedies set forth in subsection (a)(6)(A) of this Section will include but not be limited to: the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in individual control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW, this Part or 35 Ill. Adm. Code 307. The POTW must have authority and procedures (after notice to the industrial user) immediately and effectively to halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW must also have authority and procedures (which must include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW that presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Agency must have authority to seek judicial relief when the POTW has sought a monetary penalty that the Agency finds to be insufficient; and
- 7) Comply with the confidentiality requirements set forth in Section 310.105.
- b) Procedures. The POTW must develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures must enable the POTW to do the following:
 - 1) Identify and locate all possible industrial users that might be subject to the POTW pretreatment program. Any compilation, index, or inventory of industrial users made under this subsection (b)(1) of this Section must be made available to the Agency upon request;
 - 2) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified under subsection (b)(1) of this Section. This information must be made available to the Agency upon request;

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- 3) Notify industrial users identified under subsection (b)(1) of this Section of applicable pretreatment standards and any applicable requirements under sections 204(b) and 405 of the federal CWA (33 USC 1284(b) and 1345) and Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939e and 6941-6949a), each incorporated by reference in Section 310.107. Within 30 days after approval, pursuant to subsection (f) of this Section, of a list of significant industrial users, notify each significant industrial user or its status as such and of all requirements applicable to it as a result of such status;
- 4) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements in Subpart D of this Part;
- 5) Randomly sample and analyze the effluent from industrial users and conduct surveillance and inspection activities in order to identify, independent of information supplies by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each significant industrial user at least once a year, except as otherwise specified in subsections (b)(5)(A) through (b)(5)(C) of this Section. Evaluate, at least once every two years, whether each such significant industrial user needs a plan to control slug discharges. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. The results of these activities must be made available to the Agency upon request. If the POTW decides that a slug control plan is needed, the plan must contain, at a minimum, the following elements:
 - A) Where the POTW has authorized the industrial user, subject to a categorical pretreatment standard, to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with Section 310.605(c), the POTW must sample for the waived pollutants at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the industrial user's operations, the POTW must immediately begin at least annual effluent monitoring of the industrial user's discharge and inspection.

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- B) Where the POTW has determined that an industrial user meets the criteria for classification as a non-significant categorical industrial user, the POTW must evaluate at least once per year whether an industrial user continues to meet the definition of significant industrial user in Section 310.110.
- C) In the case of industrial users subject to reduced reporting requirements under Section 310.605(c), the POTW must randomly sample and analyze the effluent from the industrial user and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in Section 310.605(c), the POTW must immediately begin sampling and inspecting the industrial user at least once a year.
- 6) Evaluate whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; an additional significant industrial user must be evaluated within one year after being designated a significant industrial user. For purposes of this subsection (b)(6), a slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant industrial users are required to notify the POTW immediately of any changes at its facility affecting potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
- A) Description of discharge practices, including non-routine batch discharges;
- B) Description of stored chemicals;
- C) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a

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prohibition under Section 310.202 with procedures for follow-up written notification within five days;

D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), or measures and equipment for emergency response;

A) A description of discharge practices, including non-routine batch discharges;

B) A description of stored chemicals;

C) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under Section 310.202 and 35 Ill. Adm. Code 307. Subpart B, with procedures for follow-up written notification within five days; and

D) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response;

7)6) Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under Subpart D of this Part or as indicated by analysis, inspection, and surveillance activities described in subsection (b)(5) of this Section. Sample taking and analysis, and the collection of other information, must be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

8)7) Comply with the public participation requirements of 40 CFR 25, incorporated by reference in Section 310.107, in the enforcement of

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pretreatment standards. These procedures must include provision for providing, at least annually, public notification, in a newspaper of general circulation in the ~~jurisdictions served by unit of local government in which the POTW is located~~, of industrial users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant~~an~~ industrial user (or any industrial user that violates subsection (b)(8)(C), (b)(8)(D), or (b)(8)(H) of this Section) is in significant noncompliance if its violation meets one or more of the following criteria:

- A) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as such are defined in Section 310.110~~the daily maximum limit or the average limit for the same pollutant parameter~~;
- B) "Technical review criteria" (TRC) violations, which mean those violations in which 33 percent or more of all of the measurements taken for the same~~each~~ pollutant parameter ~~taken~~ during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as such are defined in Section 310.110, ~~daily maximum limit or the average limit~~ multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants, except pH);
- C) Any other violation of a pretreatment standard or requirement, as such are defined in Section 310.110, ~~effluent limit~~ (daily maximum, ~~long-term or longer-term~~ average, instantaneous limit, or narrative standard) that the ~~POTW Control Authority~~ determines has caused, alone or in combination with other discharges, interference, or pass through (including endangering the health of POTW personnel or the general public);
- D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under subsection (a)(6)(B) of this Section to halt or prevent such a

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discharge;

- E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - F) Failure to provide, within ~~4530~~ days after the due date, required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - G) Failure to accurately report noncompliance; or
 - H) Any other violation or group of violations, which may include a violation of best management practices, that the POTW Agency determines will adversely affect the operation or implementation of the local pretreatment program.
- c) The POTW must have sufficient resources and qualified personnel to carry the authorities and procedures described in subsections (a) and (b) of this Section.
 - d) Local limits. The POTW must develop local limits as required in Section 310.210 or demonstrate that they are not necessary.
 - e) The POTW must develop and implement an enforcement response plan. This plan must contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum, do the following:
 - 1) Describe how the POTW will investigate instances of noncompliance;
 - 2) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
 - 3) Identify (by title) the officials responsible for each type of response; and
 - 4) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in

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subsections (a) and (b) of this Section.

- f) The POTW must prepare and maintain a list of its industrial users meeting the criteria in the first paragraph of the definition of "significant industrial user" at Section 310.110. The list must identify the criteria in the first paragraph of the definition of "significant industrial user" at Section 310.110 applicable to each industrial user and, ~~where applicable, for industrial users meeting the criteria in the second paragraph of that definition,~~ must also indicate whether the POTW has made a determination pursuant to the caveat in the second paragraph of that definition that such industrial user should not be considered a significant industrial user. The initial list must be submitted to the Approval Authority Agency pursuant to Sections 310.521 through 310.533 as a non-substantial program modification pursuant to Section 310.923. ~~Any~~ modification Modifications to the list must be submitted to the Approval Authority Agency pursuant to Section 310.612(a).
- g) Alternative use of general control mechanisms.
- 1) A POTW may use a single general control mechanism that applies to several facilities in place of several individual control mechanisms applicable to individual facilities. To use a general control mechanism, the following must be true of all of the facilities to be covered by the general control mechanism:
- A) The covered facilities must all involve the same or substantially similar types of operations;
- B) The covered facilities must all discharge the same types of wastes;
- C) The covered facilities must all require the same effluent limitations;
- D) The covered facilities must all require the same or similar monitoring; and
- E) In the opinion of the POTW, the covered facilities are more appropriately controlled under a general control mechanism than under individual control mechanisms.

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- 2) To be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with Section 310.605(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with Section 310.605(b). The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in subsections (a)(3)(i)(A) through (a)(3)(i)(E) of this Section, and a copy of the significant industrial user's written request for coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for a significant industrial user whose limits are based on the combined wastestream formula or net/gross calculations (Sections 310.233 and 310.801).

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

BOARD NOTE: Derived from 40 CFR 403.8(f) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

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

Section 310.511 Receiving Electronic Documents

A POTW that chooses to receive electronic documents must satisfy the requirements of Section 310.106.

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

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

SUBPART F: REPORTING REQUIREMENTS

Section 310.601 Definition of Control Authority (Repealed)

~~The term "Control Authority" as it is used in this Subpart F refers to the appropriate of the following:~~

- ~~a) The POTW, if the POTW's submission for its pretreatment program (Section 310.110) has been approved in accordance with the requirements of Section 310.540 through 310.546; or~~
- ~~b) The Agency, if the submission has not been approved.~~

~~BOARD NOTE: Derived from 40 CFR 403.12(a) (2003).~~

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

Section 310.602 Baseline Report

Within the time limits specified in subsection (h) of this Section, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW must submit to the Control Authority a report that contains the information listed in subsections (a) through (g) of this Section. New sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, must submit to the Control Authority a report that contains the information listed in subsections (a) through (e) of this Section. Where reports containing this information already have been submitted to the USEPA in compliance with 40 CFR 128.140(b) (1977), ~~incorporated by reference in Section 310.107~~, the industrial user must not be required to submit this information again. New sources must also include in the report information on the method of pretreatment the source intended to use to meet applicable pretreatment standards. New sources must give estimates of the information requested in subsections (d) and (e) of this Section.

- a) Identifying information. The industrial user must submit the name and address of the facility including the name of the operator and owners;

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- b) Permits. The industrial user must submit a list of any environmental control permits held by or for the facility;
- c) Description of operations. The industrial user must submit a brief description of the nature, average rate of production, and standard industrial classification (SIC Code) of the operations carried out by such industrial user, as determined using the Standard Industrial Classification Manual, incorporated by reference in Section 310.110(a). This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes;
- d) Flow measurement. The industrial user must submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
- 1) Regulated process streams; and
 - 2) Other streams as necessary to allow use of the combined waste stream formula of Section 310.233. (See subsection ~~(e)(4)(e)(5)~~ of this Section.) ~~The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations;~~
- e) Measurement of pollutants.
- 1) The industrial user must identify the pretreatment standards applicable to each regulated process.
 - 2) In addition, the industrial user must submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or Control Authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) must be reported. The sample must be representative of daily operations. In cases where the categorical standard requires compliance with a best management practice or pollution prevention alternative, the industrial user shall submit documentation as required by the Control Authority or the applicable categorical standards to determine compliance with the categorical standard.
 - 3) ~~A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other~~

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~~pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control Authority must waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples must be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.~~

- ~~3)4)~~ The user must take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
- ~~4)5)~~ Samples must be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the industrial user must measure the flows and concentrations necessary to allow use of the combined waste stream formula of Section 310.233 in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Section 310.233, this adjusted limit along with supporting data must be submitted to the Control Authority.
- ~~5)6)~~ Analytical methods. Sampling and analysis must be performed in accordance with the techniques prescribed in 35 Ill. Adm. Code 307.1003. When 35 Ill. Adm. Code 307.1003 does not reference sampling or analytical techniques for the pollutant in question or where USEPA has determined that sampling and analysis techniques are inappropriate pursuant to 40 CFR 403.12(b), incorporated by reference in Section 310.107(c), sampling and analysis must be performed by using validated analytical methods or any other applicable sampling and analytical procedures approved by the Agency, including procedures suggested by the POTW or other parties.
- ~~A)~~ The Board incorporates by reference 40-CFR-403.12(b) (2003). This Part incorporates no future amendments or editions.
- ~~B)~~ Sampling and analysis must be performed in accordance with the techniques prescribed in 35 Ill. Adm. Code 307.1003. When 35 Ill. Adm. Code 307.1003 does not reference sampling or analytical

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~~techniques for the pollutant in question, or where USEPA has determined that sampling and analysis techniques are inappropriate pursuant to 40 CFR 403.12(b), sampling and analysis must be performed by using validated analytical methods or any other applicable sampling and analytical procedures, approved by the Agency, including procedures suggested by the POTW or other parties.~~

- ~~6)7)~~ The Control Authority may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- ~~7)8)~~ The baseline report must indicate the time, date, and place of sampling, and methods of analysis, and must certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- f) Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in Section 310.633) and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements;
- g) Compliance schedule. If additional pretreatment or O and M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment or O and M. The completion date in this schedule must not be later than the compliance date established for the applicable pretreatment standard.
- 1) Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (Subpart C of this Part), by the combined waste stream formula (Section 310.233) or a fundamentally different factors determination (Subpart E of this Part) at the time the user submits the report required by this Section, the information required by subsections (f) and (g) of this Section must pertain to the modified limits.
 - 2) If the categorical pretreatment standard is modified by a removal allowance (Subpart C of this Part), by the combined waste stream formula (Section 310.233) or a fundamentally different factors determination

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(Subpart E of this Part) after the user submits the report required by this Section, any necessary amendments to the information requested by subsections (f) and (g) of this Section must be submitted by the user to the Control Authority within 60 days after the modified limit is approved.

- h) Deadlines for baseline reports.
- 1) For standards adopted by USEPA prior to authorization of the Illinois pretreatment program, baseline reports must be submitted pursuant to 40 CFR 403.12(b).
 - 2) For standards adopted by USEPA after authorization of the Illinois pretreatment program:
 - A) Baseline reports for existing sources are due within 180 days after the Board adopts or incorporates a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under Section 310.221(d), whichever is later.
 - B) New sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard must submit the baseline report within 90 days before beginning discharge.
 - C) New sources already in existence and discharging on the date the Board adopts or incorporates a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under Section 310.221(d), as described for existing sources under subsection (h)(1)(A) of this Section, are considered existing sources for the purposes of the due date provisions of this subsection.

BOARD NOTE: Derived from 40 CFR 403.12(b) [\(2005\), as amended at 70 Fed. Reg. 60134 \(Oct. 14, 2005\)](#)~~(2003)~~.

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

Section 310.605 Periodic Reports on Compliance

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- a) Any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user as defined in Section 310.110), after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, must submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Control Authority, a report indicating the nature and concentration of pollutants in the effluent that are limited by such categorical pretreatment standards. In addition, this report must include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 310.602(d), except that the Control Authority may require more detailed reporting of flows. In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the industrial user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the industrial user. In consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may alter the months during which the reports required by this subsection (a) are to be submitted.
- b) The Control Authority must authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if it determines that the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge or that the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:
- 1) The Control Authority may authorize a waiver only where it determines that a pollutant is present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard, and the sanitary wastewater otherwise includes no process wastewater;
 - 2) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism;

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- 3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Section 310.631 and include the certification statement in Section 310.221(b)(2). Non-detectable sample results may only be used as a demonstration that a pollutant is not present only if the USEPA-approved method from 40 CFR 136, incorporated by reference in Section 310.107(b), with the lowest minimum detection level for that pollutant was used in the analysis;
- 4) Any grant of a monitoring waiver by the Control Authority must be included as a condition in the industrial user's control mechanism. The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the Control Authority for three years after expiration of the waiver;
- 5) Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the Control Authority, the industrial user must certify on each report, with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutants] in the wastewaters due to the activities at the facility since filing of the last periodic report under 35 Ill. Adm. Code 310.605(a);
- 6) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the industrial user must immediately comply with the monitoring requirements of subsection (a) of this Section or other more frequent monitoring requirements imposed by the Control Authority; and it must notify the Control Authority; and

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7) This subsection (b) does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

c)b) Where the Control Authority has imposed mass limitations on industrial users as provided by Section 310.232, the report required by subsection (a) of this Section must indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

d)e) For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in Section 310.230, the report required by subsection (a) of this Section must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subsection (a) of this Section must include the user's actual average production rate for the reporting period.

BOARD NOTE: Derived from 40 CFR 403.12(e) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

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

Section 310.610 Monitoring and Analysis

a) Except in the case of a non-significant categorical user, theThe reports required in SectionsSection 310.602(e), 310.604, ~~and 310.605, and 310.611~~ must contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the Control Authority of pollutants contained in the discharge that are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the Control Authority instead of the industrial user. Where the POTW performs the required sampling and analysis instead of the industrial user, the user is not required to submit the compliance certification required under Sections 310.602(f) and 310.604. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user is not required to submit the report.

b) If sampling performed by an industrial user indicates a violation, the user must notify the Control Authority with 24 hours after becoming aware of the violation.

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The user must also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the industrial user, the Control Authority must perform the repeat sampling and analysis, unless it notifies the industrial user of the violation and requires the industrial user to perform the repeat analysis. Resampling is not required if the following conditions are fulfilled, except the industrial user is not required to resample if either of the following occurs:

- 1) The Control Authority performs sampling at the industrial user at a frequency of at least once per month; or
 - 2) The Control Authority performs sampling at the user between the time when the ~~user performs its~~ initial sampling was conducted and the time when the industrial user or the Control Authority receives the results of this sampling.
- c) The reports required in Sections 310.602, 310.604, ~~Section~~ 310.605, and 310.611 must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Control Authority must require that frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR 136, incorporated by reference in Section 310.107(b), and appropriate USEPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in USEPA-approved methodologies may be authorized by the Control Authority, as appropriate.

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- d) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 310.602 and 310.604, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by Sections 310.605 and 310.611, the Control Authority must require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.
- e)d) All analyses must be performed in accordance with procedures referenced in 35 Ill. Adm. Code 307.1003, or with any other test procedure approved by the Agency. Sampling must be performed in accordance with the techniques approved by the Agency. Where 35 Ill. Adm. Code 307.1003 does not reference sampling or analytical techniques for the pollutants in question, or where USEPA has determined as provided in Section 310.602 that sampling and analytical techniques are inappropriate, sampling and analyses must be performed using validated analytical methods or any other sampling and analytical procedures including procedures approved by the POTW or other persons.
- f)e) If an industrial user subject to the reporting requirement in Section 310.605 monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in subsection (e)(d) of this Section, the results of this monitoring must be included in the report.

BOARD NOTE: Derived from 40 CFR 403.12(g) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

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

Section 310.611 Requirements for Non-Categorical Users

The Control Authority must require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant non-categorical~~noncategorical~~ industrial users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a best management practice or pollution

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prevention alternative, the industrial user must submit documentation required by the Control Authority to determine the compliance status of the industrial user. These reports must be based on sampling and analysis performed in the period covered by the report, and ~~performed~~ in accordance with the techniques described in 40 CFR 136, incorporated by reference at Section 310.107. ~~Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Agency determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis must be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Agency. Where the POTW itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.~~ For the purposes of this Section, "significant ~~non-categorical~~~~noncategorical~~ industrial user" means a significant industrial user that is not subject to categorical pretreatment standards.

BOARD NOTE: Derived from 40 CFR 403.12(h) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~(2003)~~.

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

Section 310.612 Annual POTW Reports

POTWs with approved pretreatment programs must provide the Approval Authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section must be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter. The report must include, at a minimum, the following:

- a) An updated list of the POTW's industrial users, including their names and addresses or a list of deletions and additions keyed to a previously submitted list. The POTW must provide a brief explanation of each deletion. This list must identify which industrial users are subject to categorical pretreatment standards and specify which standards are applicable to each industrial user. The list must indicate which industrial users are subject to more stringent than the categorical pretreatment standards. The POTW must also list the industrial users that are subject only to local requirements. The list must also identify industrial users that are subject to categorical pretreatment standards and which are subject to reduced reporting requirements under Section 310.605(c), and the list must identify which industrial users are non-significant categorical industrial users.

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- b) A summary of the status of industrial user compliance over the reporting period.
- c) A summary of compliance and enforcement activities (including inspections) conducted by the POTW during the reporting period.
- d) A summary of changes to the POTW's pretreatment program that have not been previously reported to the Agency.

BOARD NOTE: Derived from 40 CFR 403.12(i) [\(2005\), as amended at 70 Fed. Reg. 60134 \(Oct. 14, 2005\)\(2003\)](#).

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

Section 310.613 Notification of Changed Discharge

An industrial user must promptly notify the [Control Authority \(and the POTW if the POTW is not the Control Authority\)](#) in advance of any substantial change in the volume or character of pollutants in its discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under Section 310.635.

BOARD NOTE: Derived from 40 CFR 403.12(j) [\(2005\), as amended at 70 Fed. Reg. 60134 \(Oct. 14, 2005\)\(2003\)](#).

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

Section 310.621 Compliance Schedule for POTWs

The following conditions and reporting requirements must apply to the compliance schedule for development of an approvable POTW pretreatment program required by Section 310.501 through 310.510.

- a) The schedule must contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a POTW pretreatment program (e.g., acquiring required authorities, developing funding mechanisms, acquiring equipment);
- b) No increment referred to in Section 310.621(a) must exceed nine months;
- c) Not later than 14 days following each date in the schedule and the final date for compliance, the POTW must submit a progress report to the Agency including as a minimum, whether or not it complied with the increment of progress to be met

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on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps taken by the POTW to return to the schedule established. In no event must more than nine months elapse between such progress reports to the Agency.

BOARD NOTE: Derived from 40 CFR 403.12(k) 403-12(h)(2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

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

Section 310.631 Signatory Requirements for Industrial User Reports

The reports required by Sections 310.602, 310.604, and 310.605 must include the certification statement as set forth in Section 310.221(b)(2) and must be signed as follows:

- a) By a responsible corporate officer, if the industrial user submitting the reports required in Sections 310.602, 310.604, and 310.605 is a corporation. For the purposes of this Section, a responsible corporate officer means one of the following:
 - 1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or
 - 2) The manager of one or more manufacturing, production, or ~~operating operation~~ facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars) if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- b) A general partner or proprietor, if the industrial user submitting the report required by Sections 310.602, 310.604, and 310.605 is a partnership or sole

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proprietorship, respectively.

- c) A duly authorized representative of the individual designated in subsection (a) or (b) of this Section, if:
- 1) The authorization is made in writing by the individual described in subsection (a) or (b) of this Section;
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field superintendent, or a position of equivalent responsibility or having overall responsibility for environmental matters for the company; and
 - 3) The written authorization is submitted to the Control Authority.
- d) If an authorization under subsection (c) of this Section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (c) of this Section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

BOARD NOTE: Derived from 40 CFR 403.12(l) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~(2003)~~.

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

Section 310.632 Signatory Requirements for POTW Reports

Reports submitted to the Agency by the POTW in accordance with Section 310.~~612621~~ must be signed by a principal executive officer, ranking elected official, or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility if such employee is responsible for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submitted to the POTW.

BOARD NOTE: Derived from 40 CFR ~~40 CFR~~ 403.12(m) (2005), as amended at 70 Fed. Reg.

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60134 (Oct. 14, 2005)(2003).

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

Section 310.633 Fraud and False Statements

The reports required by this Subpart are subject to the provisions of Section 1001 of Crimes and Criminal Procedure (18 USC 1001), incorporated by reference in Section 310.107, relating to fraud and false statements; the provisions of section 309(c)(4) of the CWA (33 USC 1319(c)(4)), incorporated by reference in Section 310.107(c), governing false statements, representations, or certifications in reports required under the CWA; the provisions of section 309(c)(6) of the CWA (33 USC 1319(c)(6)), incorporated by reference in Section 310.107(c), regarding responsible corporate officers; and to the provisions of Title XII of the Act.

BOARD NOTE: Derived from 40 CFR 403.12(n) (2005)(2003).

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

Section 310.634 Recordkeeping Requirements

- a) Any industrial user and POTW subject to the reporting requirements established in this Subpart must maintain records of all information resulting from any monitoring activities required by this Subpart F, including documentation associated with best management practices. Such records must include the following information for all samples:
 - 1) The date, exact place, method, and time of sampling, and the names of the person or persons taking the samples;
 - 2) The dates analyses were performed;
 - 3) Who performed the analyses;
 - 4) The analytical techniques/methods use; and
 - 5) The results of such analyses.
- b) Any industrial user or POTW subject to the reporting requirements established in this Subpart F (including documentation associated with best management practices) must be required to retain for a minimum of three years any records of

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monitoring activities and results (whether or not such monitoring activities are required by this Section) and must make such records available for inspection and copying by the Agency (and POTW in the case of an industrial user). This period of retention is extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the Agency.

- c) Any POTW to which reports are submitted by an industrial user pursuant to Sections 310.602, 310.604, 310.605, and 310.611 must retain such reports for a minimum of three years and must make such reports available for inspection and copying by the Agency. This period of retention must be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the Agency.

BOARD NOTE: Derived from 40 CFR 403.12(o) (2005)-403.12(1), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)(2003).

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

Section 310.636 Annual Certification by Non-Significant Categorical Users

A facility defined as a non-significant categorical industrial user in Section 310.110 must annually submit the following certification statement, signed in accordance with the signatory requirements in Section 310.631. The following certification must accompany any alternative report required by the Control Authority:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief, during the period from [insert beginning month, day, year] to [insert ending month, day, year]:

- a) The facility described as [insert facility name] met the definition of a non-significant categorical industrial user, as such is defined in 35 Ill. Adm. Code 310.110;
- b) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and

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- c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based upon the following information: [insert the information]

BOARD NOTE: Derived from 40 CFR 403.12(q), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005).

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

Section 310.637 Receiving Electronic Documents

A Control Authority that chooses to receive electronic documents must satisfy the requirements of Section 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(r), as added at 70 Fed. Reg. 59848 (Oct. 13, 2005).

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

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

Section 310.705 Factors that are Not Fundamentally Different

A FDF request or portion of such a request under this Subpart G must be granted on any of the following grounds:

- a) The feasibility of installing the required waste treatment equipment within the time the federal CWA (33 USC 1251 et seq.), incorporated by reference in Section 310.107(c), allows;
- b) The assertion that the standards cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factors listed in Section 310.704;
- c) The industrial user's ability to pay for the required waste treatment; or
- d) The impact of a discharge on the quality of the POTW's receiving waters.

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BOARD NOTE: Derived from 40 CFR 403.13(e) (2005)~~(2003)~~.

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

Section 310.711 Application Deadline

- a) Request for an FDF determination and supporting information must be submitted in writing to the Agency.
- b) In order to be considered, requests for FDF determinations must be submitted within the following time limits:
 - 1) Prior to authorization of the Illinois program, FDF requests must be directed to USEPA pursuant to 40 CFR 403.13 ~~(2003)~~.
 - 2) For standards adopted by USEPA after authorization of the Illinois pretreatment program, the industrial user must request an FDF determination within 180 days after the Board adopts or incorporates the standard by reference unless the user has requested a category determination pursuant to Section 310.221.
- c) Where the industrial user has requested a category determination pursuant to Section 310.221, the user may elect to await the results of the category determination before submitting a request for an FDF determination. Where the user so elects, the user must submit the request within 30 days after a final decision has been made on the categorical determination pursuant to Section 310.221(d).

BOARD NOTE: Derived from 40 CFR 403.13(g) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005)~~(2003)~~.

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

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

Section 310.801 Net/Gross Calculation ~~by USEPA~~

The Control Authority~~USEPA~~ may adjust categorical pretreatment standards to reflect the presence of pollutants in the industrial user's intake water as provided in 40 CFR 403.15, incorporated by reference in Section 310.107(b)~~(2003)~~. incorporated by reference in Section

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310.107(b).

BOARD NOTE: Derived from 40 CFR 403.15 (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

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

SUBPART J: BYPASS

Section 310.912 Notice

- a) If an industrial user knows in advance of the need for a bypass, it must submit prior notice to the Control Authority, if possible at least 10 days before the date of the bypass.
- b) An industrial user must submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Control Authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission must also be provided within five days after the time the industrial user becomes aware of the bypass. The written submission must contain the following:
 - 1) A description of the bypass and its cause;
 - 2) The duration of the bypass, including exact dates and times ~~and~~; and
 - 3) If the bypass has not been corrected, the anticipated time it is expected to continue and the steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.
- c) The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

BOARD NOTE: Derived from 40 CFR 403.17(c) ~~(2005)(2003)~~.

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

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- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1001.30	Amend
1001.70	Amend
1001.80	Amend
1001.90	Amend
1001.100	Amend
1001.110	Amend
1001.220	Amend
1001.300	Amend
1001.360	Amend
1001.410	Amend
1001.420	Amend
1001.430	Amend
1001.440	Amend
1001.441	Amend
1001.443	Amend
1001.450	Amend
1001.600	Amend
1001.670	Amend
1001.680	Amend
- 4) Statutory Authority: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implements Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/ 2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8].
- 5) A Complete Description of the Subjects and Issues Involved: These amendments achieve the following objectives: **In Subpart A:**

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- Added titles to subsections in several sections (those which have not been amended recently), beginning with Section 1001.80, in order to facilitate the location of information. In other words, this rulemaking has become so voluminous, that it has become increasingly difficult to quickly find a specific rule when one is looking for it. The titles will, hopefully, make it easier to locate specific rules;
- **Section 1001.30:** Amended the rule on *pro hac vice* to conform to an Attorney General informal opinion issued in 2002, which states that attorneys who are not licensed to practice in this State must obtain the approval of a judge to represent a client in a hearing before the Secretary of State, and that the approval to practice before the Secretary of State may not, therefore, be granted by a hearing officer or the Director of the Department of Administrative Hearings;
- **Section 1001.70:** Subsection (a) updates the language in this rule by allowing a petition to be filed by fax, e-mail, or regular mail. The new second paragraph of subsection (a) imposes a deadline on the filing of a petition to contest and implied consent suspension, and limits withdrawals to no more than twice. This is proposed in response to the Supreme Court decision in People v. McClure (2006), 218 Ill.2d 375, 843 N.E.2d 308, 2006 WL 141527 (Ill.), which recently held that a petitioner is entitled to refile petition to rescind driver's license suspension within one-year from voluntary dismissal, pursuant to the Code of Civil Procedure, overruling the decision in People v. Rodriguez, 339 Ill.App.3d 677, 274 Ill. Dec. 615, 791 N.E.2d 707. The court invited the legislature to amend the statute to impose a shorter deadline, and so we have taken up its invitation. This deadline is repeated in Section 1001.100(n)(4);
- **Section 1001.80:** Strikes the Motion to Correct a Material Misstatement of Fact. Petitioners will no longer be able to file these motions. This rule was amended a couple of years ago to allow this motion, with the intent that the narrow language of the rule would reduce the number of filings which request that the Department reconsider its decisions. This revision did not have the intended effect. It is, therefore, our conclusion that we should eliminate all reference to motions to reconsider decisions or correct mistakes. See also, revisions to **Section 1001.110, which strikes subsection (g)**. The effect of this revision will be ameliorated somewhat by the revision to Section 1001.450, which will allow petitioners to file another petition for driving relief in 30 days from the date of the decision in the previous hearing, rather than 120 days from the date of the previous hearing;
- **Section 1001.90:** A new subsection (b) is added to codify the Department's established and published policy on the requirement of the submission of original documents, as defined in the rule. The first time that a petitioner presents him or herself for a formal hearing, all documents, with a couple of exceptions (which are stated in the rule), must submit original documents in order to satisfy the requirements of Subpart D;

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- **Section 1001.100:** The rules on the rules of evidence in subsection (d) are amended to add a paragraph that allows the hearing to be decided on the basis of the arresting officer's sworn report in implied consent hearings, even if the arresting officer fails to respond to a subpoena. There is a line of appellate court cases which have addressed the questions of which reports can be considered in implied consent hearings and the consequences of an arresting officer's failure to appear; but none have yet addressed the specific question of whether an arresting officer's arrest report can be considered if the officer fails to answer a subpoena. This rule allows the Department to do so. See, for example, People v. Ullrich (1st Dist., 2002), 328 Ill.App.3d 811, 767 N.E.2d 411, at 417. (The Supreme Court denied the Petition for Leave to Appeal at 201 Ill.2d 609, 271 Ill. Dec. 940, 786 N.E.2d 198 (September 2002);)
Subsection (n)(6) amended to allow the DAH to withdraw out-of-state petitions if the petitioner fails to respond to a request for evidence within 30 (rather than the current 90) days, but allows another petition to be filed in 30 days. We have found that the 90 day deadline results in the accumulation of too many files; generally, if a petitioner is going to respond, it is done well within 30 days;
- **Section 1001.110:** Subsection (d) amended to codify a long standing policy of the Department to provide instructions on how to complete the process of obtaining a restricted driving permit or effecting the reinstatement of driving privileges, and to impose a deadline on completing this process. The Department also reserves the discretion to extend these deadlines. Different deadlines are imposed for completing the process of obtaining a restricted driving permit and effecting reinstatement. The failure to complete this process will result in the denial of driving relief. These amendments are also added to **Section 1001.360**.

In Subpart B:

- **Section 1001.220(j):** Added a paragraph stating the procedure for obtaining a copy of the record of a safety responsibility hearing by those who are not a party to the hearing, as defined in Section 1001.210.

In Subpart C:

- **Section 1001.300(b):** Amended to clarify the scope/application of paragraphs (3) and (4). Amended subsection (c)(3) to clarify/specify the offenses which preclude a petitioner from renewing a permit at an informal hearing;
- **Section 1001.360:** Adds a new subsection (c) amended to codify a long standing policy of the Department to provide instructions on how to complete the process of obtaining a restricted driving permit or effecting the reinstatement of driving privileges, and to impose a deadline on completing this process. The Department also

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reserves the discretion to extend these deadlines. Different deadlines are imposed for completing the process of obtaining a restricted driving permit and effecting reinstatement. The failure to complete this process will result in the denial of driving relief.

In Subpart D:

- Amended the following definitions (in Section 1001.410):
 - "Abstinence", to account for the use of medications with ethyl alcohol as an ingredient;
 - "Alcohol", to include medications with ethyl alcohol as an ingredient;
 - "Alcohol and drug evaluation (Investigative)", to broaden the scope of its application;
 - "DUI Disposition", to make it clear that the definition applies to all DUIs, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record;
- Created new definitions, as follows:
 - "Alcohol/drug-related criminal record". This class of offense must now be considered in the evaluation and decision-making process. See the amendments to Section 1001.420(e), .430(c), and .440(a)(4);
 - "Boating under the influence" and "Snowmobiling under the influence". These offenses must now be considered in the evaluation and decision-making process. See the amendments to Section 1001.420(e), .430(c), and .440(a)(4);
 - "Treatment Needs Assessment". This rulemaking will specify when a TNA is required. See Section 1001.440(b)(7);
- **Section 1001.420:** In **subsection (e)**, as mentioned above, added additional factors to be considered in deciding whether to issue a restricted driving permit; amended **subsection (i)** to make it clear that driving on a probationary restricted driving permit without incident does not entitle the petitioner to reinstatement at his/her next hearing. This subsection is being amended in response to a very recent Rule 23 decision by the 4th District Appellate Court which misinterpreted the intent of this subsection and ignored other rules which also apply to the reinstatement process; **subsection (k)** amended to conform to P.A. 94-473; **subsection (m)** adds, consistent with the revised definition of investigative evaluation, what must be included or considered in the investigative evaluation (the "Alcohol/drug-related criminal record", and the offenses of BUI and SUI). Also requires the petitioner to submit updated evaluations if rehabilitative activity is recommended;
- **Section 1001.430: Subsection (c) – Factors –** amended to include the alcohol/drug related criminal record, and incidents of BUI and SUI, and the petitioner's record of performance while driving with an interlock device. Further, this subsection is being

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- amended to make it clear that driving on a probationary restricted driving permit without incident does not entitle the petitioner to reinstatement at his/her next hearing. This subsection is being amended in response to a very recent Rule 23 decision by the 4th District Appellate Court, which misinterpreted the intent of this subsection and ignored other rules which also apply to the reinstatement process. See amendments to Section 1001.420(i) above; **subsection (d)** – Investigative Evaluations – adds, consistent with the revised definition of investigative evaluation, what must be included or considered in the investigative evaluation. Also requires the petitioner to submit updated evaluations if rehabilitative activity is recommended; **subsection (g)** – New Residents – amended to conform to P.A. 94-473; **subsection (i)** – 75% Rule – amended to apply to all restricted driving permits, rather than just probationary permits;
- **Section 1001.440: Subsection (a)(1)** amended to clarify when we will accept out-of-state evaluations and treatment; subparagraph (4) amended to require Uniform Report to consider incidents of BUI and SUI, all DUIs, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record, and the alcohol/drug related criminal record; subpart. (5) amended to clarify that the Driver Risk Education course must be taken after the most recent arrest for DUI, rather than the disposition date (so if a petitioner gets a second DUI while taking the course, which is dismissed in a plea bargain, she/he must start the course over); subpart. (6)(A)(1) amended to clarify rule on transfer of files: allows transfer of either evaluation or treatment file and composition of update by the receiving program; allows petitioner to follow an individual provider, so update can be composed by that individual provider if the file is transferred to the individual provider or his/her new employer; allows transfer if the petitioner moves to a different part of the state; subpart. (6)(A)(2) amended to allow treatment program to compose a chronological alcohol/drug use history (codifying existing policy); subpart. (6)(B) amended to allow the chronological alcohol/drug use history to be provided in an updated evaluation; subpart. (6)(C) amended to require that the out-of-state evaluation consider all DUIs, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record; subpart. (6)(D) amended to required investigative evaluation to consider incidents of BUI and SUI and all DUIs, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record; new subpart. (6)(E) to clarify when an investigative evaluation must be updated; **Subsection (b)** amended to change reference to Dept. of Prof. Regulation to the Dept. of Financial and Prof. Reg., Div. of Prof. Reg.; subpart. (5) amended to clarify when an investigative evaluation must be updated; new subpart. (7) on Treatment Needs Assessment—specifies when and why one is required (codifying existing policy); **subsection (d)** amended to codify an important evidentiary and decision-making factor. This factor is being added to make it clear that service providers may not operate in a vacuum but, rather, must consider and respond to conflicting evidence

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when composing evaluation and treatment documentation. This subsection is being amended in response to a very recent Rule 23 decision by the 4th District Appellate Court which misinterpreted the intent of the rule on probationary restricted driving permits and ignored other rules which also apply to the reinstatement process. See amendments to Section 1001.420(i) and .430(c) above; **subsection (h)** amended to allow the use of internet A.A. meetings, and recites the factors which a hearing officer shall consider in evaluating the effectiveness and probative value of this form of support program; **subsection (m)** amended by adding a new subparagraph to clarify the rule on use of the Treatment Verification form;

- **Section 1001.441: Subsection (a)** amended to remove some outdated language regarding the payment of BAIID fees; **subsection (i)(6)** amended to allow BAIID Unit to request explanation for evidence of tampering found in monitor reports, rather than imposing summary cancellation (this amends the rule to the current practice of the BU; there are so many incidents of tampering that it decided not to impose the summary cancellation); **subsection (j)** amended – new subpart. (5) – to allow BAIID Unit to impose cancellation based upon monitor reports received after a hearing is held or a petitioner is reinstated (this, hopefully, plugs a loophole in the current system, which does not provide the SOS any recourse when we find evidence of alcohol/drug use in monitor reports, received after a petitioner's driving privileges have been reinstated);
- **Section 1001.443: Subsection (b)** (BAIID multiple offender rule) amended to require use of interlock device for 365 days, rather than 12 months, in an attempt to clarify this requirement for petitioners, some of whom apparently rushed to de-install the device upon entering the 12th month of use; subparagraph (2) amended to clarify when the base period begins; **subsection (c)** – the "certification" of installation requirement by BAIID multiple offenders – deleted. We have found that we can more effectively monitor the installation of the interlock device by checking vehicle registration records. Subsection (b) amended to strike the reference to the certification by the petitioner. **Subsection (d)** becomes subsection (c), and is amended to be consistent with subsection (b), and clarify that violations of the installation requirement result in cancellation of permit until petitioner comes into compliance and must start over the 365 day period of compliance, and that the consequences of a cancellation are different for different classes of offender, depending upon the relief granted. This required a new subpart. (c)(3); another new subpart. (c)(4) allows BAIID Unit to impose cancellation based upon monitor reports received after a hearing is held or a petitioner is reinstated (see Section 1001.441(j)(5) above); the petitioner's right to a hearing to contest the above-referenced cancellations is placed in a new subsection (d);
- **Section 1001.450:** Amended to change 4 month waiting requirement for another hearing to 90 days. Clarifies when a petitioner can obtain an informal hearing after

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being denied at a formal hearing.

In Subpart F:

- **Section 1001.600:** (Zero Tolerance rules) recites/clarifies authority for the hearings conducted to implement the provisions of the zero tolerance statute;
- **Section 1001.670: Subsection (a)** amended to clarify when an investigative evaluation is required; **subsection (b)** amended to clarify when a Uniform Report is required;
- **Section 1001.680:** Corrects reference to location of formal hearing.

It should be noted that some of the substantive adjustments/amendments recited above are being proposed based upon the Department's experience with the day-to-day application of these rules.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: (see Sections 100.110 and 100.415(b)): This proposed amendment 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.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on these proposed amendments may submit written comments no later than 45 days after the publication of this Notice to:

Marc Christopher Loro, Legal Advisor
Department of Administrative Hearings
200 Howlett Building
Springfield, Illinois 62756

217/785-8245

Fax: 217/782-2192

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mloro@ilsos.net

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Service providers licensed by the Division of Alcoholism and Substance Abuse, Illinois Department of Human Services.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2005
- 15) Does this rulemaking require the review of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 500/5-25]? No

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1001
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section

- 1001.10 Applicability
- 1001.20 Definitions
- 1001.30 Right to Counsel
- 1001.40 Appearance of Attorney
- 1001.50 Special Appearance
- 1001.60 Substitution of Parties
- 1001.70 Commencement of Actions; Notice of Hearing
- 1001.80 Motions
- | 1001.90 Form of Papers – Original Documents Required
- | 1001.100 Conduct of Formal Hearings
- | 1001.110 Orders; Notification; Time Limits on Obtaining Relief
- 1001.120 Record of Hearings
- 1001.130 Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section

- 1001.200 Applicability
- 1001.210 Definitions
- 1001.220 Hearings: Notice; Location; Procedures; Record
- 1001.230 Rules of Evidence
- 1001.240 Scope of Hearings
- 1001.250 Decisions and Orders
- 1001.260 Rehearings
- 1001.270 Judicial Review
- 1001.280 Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

Section

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1001.300	Applicability
1001.310	Definitions
1001.320	Right to Representation
1001.330	Records and Reports
1001.340	Location of Hearings
1001.350	Duties and Responsibilities
1001.360	Decisions: <u>Time Limits on Obtaining Relief</u>
1001.370	Invalidity

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section	
1001.400	Applicability; Statement of Principle and Purpose
1001.410	Definitions
1001.420	General Provisions Relating to the Issuance of Restricted Driving Permits
1001.430	General Provisions for Reinstatement of Driving Privileges after Revocation
1001.440	Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations
1001.441	Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs
1001.442	BAIID Providers Certification Procedures and Responsibilities; Approval of Breath Alcohol Ignition Interlock Devices; Inspections; BAIID Installer's Responsibilities; Disqualification of a BAIID Provider
1001.443	Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program
1001.444	Installer's Responsibilities (Repealed)
1001.450	New Hearings
1001.460	Requests for Modification of Revocations and Suspensions
1001.470	Renewal, Correction and Cancellation of RDPs
1001.480	Unsatisfied Judgment Suspensions
1001.485	Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
1001.490	Invalidity

SUBPART E: FORMAL MEDICAL HEARINGS

Section	
1001.500	Applicability
1001.510	Definitions

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- 1001.520 Procedure
- 1001.530 Conduct of Medical Formal Hearings
- 1001.540 Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;
PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS

Section

- 1001.600 Applicability
- 1001.610 Definitions
- 1001.620 Burden of Proof
- 1001.630 Implied Consent Hearings; Religious Exception
- 1001.640 Implied Consent Hearings; Medical Exception
- 1001.650 Rebuttable Presumption
- 1001.660 Alcohol and Drug Education and Awareness Program
- 1001.670 Petition for Restricted Driving Permits
- 1001.680 Form and Location of Hearings
- 1001.690 Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

Section

- 1001.700 Applicability
- 1001.710 Definitions
- 1001.720 Organization of Motor Vehicle Review Board
- 1001.730 Motor Vehicle Review Board Meetings
- 1001.740 Board Fees
- 1001.750 Notice of Protest
- 1001.760 Hearing Procedures
- 1001.770 Conduct of Protest Hearing
- 1001.780 Mandatory Settlement Conference
- 1001.785 Technical Issues
- 1001.790 Hearing Expenses; Attorney's Fees
- 1001.795 Invalidity

1001.APPENDIX A BAIID Regions and Minimum Installation/Service Center Site Location Guidelines (Repealed)

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is

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authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 23 Ill. Reg. 692, effective January 15, 1999; amended at 24 Ill. Reg. 19257, effective December 15, 2000; expedited correction at 25 Ill. Reg. 7352, effective December 15, 2000; emergency amendment at 25 Ill. Reg. 13790, effective October 15, 2001, for a maximum of 150 days; emergency expired on March 13, 2002; emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150 days; emergency expired on April 7, 2002; amended at 26 Ill. Reg. 9380, effective June 13, 2002; amended at 26 Ill. Reg. 13347, effective August 21, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 14706, effective September 20, 2002, for a maximum of 150 days; emergency expired on February 16, 2003; amended at 27 Ill. Reg. 5969, effective

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March 31, 2003; amended at 27 Ill. Reg. 13577, effective August 1, 2003; amended at 28 Ill. Reg. 12123, effective September 1, 2004; amended at 28 Ill. Reg. 15804, effective November 19, 2004; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section 1001.30 Right to Counsel

- a) Attorneys Must be Licensed; 711 Students. Any party may appear and be heard through an attorney at law licensed to practice in the State of Illinois, or any law student licensed under Supreme Court Rule 711, in any hearing in any matter involving the exercise of legal skill or knowledge. [ILCS S. Ct. Rule 711]
- b) Pro Hac Vice. Attorneys admitted to practice in states other than the State of Illinois may appear and be heard, upon the attorney's verbal representations or written documentation as to the attorney's admittance, ~~either by special leave of the Director of the Department or~~ pursuant to an Order pro hac vice, entered by a judge of the circuit court of the county in which the hearing is conducted, as provided in Supreme Court Rule 707.
- c) Pro Se. A natural person may appear and be heard on his or her own behalf.
- d) Corporations. A corporation, association, or partnership may appear and present evidence by any bona fide officer, employee, or representative.
- e) The standard of conduct shall be the same as before the Courts of Illinois.

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

Section 1001.70 Commencement of Actions; Notice of Hearing

- a) Petition; Notice of Hearing:
 - 1) A contested case is commenced by the Office, either after the written request of the petitioner or on the Office's initiative, by service of a Notice of Hearing in accordance with Section 2-114, within the time limitation contained in Sections 2-118(a) and (b) and 3-402.B(7)(a) and (b), as applicable, of the Illinois Driver Licensing Law of the Illinois Vehicle Code (Code) [625 ILCS 5/2-114, 2-218(a) and (b), and 3-402.B(7)(a) and (b)] upon the respondent. By "written request" it is meant that the

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petitioner may send the Office a petition via facsimile, electronic transmission, or regular mail.

- 2) In regard to implied consent hearings over which the Secretary of State has jurisdiction, petitions to contest the imposition of the implied consent suspension must be filed within 90 days after the effective date of the suspension (unless the petitioner is able to show that the Notice of Suspension was not sent at least 21 days before the termination date of the suspension, in which case the petition may be filed within 90 days after the notice was issued). If a petitioner withdraws a petition, then it may only be refiled within 90 days after the date of withdrawal. A petition may not be withdrawn more than twice. Failure to abide by these rules will result in the denial of a petition to contest the suspension.

b) Filing Fee

- 1) A petition for a hearing will not be accepted for filing unless it is accompanied by a fee of \$50, as provided in Sections 2-118 and 3-402.B(7)(a) of the Illinois Vehicle Code. This filing fee must be submitted in the form of a money order, a check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.
- 2) This filing fee will not be refunded to the party requesting a hearing if the party withdraws from the hearing or defaults.
- 3) In cases where a hearing is continued, the party requesting the hearing will not be required to submit another filing fee.
- 4) In cases where the party requesting a hearing withdraws or defaults, the party will be required to submit another filing fee before another hearing will be scheduled.

c) The Notice of Hearing shall include:

- 1) The names and addresses of all known parties, petitioner and respondent, including the department initiating the hearing;
- 2) Whether the hearing is at the request of the petitioner or the Department;
- 3) The time, date, and place of hearing;

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- 4) A short and concise statement of facts (as distinguished from conclusions of law or a mere recitation in the words of the statute) alleging the act or acts done by each petitioner or, where appropriate, respondent; the time, date, and place each such act was done or a short and concise statement of the matters asserted; and the rule, statute, or constitutional provision, if any, alleged to have been violated, or otherwise involved in the proceeding; and the relief sought by the petitioner party;
- 5) A statement to each party that:
 - A) Such party may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate in the hearing.
 - B) Failure to so appear shall constitute a default, unless such party has, upon due notice to other parties, moved for and obtained a continuance from the hearing officer.
 - C) Delivery of notice to the designated representative of a party constitutes service upon the party.
 - D) A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence which involved a fatality must submit, with his or her petition for driving relief, either a copy of the Order of the circuit court which states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections which reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for reinstatement pursuant to Section 6-208(b)1 of the Code, and for the issuance of a restricted driving permit pursuant to Sections 6-205(c) and 6-206(c)3 of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.

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

Section 1001.80 Motions

- a) Form of Motions. All motions shall be made in writing and shall set forth the relief or order sought and shall be filed with the Department at the earliest time to be considered by the hearing officer. Motions based on matter ~~that~~which does not appear of record shall be supported by affidavit. Motions may be presented by a party to obtain appropriate relief, such as to dismiss the proceedings, to add necessary parties, or to extend time for compliance of an order.
- b) Motions to Correct or Reconsider. The Department will not consider ~~motions~~Motions to correct a material misstatement of fact or to reconsider ~~Reconsider~~ a decision made or Order entered in a formal hearing. The proper avenue of relief is to file a complaint under the Administrative Review Law. The petitioner may also file another petition for driving relief pursuant to Section 1001.450. ~~The Department will, however, accept a Motion to Correct a Material Misstatement of Fact made in an Order. Such a motion must be submitted within 30 days after the date of the Order, shall recite with particularity the nature of the material misstatement of fact, and shall be accompanied by a filing fee of \$20, in the manner and form as provided in Section 1001.70.~~

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

Section 1001.90 Form of Papers – Original Documents Required

- a) Form of Papers. All papers filed in any proceeding shall be clearly written or typewritten on white paper using one side of the paper only. They shall contain a caption showing the title of the proceeding with a case number. All papers must be signed by the party filing the papers or his/her authorized representative or attorney, and shall contain his or her address, telephone number, and electronic mail address, if available. An original and one copy shall be filed by each party, except as provided in subsection (b).
- b) Original Documents Required. In regard to documents that are submitted pursuant to the requirements of Subpart D and that have not been previously submitted to the Department, the Department will accept, or admit into evidence, only the original document, except as specified in this subsection. By original document is meant a document that bears the original signature of the petitioner and/or author of the document, as applicable.

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1) Uniform Reports.

A) The requirement of the submission of an original document that must also be submitted to a court of venue can be met in one of two ways:

i) service providers can print two "originals", both of which are signed and dated by the provider and the petitioner; or

ii) the provider can make a photocopy of the original (before it is verified) and the provider and petitioner can sign and date both the original and the copy.

B) Exceptions to this requirement will be considered only if the petitioner is able to demonstrate that the original document is no longer available from the agency that composed the Uniform Report. In such cases, the petitioner must submit a "Verification Form" that the Department has composed, published, and distributed to service providers, and upon which the service provider shall verify that the copy of the document is a true and correct/identical copy of the original and/or inform the Secretary of State of the reason that the original of a document is not available. In such a case, the petitioner also will be asked to explain, under oath, why an original Uniform Report is not available.

2) Updated Evaluations. The first time that an updated evaluation is submitted to the Secretary of State, it must be submitted as an original document. See Sections 1001.410 and 1001.440(a)(6). At subsequent submissions of the same document, such as when renewing a restricted driving permit at an informal hearing, the petitioner may submit a copy of the updated evaluation.

3) Treatment Verification. The rules of the Secretary of State require petitioners to submit proof of the successful completion of alcohol or drug related treatment in a "narrative summary" that provides the information listed at Section 1001.440(m)(1). The Department has composed, published, and distributed a "Treatment Verification Form" to be used or replicated by treatment providers for this purpose. The first time that this document, or a narrative summary composed on a treatment provider's

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letterhead, is submitted, it must be submitted to the Secretary of State as an original.

- A) As specified in Section 1001.440(m)(2), the Department will accept a copy of the petitioner's Individualized Treatment Plan and Discharge Summary.
- B) As specified in Section 1001.440(m)(3), the Department will accept a copy of the Continuing Care Plan. The other Continuing Care documents that must be submitted to the Secretary of State (periodic status reports and the final summary report, or the waiver of continuing care) must be submitted as originals, on the provider's letterhead stationary.
- 4) Driver Risk Education. The Department will accept a copy of the form used by service providers to record and verify successful completion of a Driver Risk Education course. See Section 1001.440(a).
- 5) Other Documents. All other documents that are composed or created solely for the purpose of being submitted to the Secretary of State at a formal or informal hearing must be submitted as originals. (For example: the Secretary of State medical report forms; reports/evaluations from psychiatrists, clinical psychologists, or other counselors; letters from probation officers or physicians; letters of reference to verify abstinence or attendance at support/recovery program meetings; verification of employment.
- 6) Documents Sent by Facsimile. Documents sent by facsimile will be accepted at the time of the hearing; however, the originals of the faxed documents must be submitted at a later date. Leave to submit the originals will be granted within no more than seven calendar days after the hearing. The presiding hearing officer will determine the specific number of days within which the petitioner is allowed to submit the original, based upon the circumstances of each individual case.

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

Section 1001.100 Conduct of Formal Hearings

- a) Location; Open to Public; Out-of-state Petitioners. All hearings conducted in any

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proceeding shall be open to the public. Pursuant to statute, formal hearings may be conducted in Springfield, Chicago, Joliet, Mt. Vernon, or such other locations as agreed upon by the Secretary and the petitioner/respondent.

- 1) In petitions for driving relief, petitioners who have permanently relocated outside of the State of Illinois and petitioners who are still residents but are temporarily residing outside the State of Illinois may make, except as provided in subsection (a)(2), written application in lieu of returning to Illinois for a formal hearing. These petitioners shall be deemed to have waived the right to appear in person. Out-of-state petitioners must initially submit the filing fee authorized by Section 2-118 of the Illinois Vehicle Code and Section 1001.70(b)(1) of this Subpart A, and evidence of their residency, such as, but not limited to, voter's registration, income tax returns, apartment rental leases, mortgage contracts, employment verification, utility and/or telephone bills, etc. The Department reserves the discretion to reject out-of-state petitions ~~thatwhich~~ fail to provide this evidence or establish residency. The Department also reserves the discretion to reject an out-of-state petition if there is evidence that the petitioner is regularly present in the State of Illinois, such as through work, school, or family contacts, but not limited thereto, and is capable of attending a hearing in person in a timely manner.
- 2) Out-of-state petitioners who reside within 30 miles of the Illinois border shall be required to attend a hearing in person, unless the petitioner shows good cause for not being able to attend in person. Good cause is shown when it is demonstrated by a written statement that the petitioner cannot attend a formal hearing in person due to economic, physical, or medical reasons. Mere inconvenience does not constitute good cause.
- 3) Except as provided in Sections 1001.430(k) and 1001.440(o), out-of-state petitioners must submit at a formal hearing at a minimum all documentation and information required by Subpart D of this Part, as well as a sworn Out-Of-State Petitioner's Affidavit, ~~thatwhich~~ provides the information otherwise required by the Secretary, ~~at a formal hearing~~.
- 4) A petition for an out-of-state formal hearing is regarded as being filed when the Department accepts, as fully completed, the documentation required by subsection (a)(3). The Department will inform the petitioner of this fact by a dated letter posted in the regular mail. Pursuant to Section §2-118 of the Code, the petitioner's file will be assigned to a hearing

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officer within 90 calendar days from the date of filing. A final Order will be entered no more than 90 days after it is assigned to a hearing officer.

- b) Parties to a Hearing; Disqualification of Hearing Officer. Every hearing shall be presided over by a hearing officer duly appointed by the Secretary. The Secretary may also appoint a representative to appear and participate in the hearing on his/her behalf. Prior to the taking of evidence, the petitioner/respondent may request disqualification of the hearing officer by making a motion for disqualification on the record, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner/respondent by the hearing officer. The hearing officer will rule upon the motion. If the motion is denied, the hearing will proceed, or the petitioner may withdraw from the hearing. If the motion is granted, the case shall be transferred to another hearing officer for a hearing on the same day if possible. If it is not possible to schedule a hearing on the same day, a new hearing date shall be scheduled and another hearing officer shall be assigned by the Secretary. The hearing officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any party, to examine witnesses, and to rule upon the admissibility of testimony and evidence.
- c) Depositions and Interrogatories. Upon order of the hearing officer, for good cause shown, and upon reasonable notice to other parties, any party, including the Department, may cause, at his/her or its expense, a deposition of any witness to be taken for use as evidence in a contested case (for example, when the witness is not available due to distance, time, cost to the party using the testimony, sickness, infirmity, imprisonment, the witness being out of state or similar factors). The deposition shall be taken in the manner provided by law for evidence depositions in civil actions in the Circuit Courts of Illinois. Any party may direct written interrogatories to any other party. Interrogatories must be restricted to the subject matter of the case, to avoid undue detail, and to avoid the imposition of any unnecessary burden or expense on the answering party. Written interrogatories shall be served on the opposing party no later than 15 business days before the hearing. Objection to answers or refusals to answer shall be heard on motion at the hearing before the hearing officer, who shall rule on the objection or refusal. Answers shall be sworn. If an answer to an interrogatory may be obtained from documents in the possession or control of the party on whom the interrogatories were served, it shall be a sufficient answer to specify the documents and make them available to the inquiring party to inspect and copy at the asking party's expense.

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d) Rules of Evidence.

1) The technical rules of evidence shall not apply. Any relevant evidence may be admitted if it is the sort of evidence relied upon by reasonably prudent people in the conduct of their affairs. The existence of any common law or statutory exclusionary rule ~~that~~which might make improper the admission of the evidence over objections in civil or criminal actions shall not be a bar to the admissibility of otherwise relevant evidence. The rules of privilege shall be followed to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant, immaterial or unduly repetitious evidence may be excluded upon objection. Objections to evidentiary offers may be made and shall be noted in the record, and ruled upon by the hearing officer. Any party may make an offer of proof following an adverse evidentiary ruling. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Subject to the evidentiary requirements of this subsection, a party may conduct cross-examination required for a full and fair disclosure of the facts.

2) In regard to implied consent hearings over which the Secretary of State has jurisdiction, the hearing may be conducted upon a review of the official police reports. However, the parties may subpoena the arresting officer and any other officer who was involved in the petitioner's arrest or processing after arrest, as well as any other person whose testimony may be probative to the issues at the hearing. The failure of an officer to answer the subpoena shall be considered grounds for a continuance if, in the hearing officer's discretion, the continuance is appropriate. Furthermore, the failure of the arresting officer to answer a subpoena shall not be considered grounds for the rescission of an implied consent suspension. Rather, the hearing shall proceed on the basis of the other evidence available and the hearing officer will assign this evidence whatever probative value he or she deems appropriate.

e) Official Notice. Official notice may be taken of past hearings and any matter of which the Circuit Courts of Illinois may take judicial notice. In addition, official 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

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material noticed, including staff memoranda and data, and they shall be afforded an opportunity to contest the material so noticed. The Department's and the hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

- f) Pre-hearing Conference. At the request of any party or upon his own motion, the hearing officer may call a prehearing conference. At the conference, the parties or their representatives shall appear as the hearing officer directs. Matters ~~that~~which may be considered at a prehearing conference include, but are not limited to:
- 1) The simplification of the issues;
 - 2) Amendments to the grounds for action;
 - 3) The possibility of obtaining admissions and stipulations of fact and of documents ~~that~~which will avoid unnecessary proof;
 - 4) The limitation of the number of expert witnesses;
 - 5) Any other matters which may aid in the disposition of the contested case.
- g) Order from Pre-hearing Conference. Upon the conclusion of a prehearing conference, the hearing officer shall enter an order ~~that~~which recites any action taken, any agreements made by the parties as to any of the matters considered, and the issue to be heard.
- h) List of Witnesses; Bill of Particulars. Upon written request, made at least 10 business days prior to the hearing, a party shall furnish to other parties a list of the names and addresses of prospective witnesses, or furnish written answers to a written demand for a bill of particulars.
- i) Inspection of Documents; Interview of Parties. Any party or his representative shall have the right, upon written motion made at least 10 business days prior to the hearing, to inspect any relevant documents in the possession of or under the control of any other party and to interview parties or persons having knowledge of relevant facts, subject to any statutory or constitutional privileges. Interviews of persons and inspection of documents shall be at times and places reasonable for the persons and for the custodian of the document.

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- j) Oath. Testimony shall be taken only on oath or affirmation.
- k) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing.
- l) Right to Subpoena. Each party shall have the right to request the subpoena of and to call and to examine witnesses, to introduce exhibits, and to cross-examine witnesses on any matter relevant to the issues, even though that matter was not covered in the direct examination. Applications to the hearing officer assigned to the case for subpoenas duces tecum shall specify the books, papers, and documents desired to be produced.
- m) Rights of Parties. Each party shall have the right to rebut the evidence against him; to appear in person; and to be represented by counsel. If a party does not testify in his/her own behalf, he or she may be called by the Secretary of State's representative and examined as if under cross-examination.
- n) Motions to Continue and Withdraw
 - 1) Grounds. Hearings before the Department of Administrative Hearings will be continued only pursuant to a motion: filed prior to or on the date of the hearing, made over the telephone less than 15 days prior to or on the date of the hearing, or in person on the day of the hearing. The movant shall set forth the grounds for the motion, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the movant or a member of his/her immediate family, or of the movant's legal counsel, or if the movant is able to demonstrate some other real and compelling need for additional time. A Motion to Continue may be supported by evidence which tends to prove the grounds alleged, including sworn testimony taken at a motion hearing on the day of the hearing. The inability to obtain transportation to the hearing site or a party's failure or inability to obtain the documentation required to fulfill the minimum requirements to be issued driving relief are not circumstances ~~that~~which will justify continuing a hearing.
 - 2) Must be Continued to a Date Certain. A formal hearing shall not be continued "generally". A continuance, if granted, shall state a date certain upon which the hearing shall reconvene. If the petitioner is not prepared to go forward after the first continuance, a request to withdraw should be

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submitted.

- A) Motions to Continue which are filed at least 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date will be given priority in re-scheduling over those motions filed or made less than 15 days prior to the date of the hearing or made on the day of the hearing. The Department will rule upon Motions to Continue filed at least 15 days prior to the date of the hearing and, when possible, notify the movant of its ruling prior to the date of the hearing. If the motion is denied, then the movant must appear at and proceed with the hearing or withdraw from the hearing.
- B) Motions to Continue which are made in person on the day of the hearing or by telephone less than 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date must also be filed in writing and received or postmarked no more than 5 days after the date of the hearing. A Motion to Continue made in writing less than 15 days prior to the date of the hearing specified in the Notice of Hearing or Notice of a continued hearing date must be received or postmarked no more than 5 days after the date of the hearing. The Department cannot assure the movant that it will rule upon such motions prior to the date of the hearing.
- C) A Motion to Continue made or filed by a petitioner waives the statutory requirement of Sections 2-118 and 3-402.B(7)(a) of the Code that his/her hearing commence within 90 days from the date of his/her written request.
- D) It is the responsibility of the movant to inform the Department, in the Motion to Continue or during his/her telephone conversation, what course of action he/she wishes to take if the motion is denied (either to appear and proceed with the hearing, withdraw or default). In all cases, it is also the responsibility of a movant who has not been notified of the Department's ruling to contact the Department on or before the day of the hearing to determine whether his/her motion has been ruled upon. A movant's failure to appear after a Motion to Continue is denied will result in the entry of an Order of Default.

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- 3) Motions Made by the Department. The Department may also make or file a Motion to Continue for unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God, the recent discovery of new evidence, the sudden illness or death of the hearing officer, the attorney representing the Secretary of State, a witness, or a member of the immediate family of the same, or if the Department is able to demonstrate some other real and compelling need for additional time.
- 4) Motions to Withdraw. Except as provided in this subsection (n)(4) and in Section 1001.70, a petitioner may withdraw from a hearing for any reason. A Motion to Withdraw made in person or by telephone on or before the day of the hearing must be followed up with a written motion ~~that~~which is received or postmarked no more than 5 days after the date of the hearing. A Motion to Withdraw made in writing must be received or postmarked no more than 5 days after the date of the hearing. Failure to do so will result in an Order of Default. A request to withdraw from a hearing, which in the hearing officer's judgment is based upon surprise of evidence presented or adverse evidence, shall not be granted. Upon withdrawal, the requested relief will not be considered and the petition dismissed. Should the petitioner request another hearing, it must be done in writing and it will be treated as any other request for hearing. (See Section 1001.70.) In regard to implied consent hearings over which the Secretary of State has jurisdiction, if a petitioner withdraws a petition to contest an implied consent suspension, then it may only be refiled within 90 days after the date of withdrawal. A petition may not be withdrawn more than twice. Failure to abide by these rules will result in the denial of a petition to contest the suspension.
- 5) Attorney's Appearance Must be on File. A Motion to Continue or Withdraw made by any attorney on behalf of a petitioner/respondent will not be considered unless the attorney shall have filed a written notice of appearance as provided in Section 1001.40.
- 6) Out-of-State Petitioners. An out-of-state petitioner who fails to provide the information required by Sections 1001.100(a)(3) and 1001.440(o) within ~~3090~~ days after a written demand made by the Department to his/her last known address shall have his/her petition withdrawn by a written Order of the Director or Deputy Director. The Order shall be made part of the petitioner's permanent record and a copy shall be sent to

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the petitioner's last known address. The Department shall not accept another petition for driving relief from a petitioner whose petition for driving relief has been withdrawn pursuant to this provision for ~~30+20~~ calendar days from the date of the Order.

- o) Admissions. A party may serve on any other party a written request for the admission by the latter of the truth of any specified relevant fact set forth in the request or for the admission of genuineness of any relevant documents described in the request. Copies of the documents shall be served with the request unless copies have already been furnished.
- p) Opening and Closing Statements. Upon the opening of the hearing, the hearing officer shall allow the parties to make opening statements. Opening statements may not be made at any other time, except at the discretion of the hearing officer. Upon the close of the hearing each party may make a closing statement orally and/or by written brief at the discretion of the hearing officer, incorporating arguments of fact and law. A written brief may be required when the facts and issues are deemed complicated by the hearing officer and there is a need for the parties to plead their cases in writing for the record.
- q) Exhibits. All exhibits for any party shall be clearly marked for identification and as admitted into evidence by the hearing officer.
- r) Cross-examination of Witnesses. In the hearing of any case, any party or his agent may be called, as an adverse witness and examined as if under cross-examination, by any party. The adverse party calling for the examination is not bound by the testimony of the adverse witness, but may rebut the testimony given and may impeach the witness by proof of prior inconsistent statements. If the hearing officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him as if under cross-examination. The party calling an occurrence witness may, upon showing that he called the witness in good faith but is surprised by his testimony, impeach the witness by proof of prior inconsistent statements.
- s) Burden of Proof. The burden of proof is upon the petitioner for any relief in a hearing. The standard of proof is the preponderance of the evidence, except as provided for in Subpart D.
- t) Interpreters; Hearing Impaired. The Secretary will provide an interpreter for hearing impaired petitioners/respondents who wish to testify; providing a

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language interpreter, however, is the responsibility of the petitioner/respondent.

- u) Report of Proceedings
 - 1) The Department shall, at its expense, have present at each hearing an electronic recording device or a qualified court reporter, for the purpose of making a permanent and complete report of the proceedings, including: evidence admitted or tendered and not admitted, testimony, offer of proof, objections, remarks of the hearing officer and of the parties and/or their representatives, all rulings of the hearing officer.
 - 2) Upon request and at his/her own expense any party may have a copy of the report of proceedings, from the court reporter, or transcribed from the electronic device by the Department at the statutory rate set forth in Section 5.5 of the Secretary of State Act [15 ILCS 305/5.5] and 2 Ill. Adm. Code 551.150, or the cost of an audio tape plus mailing.

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

Section 1001.110 Orders: Notification; Time Limits on Obtaining Relief

- a) The Department shall prepare a written order for all final determinations, which shall include the Findings of Fact, Conclusions of Law, Recommendations of the hearing officer, and the Order of the Secretary.
- b) The hearing officer shall prepare the Findings of Fact, Conclusions of Law, and Recommendations to the Secretary. The Findings of Fact and Conclusions of Law must be stated separately.
- c) The Order of the Secretary of State shall be the decision of the Office upon the application for relief.
- d) The Department shall notify all parties and their agents personally, ~~or~~ by regular mail or by electronic mail, of the Findings of Fact, Conclusions of Law, Recommendations, and the Order within the statutory time limit specified in Section 2-118 of the Code. If it is the Order of the Secretary of State to grant driving relief, then the Department will also provide instructions on what steps the petitioner must take (such as, but not limited to, filing high-risk insurance, the payment of fees, taking driving tests, etc.) in order to obtain the relief. The failure to follow and complete these instructions will result in the denial of driving relief.

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- 1) Petitioners who are granted a restricted driving permit must complete the requirements for obtaining the permit within 90 days after the date of the Secretary's Order. The Department reserves the discretion to extend this deadline in order to allow a petitioner to achieve compliance, when it is apparent that the petitioner is making a good faith effort or the petitioner demonstrates that he or she has experienced a change in circumstances that requires the petitioner to provide additional information (such as, but not limited to, a change in employment).
 - 2) Petitioners who are granted the reinstatement of driving privileges must complete the requirements for effecting reinstatement within 365 days after the date of the Secretary's Order.
- e) An Order of Default shall be entered against the petitioner or respondent, who fails to appear for a hearing at the scheduled time and has failed to request or been granted a continuance in accordance with Section 1001.100(n).
- f) Orders resulting from formal hearings are final administrative orders within the meaning of the Administrative Review Law [735 ILCS 5/Art. III].
- g) ~~The Department will accept a Motion to Correct a Material Misstatement of Fact made in an Order. Such a motion must be submitted within 30 days after the date of the Order, shall recite with particularity the nature of the material misstatement of fact, and shall be accompanied by a filing fee of \$20, in the manner and form provided in Section 1001.70.~~

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

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section 1001.220 Hearings: Notice; Location; Procedures; Record

- a) Notice of Suspension; Right to a Hearing. Subsequent to certification of an uninsured motorist by the Department of Transportation as provided by statute, and upon a preliminary finding that a *reasonable possibility of a civil judgement exists*, the Secretary shall institute a Notice of Suspension which advises the petitioner of his/her right to a hearing in lieu of deposit of security. Any petitioner by submitting a written request postmarked within 15 days after the mailing date of the Notice of Suspension, will be afforded a full, fair, and impartial hearing to

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contest the preliminary finding of the Secretary. [625 ILCS 5/7-205(a)] Any request for hearing will stay the effective date of the safety responsibility suspension pending the outcome of the hearing. Hearing requests received after the 15 day period will be granted; however, the suspension will not be stayed or removed pending the hearing.

b) Filing Fee

- 1) Effective 15 October 2001, a petition for a hearing to contest a suspension will not be accepted for filing unless it is accompanied by a fee of \$50, as provided in [Section](#) 2-118 of the Illinois Vehicle Code. This filing fee must be submitted by each party who wishes to be made a petitioner in the proceeding, in the form of a money order, a cashier's or certified check, a check drawn on the account of an attorney of record or an attorney professional corporation of record in a hearing before the Department of Administrative Hearings, or a credit card charge (with a pre-approved card), made payable to the Secretary of State.
- 2) This filing fee will not be refunded to any petitioner if the petitioner withdraws from the hearing or defaults.
- 3) In cases where a hearing is continued, any petitioner who has paid a filing fee will not be required to submit another filing fee.
- 4) In cases where a petitioner withdraws, the petitioner will be required to submit a filing fee before another hearing will be scheduled.

c) [Decisionmaking Factors; Burden of Proof.](#) The decision resulting from the hearing shall be based upon the following factors: whether the petitioner, as a motor vehicle owner or operator, has been involved, or whose vehicle has been involved, in a motor vehicle accident occurring within the State of Illinois and which has resulted in bodily injury or death of any person or in which damage to the property of any one person exceeds the amount provided by statute; whether petitioner is exempt from the Safety Responsibility Law; and whether there exists a reasonable possibility of a civil judgment against the petitioner. The petitioner shall bear the burden of proof throughout the proceedings. The standard of proof shall be a preponderance of the evidence.

d) [Issuance of Notice of Hearing.](#) The hearing shall be initiated by the issuance of a Notice of Hearing by the Secretary. The Notice shall be served upon the

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petitioner, as the person against whom action may be taken by the Secretary, any interested party, and any attorney of record.

- e) Notice of Hearing – Content. The Notice of Hearing shall be a written statement setting forth, but not limited to, the following information:
- 1) The name of the petitioner;
 - 2) The name and address of any interested party;
 - 3) The date, time, place, and nature of the hearing;
 - 4) The matters to be addressed at the hearing;
 - 5) The name of the hearing officer;
 - 6) The specific Sections of the Statutes involved;
 - 7) The statutory authority pursuant to which the hearing is being conducted;
 - 8) Notice to the petitioner that a failure to appear will result in the denial of any relief requested and that at any rehearing granted under Section 1001.260 the petitioner will be deemed to have waived the right to subpoena or cross-examine witnesses that testified at the original hearing.
- f) Location of Hearings; Notice of Change of Location. Hearings shall be conducted in the Counties of Cook, DeKalb, Will, Rock Island, Tazewell, Adams, Sangamon, Champaign, Coles, Kane, Marion, St. Clair, and Jackson, and in such other locations as the Secretary shall from time to time designate. If the Secretary determines to abandon or change the location of the hearing outside the counties specifically listed in this subsection, the Secretary shall publish in a local newspaper of general circulation in each county served by the Secretary, 20 days prior notice of the change. The notice shall indicate the reasons for the determination and shall identify the new location proposed to serve the county, if known at the time of publication.
- g) Parties to a Hearing; Disqualification of Hearing Officer. Every hearing shall be presided over by a hearing officer duly appointed by the Secretary. The Secretary may also appoint a representative to appear and participate in his behalf. Prior to the taking of evidence, a petitioner may request the disqualification of the hearing

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officer by making a motion for disqualification, stating the specific grounds upon which it is alleged that a fair and impartial hearing cannot be afforded the petitioner by the hearing officer. The hearing officer will rule upon the motion. If the motion is denied, the hearing will proceed. If the motion is granted, the case shall be transferred to another hearing officer for a same day hearing if possible. If not possible, a new hearing date will be established and another hearing officer shall be assigned by the Secretary. The hearing officer shall have authority to conduct the hearing, to rule on all motions, to administer oaths, to subpoena witnesses or documents at the request of any petitioner, to examine witnesses, and to rule upon the admissibility of testimony and evidence.

- h) Petitioner's Rights. Each petitioner to the hearing and the Secretary of State shall have the following rights:
- 1) The right to the issuance of subpoenas upon written request directed to the hearing officer at least 10 business days prior to the hearing;
 - 2) The right to call and examine witnesses;
 - 3) The right to cross-examine witnesses on any matter relevant to the issues, even though the matter was not covered on direct examination;
 - 4) The right to introduce exhibits; and
 - 5) The right to obtain in advance, upon written request, copies of all related police reports not designated confidential by State law. Requests must be submitted at least 10 business days prior to the hearing date to be considered. The petitioners may request copies of the related police reports at the hearing if the need for the copies could not be foreseen before the hearing, or the need for them arose because of the issues or allegations adduced at the hearing.
- i) Right to Counsel; Attorneys Must Be Licensed; 711 Students. The petitioner shall have the right to appear in person and be heard through an attorney at law licensed to practice in the State of Illinois or any law student licensed under Supreme Court Rule 711. If the petitioner does not testify on his/her own behalf, he/she may be called by the representative of the Secretary and examined as if under cross-examination.
- 1) Attorneys admitted to practice in states other than the State of Illinois may

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appear by special leave of the hearing officer appointed to conduct the hearing, upon the attorney's verbal representation or written documentation as to the attorney's admittance.

- 2) A natural person may appear and be heard in his/her own behalf.
- 3) A corporation, association, or partnership may appear and present evidence by any bona fide officer, employee, or representative.
- 4) Only an attorney mentioned above properly licensed shall represent anyone else in any hearing in any matter involving the exercise of legal skill or knowledge. The standards of conduct shall be the same as before the Courts of the State of Illinois.

j) Recording of Proceedings; Obtaining a Copy of the Record.

1) The proceedings shall be recorded by a suitable electronic method. The petitioner may furnish, at his/her own expense, a certified shorthand reporter. All records taken shall be properly cataloged and preserved by the Secretary for a period of at least 45 days from the entry of the hearing officer's order. Oral proceedings, or any part thereof, shall be transcribed upon the request of the petitioner, any party, or his/her counsel at the requesting party's personal expense as specified in 2 Ill. Adm. Code 551.150, or the cost of an audio tape, plus mailing.

2) Persons who are not a party to a proceeding may obtain a copy of the file, a document in the file, or a transcript of the proceeding by filing with the Department a request for the record pursuant to, and subject to the restrictions and exemptions in, the Freedom of Information Act [5 ILCS 140].

k) Record of a Hearing. The record of a hearing held pursuant to this Section shall include, but not be limited to, the following:

- 1) The notices, pleadings, and responses to pleadings;
- 2) The motions and rulings on motions;
- 3) The matters officially noticed;

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- 4) The offers of proof made and objections to and rulings on those offers;
 - 5) The opinions, recommendations, or reports by the hearing officer, Secretary, or Department; and
 - 6) A transcript of the proceedings.
- l) Interpreters; Hearing Impaired. The Secretary will provide an interpreter for hearing impaired petitioners and interested parties who wish to testify. However, it is the responsibility of the petitioner or interested parties to provide a language interpreter.

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

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS IN
DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

Section 1001.300 Applicability

- a) Lower Level Hearing; No Right to Appeal. This Subpart applies to informal hearings conducted by driver license hearing officers in the Department of Administrative Hearings of the Office of the Secretary of State in various locations throughout Illinois. They are a lower level hearing than the formal hearings conducted pursuant to Subpart A of this Part. There is no appeal from an informal hearing to a formal hearing because the formal hearing is a de novo proceeding. These informal hearings are limited to the consideration of and the making of recommendations on driver's license suspension and revocation matters and the recommendations may include any recommendation able to be made by a formal hearing.
- b) Petitions Not Subject of Informal Hearings. An informal hearing shall not, however, consider petitions in the following cases:
 - 1) the current suspension, revocation, or cancellation resulted from an offense, the facts of which involved a death;
 - 2) for the rescission or modification of suspensions or revocations;
 - 3) The license of the petitioner is currently revoked for driving under the influence or aggravated driving under the influence pursuant to Section 11-

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501 of the Code or similar provisions of local ordinances or out-of-state statutes, and the petitioner has another revocation for driving under the influence or aggravated driving under the influence pursuant to Section 11-501 of the Code or similar provisions of local ordinances or out-of-state statutes, and/or any the current suspension or revocation resulted from multiple convictions pursuant to Section 11-501 of the Code, multiple suspensions pursuant to Section 11-501.1 or 11-501.6 of the Code or similar provisions of local ordinances or out-of-state statutes, or any combination thereof arising from separate incidents;

4) an open revocation entered pursuant to Section 6-206(a)1 of the Code and 92 Ill. Adm. Code 1040.35.

c) Jurisdiction of Informal Hearings – Renewal of Permits. An informal hearing may, however, consider, after initial approval or issuance at a formal hearing, a petition for the continuation/renewal of restricted driving permits in the above cases if:

- 1) a restricted driving permit was granted from a formal hearing;
- 2) a permit is still in effect or has expired no more than 30 days from the date of the informal hearing;
- 3) the petitioner has not been subsequently convicted or received court supervision for any of the following offenses: driving under the influence or aggravated driving under the influence, leaving the scene of a fatal or personal injury collision, drag racing, reckless driving, driving while suspended or revoked, fleeing or attempting to elude a peace officer, or any of the felony offenses listed in Section 6-206(a)28 of the Code any traffic violation classified as a misdemeanor or felony. (See Sections 6-601 and 11-202 of the Code.);
- 4) the petitioner has driven on the current permit for at least 75% of the length of the permit; and
- 5) the petitioner is now eligible for and requests the continuation of the previously issued permits.

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

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Section 1001.360 Decisions; Time Limits on Obtaining Relief

- a) The decision at the informal hearing is not a final order and as such is not subject to administrative review pursuant to the Administrative Review Law. Following an adverse decision at the informal hearing, the petitioner may petition for a formal hearing conducted pursuant to Subpart A of this Part. Such a formal hearing shall constitute a de novo proceeding and is not an appeal of an adverse decision at the informal hearing.
- b) If a petitioner has had an informal hearing pursuant to this Subpart, neither a formal hearing nor another informal hearing on the same issues and/or regarding the same type of driving relief shall be held until at least 30 days have elapsed since the date of the last informal hearing.
- c) The Department shall notify the petitioner of the decision of the Secretary of State by regular or electronic mail. If it is the decision of the Secretary of State to grant driving relief, then the Department will also provide instructions on what steps the petitioner must take (such as, but not limited to, filing high-risk insurance, the payment of fees, taking driving tests, etc.) in order to obtain the relief. Failure to follow and complete these instructions will result in the denial of driving relief.
 - 1) Petitioners who are granted a restricted driving permit must complete the requirements for obtaining the permit within 90 days after the Department enters and mails the decision of the Secretary of State. The Department reserves the discretion to extend this deadline in order to allow a petitioner to achieve compliance, when it is apparent that the petitioner is making a good faith effort or the petitioner demonstrates that he or she has experienced a change in circumstances that requires the petitioner to provide additional information (such as, but not limited to, a change in employment).
 - 2) Petitioners who are granted the reinstatement of driving privileges must complete the requirements for effecting reinstatement within 365 days after the Department enters and mails the decision of the Secretary of State.

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

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF

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DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

Section 1001.410 Definitions

"Abstinence" means to refrain from consuming any type of alcohol, from any source, alcoholic liquor or other drugs.

"Abstract" means a summary of a driver's record of traffic law violations, accidents, suspensions, revocations, cancellations, address and personal information of the driver, as contained in the files of the Office of the Secretary of State.

"Accredited educational course" means any class or course of instruction offered by an accredited educational institution that is either vocational in nature or is part of the matriculation process in receiving an academic degree, diploma, or certificate. It shall also include attendance at any required instructional class in an apprentice program.

"Accredited educational institution" means any school or institution, whether public or private, that offers classes or courses of instruction, and that is reviewed and approved or granted a waiver of approval by the controlling State agency.

"Alcohol" means ethanol, commonly referred to as ethyl alcohol or alcoholic beverage.

"Alcohol and drug evaluation (Investigative)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(D) of this Subpart. The evaluation must be completed on a form prescribed by the Department. This evaluation will be conducted as required pursuant to Sections 1001.420(1) and 1001.430(d) of this Subpart, when:

the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 10 years for which the petitioner/respondent did not or was not required to submit to the Secretary an alcohol/drug evaluation to obtain driving privileges, or there is credible evidence that the petitioner had any arrest or implied consent suspension for boating or snowmobiling under the influence within the last 5 years, or the petitioner has an

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alcohol/drug-related criminal record, as defined in this Section; or

there is evidence that the petitioner/respondent may be a user of alcohol or any other drug to a degree which renders the person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)

"Alcohol and drug evaluation (Out-of-state)" means a typewritten report which conforms to standards established by the Department as specified in Section 1001.440(a)(6)(C) of this Subpart.

"Alcohol and drug evaluation (Uniform Report)" means a typewritten report which conforms to standards established by the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse (DASA). (See 77 Ill. Adm. Code 2060.503.) The evaluation must be completed on a form prescribed by DASA. The evaluation must be signed and dated by both the evaluator and the petitioner.

"Alcohol and drug evaluation (Update)" means a typewritten report which conforms to standards established by the Department, as specified in Section 1001.440(a)(6)(B) of this Subpart. The evaluation must be completed on a form prescribed by the Department. The update evaluation must be completed by a program in accordance with the provisions of Section 1001.440(a)(6)(A) of this Subpart.

"Alcohol and drug related driver risk education course" means an educational program concerning the effects of alcohol/drugs on drivers of motor vehicles, also referred to as a DUI driver remedial program, which conforms to the standards established by DASA. (See 77 Ill. Adm. Code 2060.505.)

"Alcohol/drug-related criminal record" means a petitioner's or respondent's record of being found guilty of violating the Cannabis Control Act [720 ILCS 550] or the Illinois Controlled Substances Act [720 ILCS 570], or being found guilty of the commission of a misdemeanor or felony offense while under the influence of, or impaired by the use of, alcohol or other drugs, or the facts of the offense indicate that it was committed for the purpose of obtaining alcohol or other drugs.

"Alcohol setpoint" means the minimum or nominal BrAC (0.025) at which a device is set to lock a vehicle's ignition.

"BAC" means blood alcohol concentration as determined by a chemical test

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administered by police authorities or medical personnel to measure the concentration of alcohol in the bloodstream.

"BAIID permittee " means a BAIID petitioner who has been issued an RDP as a result of a hearing.

"BAIID multiple offender " means anyone who is required to install an interlock device on all vehicles he or she owns, pursuant to Sections 6-205(h) and 11-501(i) of the IVC. Any petitioner whose current or most recent suspension or revocation is for an offense or offenses that are not alcohol/drug-related, and whose alcohol/drug use was the topic of previous hearings that resulted in a finding that the petitioner's alcohol/drug problem had been resolved and who, therefore, previously fulfilled the requirements of Sections 6-205(h) and 11-501(i), is not a BAIID multiple offender.

"BAIID petitioner" means anyone who, if issued restricted driving permits, may not operate a motor vehicle unless it has been equipped with an interlock device as defined in this Section, as required by Sections 6-205(c) and 6-206(c)3 of the IVC. Any petitioner whose current or most recent suspension or revocation is for an offense or offenses that are not alcohol/drug-related, and whose alcohol/drug use was the topic of previous hearings that resulted in a finding that the petitioner's alcohol/drug problem had been resolved, is not a BAIID petitioner.

"BAIID provider" means an entity authorized by the Secretary to contract with BAIID permittees and distribute, supply, install, maintain and monitor BAIID devices. A "BAIID provider" may be an authorized agent or representative of a manufacturer or an independent entity. "BAIID provider" may be synonymous with vendor, supplier, manufacturer, or installer.

"Breath Alcohol Ignition Interlock Devices (BAIID)" means a mechanical unit that is installed in a vehicle which requires the taking of a BrAC test prior to the starting of a vehicle. If the unit detects a BrAC test result below the alcohol setpoint, the unit will allow the vehicle ignition switch to start the engine. If the unit detects a BrAC test result above the alcohol setpoint, the vehicle will be prohibited from starting. The unit or combination of units, to be approved by the Secretary, shall measure breath alcohol concentrations by breath analysis and shall include both simple and complex units.

"BrAC" means the w/v breath alcohol concentration.

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"BUI" means boating under the influence, as defined in the Boat Registration and Safety Act [625 ILCS 45].

"Certified Controlled Reference Sample" means a suitable reference of known ethyl alcohol concentration.

"Chemical Test" means the chemical analyses of a person's blood, urine, breath or other bodily substance performed according to the standards promulgated by the Department of State Police. (See 20 Ill. Adm. Code 1286.)

"Circumvention" means an overt, conscious effort to bypass the BAIID or any other act intended to start the vehicle without first taking and passing a breath test.

"Clinical Impression" means a qualified treatment professional's (see Section 1001.440(b)(2) through (b)(6)) opinion regarding the effectiveness of substance abuse treatment provided to an individual and the likelihood of future alcohol/drug-related problems. This constitutes the treatment professional's most reasonable clinical judgment based on direct involvement with the individual throughout the course of treatment. It should not be interpreted as a definitive statement regarding the likelihood of future alcohol/drug-related problems.

"Code" or "IVC" means the Illinois Vehicle Code [625 ILCS 5].

"DASA" means the Illinois Department of Human Services, Division of Alcoholism and Substance Abuse.

"Decertification" means the removal or cancellation by the Secretary of the authorization to sell, rent, distribute, supply, install, service, repair, or monitor BAIIDs for BAIID permittees and BAIID multiple offenders. The Secretary may decertify a BAIID provider or a particular type of BAIID. "Decertification" is synonymous with disqualification.

"Department" means the Department of Administrative Hearings of the Office of the Secretary of State.

"Designated driver remedial or rehabilitative program" means an alcohol or drug evaluation, an alcohol or drug-related driver risk education course, an alcohol or drug treatment program, the Office driver improvement program, or any similar program intended to diagnose and change a petitioner's driving problem as evidenced by the petitioner's abstract. (See Sections 6-205(c) and 6-206(c)3 of

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the Code.)

"Device" means a breath alcohol ignition interlock device approved by the Secretary.

"Director" means the Director or Acting Director of the Department.

"Documentation of Abstinence" means testimony and documentation, in the form of affidavits, letters, etc., from individuals who have regular, frequent contacts with the petitioner (e.g., spouse, significant other, employer, co-workers, roommates) verifying that to the best of their knowledge the petitioner has been abstinent from alcohol/drugs for a specified period of time.

"Driver License Compact" is an agreement among signatory states that deals with the problems of: issuing drivers' licenses to people who move from one signatory state to another; and drivers who are licensed in one signatory state and convicted of traffic offenses in other such states. The Compact has been codified in Illinois and is found in Chapter 6, Article VII of the Code.

"DUI" means driving under the influence.

"DUI disposition" means any conviction or supervision for DUI, or any conviction for reckless homicide when alcohol and/or drugs is recited as an element of the offense or other credible evidence indicates that the petitioner's/respondent's conduct causing death involved the use of alcohol or other drugs, or reckless driving reduced from DUI, or any statutory summary suspension or implied consent suspension. This definition applies to offenses that are committed in other states as well as in Illinois, and regardless of whether the offense has been recorded to the offender's Illinois criminal or driving record.

"Employ" or "employed" or "employment" shall all relate to activity for compensation to support oneself or one's dependents as well as activities ordered by a court in connection with a sentence that includes the completion of a term of community service. Employment need not be the sole or primary means of support for the petitioner or his/her dependents.

"Evaluator" means any person licensed to conduct an alcohol and drug evaluation by DASA. (See 77 Ill. Adm. Code 2060.201.) A treatment provider may be considered an evaluator for the purpose of completing an updated evaluation in accordance with Section 1001.440(a)(6)(A) of this Subpart.

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"Failure to successfully complete a running retest" means any time the BAIID Permittee registers a BrAC reading of 0.05 or more on a running retest or fails to perform a running retest that has been requested.

"Fee" means the statutory fees for restricted driving permits or reinstatement of driving privileges, as specified in Section 6-118 of the Code.

"Hearing" means informal hearings and/or formal hearings.

"High Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner with:

symptoms of substance dependence (regardless of driving record), referred to in this Part as High Risk Dependent; and/or

within the 10 year period prior to the date of the most current (third or subsequent) arrest, any combination of two prior convictions or court ordered supervisions for DUI, or prior statutory summary suspensions, or prior reckless driving convictions reduced from DUI, resulting from separate incidents, referred to in this Part as High Risk Nondependent. (See 77 Ill. Adm. Code 2060.503(g).)

"Immediate family" means a member of the petitioner's household, the petitioner's parents, grandparents, children, and significant other.

"Initial Monitor Report" means the monitor report obtained or required to be obtained within the first 30 days after initial installation of the device.

"Installer" means an individual trained by a BAIID provider or manufacturer to install, repair, maintain, or monitor a BAIID and employed by an authorized BAIID provider, service center, vendor or manufacturer. "Installer" is synonymous with an authorized entity providing installation, repair, or monitoring services to BAIID permittees through such trained individuals.

"JDP" means a Judicial Driving Permit, as defined by Section 6-206.1 of the Code, which may be ordered by the court of venue to "first offenders" as defined in Section 11-501.1 of the Code.

"Lockout" means the device must prevent engine ignition by a virtual lock with

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90% certainty or near absolute lock at 99.5% certainty.

"Manufacturer" means the maker of a BAIID or ~~its~~^{its} authorized representative.

"Medical or physical BAIID modification" means a demonstrated physical or medical condition documented in writing by a physician that consistently interferes with the normal operation of the BAIID by the BAIID permittee for which the Department may authorize a modification of the BAIID or its programming to accommodate the condition without violating the BAIID rules and statutory requirements .

"Medical or Physical BAIID Waiver" means a demonstrated physical or medical condition, documented in writing by a physician, that consistently interferes with or prevents the normal operation of the BAIID by the BAIID permittee for which the Department may authorize a waiver of the BAIID.

"Minimal Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

no prior conviction or court ordered supervisions for DUI, no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

a blood alcohol concentration (BAC) of less than .15 as a result of the most current arrest for DUI; and

no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

"Moderate Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

no prior conviction or court ordered supervisions for DUI, and no prior statutory summary suspensions, and no prior reckless driving conviction reduced from DUI; and

a blood alcohol concentration (BAC) of .15 to .19 or a refusal of chemical testing as a result of the most current arrest for DUI; and no other symptoms of substance abuse or dependence. (See 77 Ill. Adm. Code 2060.503(g).)

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"Monitor report" means an electronic report or a printout of the activity of a device obtained by the manufacturer or installer at the time of an inspection of the device which shall include at a minimum the number of successful and unsuccessful attempts to start the vehicle and rolling retests, including each date, time, and BrAC reading, and any evidence of tampering or circumvention of the device.

"National Driver Register" means a central index, maintained by the U.S. Department of Transportation, of individuals whose driving privileges are denied, terminated or withdrawn, as reported by the states' driver licensing authorities.

"Office" means the Office of the Secretary of State and not any particular department address or location.

"Permanent lockout" means that feature of the device that prevents a vehicle with the device installed from starting after the lapse of the 5 days (see 92 Ill. Adm. Code 1001.442(b)(7)) and requires servicing by the manufacturer/installer of the device to make the vehicle operable for failure to take the vehicle with the device to the manufacturer or installer for any required monitor report or for any failure to send the device to the manufacturer within 5 days after any service or inspection notification.

"Petitioner" is the party who seeks or applies for relief from the Office from the suspension, revocation, cancellation, or denial of his/her driving privileges pursuant to the provisions of the Illinois Vehicle Code.

"RDP" means a restricted driving permit, as defined by Section 1-173.1 of the Code and limited as specified in Sections 6-205(c) and 6-206(c)3 of the Code.

"Reinstatement" means the restoration of driving privileges entitling the petitioner to apply for a new driver's license in accordance with the requirements of the Illinois Vehicle Code and this Chapter.

"Respondent" means a person against whom a complaint or petition is filed, or who, by reason of interest in the subject matter of a petition or application or the relief sought through that action, is made a respondent or to whom an order or complaint is directed by the department initiating a proceeding.

"Running retest" means that feature of the device that requires the driver to take

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additional BrAC tests after the initial test to start the vehicle.

"Secretary" means the Illinois Secretary of State or his designee.

"Service or inspection notification" means that feature of the device that advises or notifies the BAIID permittee to either take the vehicle with the device installed to the BAIID provider or installer or send the device to the BAIID provider or installer for the required inspection and the monitor report.

"Service center" means an authorized dealer, distributor, supplier, or other business engaged in the installation of BAIIDs and is synonymous with installer.

"Significant other" means any person with whom an individual is experiencing an ongoing, close association that represents a meaningful part of that individual's established life style (e.g., spouse, other family member, employer, co-worker, clergy member, roommate).

"Significant Risk" means the classification resulting from an alcohol and drug evaluation assigned to a petitioner who has:

one prior conviction or court ordered supervision for DUI, one prior statutory summary suspension, or one prior reckless driving conviction reduced from DUI; and/or

a blood alcohol concentration (BAC) of .20 or higher as a result of the most current arrest for DUI; and/or

other symptoms of substance abuse. (See 77 Ill. Adm. Code 2060.503(g).)

"Stressed" means conditions such as temperature extremes, vibration, and power variability.

"SUI" means snowmobiling under the influence, as defined in the Snowmobile Registration and Safety Act [625 ILCS 40].

"Support/recovery program" means specific activities which a recovering alcoholic/chemically dependent person has incorporated into his/her life style to help support his/her continued abstinence from alcohol and other drugs. This may include, but is not limited to, participating in a self-help program (Alcoholics Anonymous, Narcotics Anonymous, etc.) or a professional support group, or

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regularly and frequently engaging in religious or other activities which have a distinct and positive effect on an individual's continued abstinence. Any program and its relationship to the individual's ability to remain abstinent must be clearly identified and verified by proper documentation independent from an individual's self report (such as indicated in Section 1001.440(e) through (i) of this Part). The hearing officer shall determine the viability of the petitioner's program as a means of supporting continued abstinence, taking into account all the evidence brought forward at the hearing, as well as considering whether the program is substantially consistent with the following criteria:

The program encourages life style change which involves the replacement of substance using activity with non-substance using activity; a strong focus of the program is to provide ongoing assistance in identifying and resolving substance dependency-related issues that may jeopardize an individual's continued recovery;

The program encourages positive individual values of responsibility and honesty, as well as less self-centered thinking;

The program has demonstrated a durability and stability over time that reflects its usefulness in supporting long-term recovery.

"Tampering" means an overt, conscious attempt to disable or disconnect the interlock device.

"Treatment Needs Assessment" means an assessment of a petitioner's current need for alcohol/drug treatment, counseling, or other intervention services or rehabilitative activity, composed by a licensed treatment provider.

"24 Hour lockout" means that feature of the device that causes a vehicle with the device installed to become inoperable for a period of 24 hours any time the device registers 3 BrAC readings of 0.05 or more within a 30 minute period.

"Undue hardship as it relates to educational pursuits" means an extreme difficulty in getting to and from the location of the accredited education course, due to the loss of driving privileges. It is more than mere inconvenience to the petitioner, and pertains only to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

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"Undue hardship as it relates to employment" means, as used in the context of Sections 6-205(c) and 6-206(c)3 of the Code, an extreme difficulty in regard to getting to or from a petitioner's place of employment or to operate on a route during employment; e.g., as delivery person, because of the suspension, revocation, or cancellation of the petitioner's driving privileges. It is more than mere inconvenience on the petitioner and pertains only to the petitioner. All other reasonable means of transportation must be unavailable to the petitioner. An undue hardship is not shown by the mere fact that the driving privileges are suspended or revoked.

"Undue hardship as it relates to necessary medical care" means an extreme difficulty in regard to getting to and from a location where petitioner or a member of his/her immediate family receives examinations, therapy or treatment, etc., prescribed or recommended by a licensed physical or mental health care provider. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. An undue hardship is not demonstrated by the mere fact that the petitioner's driving privileges are suspended or revoked.

"Undue hardship as it relates to support/recovery program" means an extreme difficulty in regard to getting to and from a location where a petitioner is participating in an ongoing support program. It means more than mere inconvenience. There must be no other reasonable alternative means of transportation available. An undue hardship is not demonstrated by the mere fact that the petitioner's driving privileges are suspended or revoked.

"Unsuccessful attempt to start the vehicle" means anytime the BAID permittee registers a BrAC reading of 0.025 or more on the device when attempting to start the vehicle.

"Vehicle", for purposes of the Breath Alcohol Ignition Interlock Device Program, means every apparatus in, upon or by which any person or property is or may be transported or drawn upon a highway and that is self-propelled, except for apparatuses moved solely by human power, motorized wheelchairs, motorcycles and motor driven cycles.

"Vendor" means a retail or wholesale supplier of a device, and may include a service center.

"W/V" means weight of alcohol in the volume of breath based upon grams of

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alcohol per 210 liters of breath.

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

Section 1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits

- a) **Burden of Proof.** Petitioners who are not eligible for reinstatement of driving privileges at the time of their hearing must prove that there is no reasonable alternative means of transportation available, that they will not endanger the public safety and welfare, and that an undue hardship will result if they are not issued a restricted driving permit (RDP). The Secretary of State does not weigh the nature or extent of a petitioner's hardship against the risk he/she poses to the public safety and welfare. Rather, the petitioner must first carry his/her burden of proving that he/she will not endanger the public safety and welfare in order for the Secretary of State to consider whether the petitioner has an undue hardship.
- b) **RDP Classifications**
 - 1) **Employment.** A petitioner for an employment related RDP must be currently employed, or present a verifiable commitment for employment, and the employment must be verified upon forms prescribed by the Department. If the petitioner is self-employed, evidence of self-employment can include, but is not limited to, stationery, business card, official receipt, check, State or Federal tax returns or letters from business associates.
 - 2) **Medical or Treatment.** A petitioner for an RDP for medical or treatment purposes must provide verifiable documentation from the licensed physical or mental health care provider involved that the petitioner or a member of his/her immediate family (who is unable to operate a motor vehicle) must receive or is receiving services on a regularly scheduled basis.
 - 3) **Community Service.** A petitioner for an RDP for court ordered community service must provide certified court documents detailing the terms of the service, including but not limited to the place or places the service is performed, the hours during which the service is to be performed and the nature of the service.

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- 4) Educational. A petitioner for an educational RDP must be currently enrolled, or intend to enroll for the next available session, in an accredited educational institution for the purpose of taking an accredited educational course or courses. Prior to the issuance of any educational RDP, the petitioner must submit verification of enrollment from the institution. The verification shall be on a form provided by the Secretary of State.
- 5) Support/Recovery.
 - A) A petitioner for a support/recovery program RDP must provide verifiable documentation, from members of the group or program, that he/she has been attending meetings on a regular basis.
 - B) A petitioner who wishes to begin or resume participation in a support/recovery program, but who resides alone or in a household in which there is no other licensed driver and resides in a remote location in or near a community in which public transportation is not available, will be considered for a support/recovery program RDP if the petitioner proves that he/she has been abstinent from all alcohol and drugs for a minimum of 12 months and has satisfied the other provisions of this Subpart.
- 6) Revocations for Reckless Homicide and Aggravated DUI Involving a Fatality. A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence that involved a fatality must submit, with the petition for driving relief, either a copy of the Order of the circuit court that states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections that reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for the issuance of a restricted driving permit pursuant to Sections 6-205(c) and 6-206(c)3 of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.
- c) Jurisdiction/Eligibility. An RDP may be granted only after suspension, revocation, or cancellation for the offenses listed in Sections 6-205, 6-206, 6-303,

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6-201(a)5 as it relates to 6-103.4, 11-501.1, 11-501.6 and 11-501.8 of the Code. Petitioners who are eligible to apply for a JDP are not eligible for and will not be considered for an RDP.

- d) Undue Hardship. A petitioner must prove by clear and convincing evidence that an undue hardship is currently being suffered as a result of the inability to legally operate a motor vehicle. Mere inconvenience to the petitioner or family and friends is not undue hardship. The petitioner should produce clear and convincing evidence as to the unavailability of reasonable alternative means of transportation, such as but not limited to: walking, mass transit, car pools, or being driven; how the petitioner is currently getting to his/her destination; whether driving is required in the course of employment; the distance between the petitioner's residence and his/her destination; and similar factors relating to employment, necessary medical care, support/recovery program meetings, community service and/or educational pursuits.
- 1) Appropriate limits will be established for necessary on-the-job driving. The days, hours, and mileage limits will not exceed those absolutely necessary for the accomplishment of the petitioner's primary employment and shall be limited to a maximum of 12 hours per day and 6 days per week unless the request for increased limits is substantially documented, such as through an employer's verification of the petitioner's work schedule.
 - 2) A support/recovery program RDP may include attendance at no more than 3 meetings per week.
 - 3) An educational RDP will be subject to appropriate limits necessary to allow the petitioner to get to and from the subject institution/courses. The days and hours will not exceed those absolutely necessary for that purpose and shall be limited to a maximum of 12 hours per day and 6 days per week. Additional parameters to consider in setting these limits shall include whether the petitioner commutes daily to the courses, is required to participate in clinical or student teaching programs in order to fulfill the requirements for a degree in his/her chosen field, or lives on or within a radius of one mile from the campus and only needs to drive to and from the institution on an infrequent basis (less than once per week) and is then able to get to the courses by other means of transportation. The permit shall expire at the conclusion of the period for which it is granted.

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- e) Factors Considered. Factors which will be considered by the Department in determining the propriety of granting a petitioner an RDP include, but are not limited to: the petitioner's age; whether the petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner in the hearing; credibility of petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's documentary evidence; petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permits were issued pursuant to the order of a circuit or appellate court following an administrative review action) and driving record while on such permits; record of performance while driving with an interlock device; driving history in another state if licensed previously; any arrest or implied consent suspension for boating or snowmobiling under the influence; petitioner's alcohol/drug-related criminal record as defined in Section 1001.410; reports of probation and/or parole officers; and psychiatric reports where the evidence shows that petitioner is suffering or has suffered from a mental disorder which might affect his/her ability to operate a motor vehicle in a safe and responsible manner.
- f) Public Safety and Welfare. Pursuant to Sections 6-205(c) and 6-206(c)3 of the Code, the public welfare and safety must not be endangered by the issuance of an RDP. The evidence must show that the petitioner will operate a motor vehicle safely so as not to be a danger to himself or herself or others. The mere passage of time since the date of revocation is not sufficient evidence.
- g) Ticket Pending. An RDP will not be issued while any traffic offense ticket is pending against a petitioner in any court of this or any other state, unless the pending citation or citations are also the only cause of the current loss of driving privileges.
- h) Referral to Remedial Program. A petitioner who is otherwise eligible for an RDP may be referred to a remedial or rehabilitative program prior to the permit's issuance, if his/her driving record warrants these measures. (See Sections 6-205(c) and 6-206(c)3 of the Code.)
- i) Probationary RDP – Hardship Not Required. A petitioner otherwise eligible for reinstatement of driving privileges or termination of a cancellation under Section 6-201(a)5, as it relates to 6-103.4, may be issued an RDP for a probationary or trial period prior to reinstatement of driving privileges or termination of

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cancellation in cases where the petitioner has a poor driving record (evidenced by many minor violations or a few serious violations) or involvement as a driver in a traffic collision or collisions resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, or has been evaluated as Moderate Risk, Significant Risk or High Risk by an alcohol/drug evaluation. A petitioner is not required to prove an undue hardship in order to obtain a probationary RDP. The fact that a petitioner was not cited or arrested for, or convicted of, any traffic offense while driving on a probationary permit does not, in and of itself, entitle the petitioner to reinstatement.

- j) Out-of-state Resident. An RDP will be issued to an out-of-state resident only if he/she has a valid license to drive issued by the jurisdiction in which he/she resides; he/she has a verified employment, medical, community service or educational related need to drive in Illinois; and he/she complies with all other requirements of this Subpart.
- k) New Resident of Illinois. An RDP will not be issued to a new resident of Illinois if his/her driving privileges are suspended in another jurisdiction until such time as that suspension is terminated. An RDP may be issued to a new resident of Illinois if his/her driving privileges are revoked in another jurisdiction, pursuant to Section 6-103.1 of the Code, under the following conditions:
- 1) At least one year has expired from the date of the revocation yet the revocation period has not expired; and
 - 2) ~~The petitioner submits written verification from the other jurisdiction indicating that an RDP or similar type of driving relief would be available if the petitioner were still a resident of that jurisdiction; and 3)~~ The petitioner meets all other applicable requirements of this Subpart.
- l) Decision. The Director or a designee shall make the final decision, on each petition, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners will receive a copy of the hearing officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.
- m) Investigative Evaluation.
- 1) A petitioner will be required to complete and submit an investigative alcohol and drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record,

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indicates that:

A+) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 10 years for which the petitioner/respondent did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges, or there is credible evidence that the petitioner had any arrest or implied consent suspension for boating or snowmobiling under the influence within the last 5 years, or the petitioner has an alcohol/drug-related criminal record, as defined in Section 1001.410; or

B2) the petitioner/respondent may be a user of alcohol or any other drug to a degree which renders that person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)

2) The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver. Furthermore, if any rehabilitative activity (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse) is recommended, then the petitioner must submit an updated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.

- n) Examination. A petitioner whose driving privileges have been revoked or cancelled or whose driver's license has expired will be required to submit to a driver's license examination prior to the issuance of an RDP.
- o) Fourth Conviction. Pursuant to Section 6-208(b)4, the Secretary of State will not issue a restricted driving permit to any person who has a fourth conviction and revocation for the offenses listed in that Section and who is, therefore, not eligible to apply for the reinstatement of driving privileges, if the arrest that resulted in the fourth conviction was made after the effective date of P.A. 90-738 (1/1/99).

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

Section 1001.430 General Provisions for Reinstatement of Driving Privileges after Revocation

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- a) Conviction is Dispositive. In all cases, a conviction in a court of law in Illinois or any other state is dispositive of the guilt of a petitioner of the offense ~~that~~which caused his/her revocation.
- b) Cause Removed. If revocation was for a cause that has been removed, such as the reversal of a conviction upon which revocation was entered, the petitioner must demonstrate that fact by clear and convincing evidence.
- c) Hardship Not Required; Factors Considered. A petitioner who is otherwise eligible for reinstatement of driving privileges at the time of his/her hearing is not required to prove an undue hardship as a condition of being reinstated. The factors that will be considered by the Department in determining the propriety of reinstating a petitioner whose driving privileges have been revoked include but are not limited to: The petitioner's age; whether the petitioner has driven while suspended or revoked; duration of present employment; number of years licensed to drive; number, severity, and frequency of accidents; frequency, type, and severity of traffic violations; efforts at rehabilitation or reform of past driving practices; demeanor of petitioner in the hearing; credibility of petitioner and witnesses in the hearing; credibility of and weight given to the petitioner's documentary evidence; petitioner's total driving record, including but not limited to reasons for violations, prior permits issued (unless such permit was issued pursuant to the order of circuit or appellate court following an administrative review action), and driving record while on any permit; record of performance while driving with an interlock device; driving history in another state if licensed previously; any arrest or implied consent suspension for boating or snowmobiling under the influence; petitioner's alcohol/drug-related criminal record, as defined in Section 1001.410; reports of probation and/or parole officers; and psychiatric reports where the evidence shows that petitioner is suffering or has suffered from a psychiatric disorder that might affect his/her ability to operate a motor vehicle in a safe and responsible manner. The fact that a petitioner was not cited or arrested for, or convicted of, any traffic offense while driving on a probationary permit does not, in and of itself, entitle the petitioner to reinstatement.
- d) Investigative Evaluation
- 1) A petitioner will be required to complete and submit an investigative alcohol drug evaluation as part of the Secretary's investigative process, where the evidence, including the petitioner's driving record, indicates

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that:

- A) the current loss of driving privileges is not related to a DUI arrest/disposition yet the petitioner's/respondent's driving record contains, or other evidence indicates the existence of, a prior DUI disposition or any other conviction or loss of driving privileges that was alcohol/drug related within the last 10 years for which the petitioner/respondent did not or was not required to submit to the Secretary of State an alcohol/drug evaluation to obtain driving privileges, or there is credible evidence that the petitioner had any arrest or implied consent suspension for boating or snowmobiling under the influence within the last 5 years, or the petitioner's has an alcohol/drug-related criminal record, as defined in Section 1001.410; or
- B) the petitioner/respondent may be a user of alcohol or any other drug to a degree that renders that person incapable of safely driving a motor vehicle. (See Section 6-103.4 of the Code.)
- 2) The petitioner will be required to complete any recommended rehabilitative activity or provide a waiver. Furthermore, if any rehabilitative (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse) activity is recommended, then the petitioner must submit an updated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.
- e) Examination. A petitioner will be required to submit to a driver's license examination prior to the reinstatement of driving privileges if the test has not been successfully completed in the preceding 12 months.
- f) Public Safety and Welfare. In case of either subsection (b) or (c), the public welfare and safety must not be endangered by the reinstatement of the petitioner's driving privileges. The petitioner, if restored to full driving privileges, must operate a motor vehicle safely so as not to be a danger to himself or herself or other drivers on the road. The mere passage of time since the date of revocation is not sufficient evidence.
- g) Eligibility: New Residents of Illinois. A hearing for reinstatement will not be conducted at any time before the prescribed date of eligibility. The Secretary of State will not issue a driver's license to a new resident of Illinois while his/her driving privileges are revoked in another jurisdiction, pursuant to Section 6-103.1

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of the Code.

- h) Ticket Pending. The driving privileges of a petitioner shall not be reinstated while any traffic offense is pending against him/her in any court.
- i) 75% Rule. A petitioner who is driving on a ~~probationary~~-restricted driving permit at the time of his/her hearing will not be considered for reinstatement of driving privileges, regardless of the petitioner's ~~eligibility~~-date of eligibility for reinstatement, unless he/she has successfully completed driving on that permit for 75% of its length, or has driven continuously on the current permit and a previously issued permit for a total of at least 9 months at the time that the petitioner becomes eligible for the reinstatement ~~of driving privileges~~. However, a petitioner may appeal to the Director of the Department for a waiver of this provision when exigent circumstances warrant consideration of a waiver. An exigent circumstance is one that would prevent the petitioner from ever being able to meet this requirement, such as moving out of the State.
- j) Decision. The Director or a designee shall make the final decision, on each petition, on behalf of the Secretary. If relief was sought at a formal hearing, petitioners will receive a copy of the hearing officer's Findings of Fact, Conclusions of Law, and Recommendations, and the Secretary's Order.
- k) Out-of-state Petitioners. Notwithstanding any other provisions of this Subpart, the following provisions for reinstatement of the Illinois driving privileges for certain out-of-state petitioners shall apply:
 - 1) Out-of-state petitioners whose driving privileges are revoked in Illinois shall be granted reinstatement of Illinois driving privileges upon a showing that:
 - A) he/she is not currently a resident of the State of Illinois and resides more than 30 miles from the Illinois border;
 - B) at the time of arrest or arrests in Illinois for the violations that led to the revocation of the Illinois driving privileges, the petitioner was not licensed to drive in Illinois, was a resident of a state or jurisdiction other than Illinois, and continues to reside in that or any other state or jurisdiction;
 - C) the petitioner is not currently seeking to reside in or be licensed to

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drive in the State of Illinois;

- D) the state of residence and/or licensure of the petitioner at the time of the Illinois arrests did not take action, or took action against the driving privileges of the petitioner based upon the Illinois arrest and the action has terminated;
 - E) but for the revocation in Illinois, the petitioner is not prohibited from obtaining driving privileges in any state or jurisdiction other than Illinois; and
 - F) the petitioner has paid all necessary fees due the State of Illinois.
- 2) Out-of-state petitioners granted reinstatement under the provisions of this subsection (k), who subsequently apply for Illinois driving privileges and a driver's license within 3 years from the date of reinstatement in Illinois, shall be required to have an administrative hearing and meet all of the applicable requirements of this Subpart prior to the issuance of any Illinois driving privileges and a driver's license.
- 1) Revocations for Reckless Homicide and Aggravated DUI Involving a Fatality. A petitioner who has an open revocation for reckless homicide or aggravated driving under the influence that involved a fatality must submit, with his or her petition for driving relief, either a copy of the Order of the circuit court that states the sentence received upon conviction, certified by the Clerk of the Court, or a document from the Department of Corrections that reflects: the offense for which the petitioner was imprisoned; the date of release from imprisonment; and the terms of release or parole. For the purpose of determining a petitioner's eligibility for reinstatement pursuant to Section 6-208(b)1 of the Code, the date of release from imprisonment refers to the imprisonment on the conviction for the offense and does not include release from imprisonment for a violation of parole or probation. It is the responsibility of the petitioner to provide documentation that clearly reflects the date of his/her release from imprisonment.

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

Section 1001.440 Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations

- a) Documents/Evidence Required. Except as provided in subsection (a)(1), in any

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application for reinstatement, an RDP, or the termination of an order of cancellation, all petitioners must submit an alcohol and drug evaluation and, where required, evidence of successful completion of an alcohol and drug-related driver risk education course and/or evidence of successful completion of treatment or proof of adequate rehabilitative progress.

- 1) An alcohol and drug evaluation and the evidence of successful completion of treatment submitted by a resident of Illinois must have been conducted by an individual or an agency licensed by DASA. An alcohol or drug-related driver risk education course completed by an Illinois resident must have been provided by an individual or agency licensed by DASA. (See 77 Ill. Adm. Code 2060.201.) Exceptions to these requirements will be allowed in the cases listed in subsections (a)(1)(A) and (B), as follows: ~~In such case, the evaluation and driver risk education course must be provided by an individual or agency accredited by the state in that the individual or agency operates:~~
 - A) ~~If~~ the petitioner is currently and has been temporarily residing outside the State of Illinois (except as provided in Section 1001.100(a)(2)), then the evaluation, treatment, and driver risk education course may be provided by an individual or agency accredited by the state in which the individual or agency operates;
or
 - B) ~~If~~ the petitioner currently resides in Illinois but received treatment for alcohol or drug abuse or dependence from a treatment program located outside the State of Illinois that has been appropriately accredited by the state in which it operates, then the petitioner may document the successful completion of that treatment in the manner provided by subsection (m) of this Section. However, the petitioner's evaluation and driver risk education course must be provided by an individual or agency licensed by DASA.
- 2) Out-of-state Petitioners. If the petitioner is a resident of another state at the time he or she files a petition for reinstatement of Illinois driving privileges and is, therefore, applying as an out-of-state resident pursuant to Section 1001.100(a), he/she may submit an evaluation, evidence of successful completion of an alcohol and drug-related driver risk education course and/or evidence of successful completion of treatment or proof of

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adequate rehabilitative progress from the state in which he/she resides or from any other state, so long as the agency that provides these services has been appropriately accredited by the state in which it operates.

- 3) Choice of Programs. The choice of these programs is within the discretion of the petitioner. The evidence submitted must be typewritten, although the evaluator may testify at any hearing.
- 4) Evaluation Standards. The alcohol and drug evaluation (uniform report), as defined in Section 1001.410, must conform to all current standards for an evaluation set by DASA, where applicable, and/or to all current Secretary of State requirements set forth in this Subpart D. (See 77 Ill. Adm. Code 2060.503.) The evaluation must be signed and dated by both petitioner and evaluator. The ~~evaluation uniform report~~ must include a recitation of the petitioner's alcohol/drug use history, from first use to present use; any out-of-state DUI disposition, regardless of whether the offense has been recorded to the offender's Illinois driving record; any arrests or implied consent suspensions for boating or snowmobiling under the influence that occurred within the last 5 years; and the petitioner's alcohol/drug-related criminal record, as defined in Section 1001.410.
- 5) Driver Risk Education Course. The alcohol and drug-related driver risk education course must, at a minimum, conform to the standards for alcohol/drug driver risk education courses set by DASA. (See 77 Ill. Adm. Code 2060.505.) Any alcohol or drug related driver risk education course required by this Part must be completed ~~on a date~~ after the date of the most recent arrest for DUI-disposition-arrest-date.
- 6) Evaluation Must Be Current. The alcohol and drug evaluation must be current, which is defined as having been completed within 6 months prior to the date of the hearing.
 - A) Updated Evaluation. An updated evaluation shall be conducted only by means of an in-person interview and only by the same program ~~that~~which conducted the original evaluation. Exceptions to the latter requirement will be allowed under the following circumstances:
 - 1) Transfer of File. If the petitioner's evaluation or treatment case file or copies of all evaluation or treatment case file

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material are transferred to another evaluation or treatment program that~~which~~ prepares the update. The program agency that conducts the updated evaluation should explain, either in a separate cover letter or in the body of the updated evaluation, how, when and why the petitioner's file was transferred to it. The transfer will be considered acceptable only if the original evaluating program can no longer provide evaluation services for reasons such as a suspended or revoked license or voluntarily terminating evaluation business operations, or if an individual service provider leaves the program that conducted the original Uniform Report and the petitioner wishes to continue receiving services from that individual, or if the petitioner relocates to another part of the state. In the latter case, the petitioner carries the burden of proving that he or she relocated at least 50 miles from the original service provider's nearest location. When transferring a file, the sending program agency shall not allow it to be delivered by the petitioner to the receiving agency. If an update cannot be obtained by reviewing the original case file information, another original evaluation must be submitted.

- 2) Treatment Provider. If the petitioner completes treatment recommended as a result of the most recent alcohol and drug evaluation, the program providing the treatment may prepare any subsequent updated evaluation from its own case file information without obtaining the information from the evaluating program that made the treatment recommendation. Furthermore, a chronological alcohol/drug use history may be prepared by the program that provided the treatment, when one is requested by the petitioner, the Secretary or a hearing officer in a decision entered as a result of a formal or informal hearing, to be submitted as part of the petitioner's evidence at his/her next hearing.

- B) Updated Evaluation – Content. An updated evaluation shall contain, at a minimum, the following: a description of alcohol/drug use and/or abuse covering the time since the last evaluation or update; the facts of any arrest or citation for a traffic

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or criminal offense that is, in any way, alcohol/drug-related; any impairment of significant life areas since the last evaluation or update; the evaluator's previous and current alcohol/drug-use classification of the petitioner; any current recommendations and the rationale for such recommendations; and an indication of whether the petitioner has completed all prior recommendations. If the petitioner's Uniform Report did not include the alcohol/drug use history required by subsection (a)(4), then it may be provided in an updated evaluation. The updated evaluation must be corroborated by an interview with a family member or significant other. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The updated evaluation must be typewritten, on a form provided by the Department, and verified by the evaluator. (See subsection (a)(1) of this Section.)

- 1) Any updated evaluation that reclassifies a petitioner to or within a Moderate, Significant or High Risk classification shall include a referral to a treatment provider for the purpose of determining the need, if any, for additional rehabilitative activity. Any waiver of additional rehabilitative activity by the treatment provider must be in writing and include the rationale for the waiver. Any recommendation for additional rehabilitative activity must be complied with before relief will be granted.
 - 2) A petitioner may not submit an updated evaluation if the uniform report evaluation being updated does not discuss the most recent DUI disposition. In such case the petitioner must submit a uniform report evaluation.
 - 3) An updated evaluation may not reclassify a petitioner from a previous classification unless the evaluator believes that the previous classification was improper or in error and justifies and explains in detail why the previous classification was improper or in error and why the new classification is proper and appropriate.
- C) Out-of-state Evaluation – Content. An out-of-state alcohol and drug evaluation shall contain, at a minimum, the following: a

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complete alcohol and drug use history, from first use to present use; a history of any alcohol and drug-related offenses (including all DUI dispositions, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record); a current alcohol/drug use classification of the petitioner and the rationale for that classification; any recommendations and the rationale for such recommendations. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information obtained must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The evaluation must be verified by the evaluator. The individual or agency that completes the evaluation must be properly accredited or licensed in the state in which the individual or agency operates.

- D) Investigative Evaluation – Content. An investigative alcohol and drug evaluation shall contain, at a minimum, the following: a complete alcohol and drug use history, from first use to present use; a history of alcohol and drug-related driving, boating, snowmobiling, and criminal offenses (including all DUI dispositions, regardless of where the offense occurred or whether it has been recorded to the offender's Illinois driving record); a clinical impression of what the evaluation data indicates and the rationale for that conclusion; any recommendations and the rationale for such recommendations. The evaluation must be corroborated by an interview with a significant other and by the administration of an objective test. The information must be summarized and the evaluator should indicate whether it corroborates the data provided by the petitioner. The evaluation must be typewritten, on a form provided by the Department, and verified by the evaluator. The program that completes the evaluation must meet the same standards as programs qualified to prepare uniform report evaluations. (See subsection (a)(1).)

- E) Update of an Investigative Evaluation. If the evaluator concludes that the petitioner does not need any rehabilitative activity (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse), and the Secretary accepts this conclusion, then the petitioner is not required to submit an updated evaluation at future hearings (assuming that there are no intervening

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alcohol/drug-related arrests or incidents that might cause the Secretary to question this conclusion). However, if the evaluator recommends any rehabilitative activity, then the petitioner must submit an updated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.

~~FE~~) Updated Evaluation Not Required. Petitioners classified at High Risk who have driven successfully on a restricted driving permit for at least 3 years after submitting an original evaluation are required to submit all documentation required by this Subpart D, except that they are not required to provide an updated evaluation if:

- i) the petitioner files for an extension of the RDP or for another hearing during the term of the current RDP; or
- ii) the current RDP is expired for no more than 30 days at the time the petitioner files for an extension of the RDP or for another hearing.

~~All other documentation required by this Subpart D must be submitted.~~

- b) Burden of Proof. Before any driving relief will be granted, the petitioner must prove by clear and convincing evidence: that he/she does not have a current problem with alcohol or other drugs; that he/she is a low or minimal risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that he/she has complied with all other standards as specified in this Subpart D. If the evidence establishes that the petitioner has had an alcohol/drug problem, the petitioner must also prove that the problem has been resolved.
- 1) Minimal Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Minimal Risk must document successful completion of a 10 hour alcohol/drug driver risk education course by submission of a document that reflects the completion of the requirements contained in 77 Ill. Adm. Code 2060.505.
 - 2) Moderate and Significant Risk. Petitioners whose use of alcohol/drugs has been classified under this Section as Moderate or Significant Risk

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must document successful completion of an alcohol/drug driver risk education course as specified in subsection (b)(1) and the treatment recommended by the evaluator or other qualified professional recommended on referral by the evaluator. The treatment must be provided by an individual or agency licensed to provide such treatment by DASA or the Department of Public Health, or an individual therapist who is licensed as a private practitioner by the Illinois Department of [Financial and Professional Regulation-Division of Professional Regulation](#), or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates.

- 3) High Risk Dependent. Petitioners classified under this Section as High Risk Dependent must document abstinence as required in subsection (e); the completion of treatment provided by a facility or facilitator licensed by DASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of [Financial and Professional Regulation-Division of Professional Regulation](#), or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; the establishment of an ongoing support/recovery program; and compliance with any additional recommendations of his/her evaluator or treatment provider.
- 4) High Risk Nondependent. Petitioners classified under this Section as High Risk Nondependent must document: non-problematic use as provided in subsection (f); treatment provided by a facility or facilitator licensed by DASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of [Financial and Professional Regulation-Division of Professional Regulation](#), or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates; compliance with any additional recommendations of his/her evaluator or treatment provider, including abstinence; and a detailed explanation by the treatment provider as to why dependency was ruled out.
- 5) Investigative Evaluation. Petitioners who obtain an investigative alcohol/drug evaluation must document the completion of any recommended [intervention or](#) treatment provided by a facility or facilitator licensed by DASA or the Illinois Department of Public Health, an individual therapist who is licensed as a private practitioner by the Illinois Department of [Financial and Professional Regulation-Division of](#)

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Professional Regulation, or an out-of-state individual therapist or agency properly licensed by the state in which he/she operates. If found to be chemically dependent, then the petitioner must prove abstinence as required in subsection (e) and the establishment of an ongoing support/recovery program, and compliance with any additional recommendations of his/her evaluator or treatment provider. Furthermore, if rehabilitative activity (i.e., a driver risk education course, intervention, or treatment for alcohol/drug abuse) is recommended, then the petitioner must submit an updated evaluation, as provided in this Subpart D, until the petitioner's driving privileges are reinstated.

- 6) Treatment Waiver Required. In the event that a treatment provider does not require an individual classified Moderate, Significant or High Risk to complete at least the minimum amount and type of intervention or treatment specified by DASA, the treatment provider must supply the Department with a detailed explanation of the rationale for that decision.
- 7) Treatment Needs Assessment Required. Whenever a service provider conducts and composes a Uniform Report, it is required to refer the petitioner to a treatment provider for an assessment of whether intervention or treatment for alcohol/drug abuse is warranted, pursuant to DASA rules at 77 Adm. Code 2060.503(h). The petitioner must provide a Treatment Needs Assessment whenever another Uniform Report is composed, regardless of whether the petitioner successfully completed intervention or treatment after the previous Uniform Report, in order to inform the Secretary whether additional intervention or treatment is warranted as a result of the information obtained during the course of the subsequent Uniform Report. The Treatment Needs Assessment shall be composed on the treatment provider's letterhead.
 - A) The Treatment Needs Assessment must be provided regardless of whether the petitioner has committed any traffic or criminal offense that mandates the composition of a Uniform Report.
 - B) The reasons for which a subsequent Uniform Report may be composed include, but are not limited to: at the request of a petitioner or petitioner's legal counsel (to, for example, start the rehabilitative process over); to obtain a second opinion on the nature and extent of a petitioner's alcohol/drug use; because the previous Uniform Report is several years old; because the program

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that composed the previous Uniform Report has ceased operations without transferring the petitioner's file to another program; because evidence at a previous hearing indicates the need for additional treatment or raises questions as to the adequacy of the treatment received; or because the petitioner has lost his/her copy of the Uniform Report and is not able to verify its authenticity or correctness.

- c) Rebuttable Presumption. The presence of more than one DUI disposition on a petitioner's abstract shall create a rebuttable presumption that the petitioner suffers from a current alcohol/drug problem and should, therefore, be classified at least Significant Risk.
- d) Evidence Considered. Evidence which shall be considered in determining whether the petitioner has met his/her burden of proof and has overcome the presumption of a current alcohol/drug problem includes, but is not limited to, the following, where applicable:
- 1) The factors enumerated in Section 1001.430(c);
 - 2) The similarity of circumstances between alcohol or drug-related arrests;
 - 3) Any property damage or personal injury caused by the petitioner while driving under the influence;
 - 4) Changes in life style and alcohol/drug use patterns following alcohol/drug-related arrest, and the reasons for the change;
 - 5) The chronological relationship of alcohol/drug-related arrests;
 - 6) Length of alcohol/drug abuse pattern;
 - 7) Degree of self-acceptance of alcohol/drug problem;
 - 8) Degree of involvement in or successful completion of prior treatment/intervention recommendations following alcohol/drug related arrests and in a support/recovery program;
 - 9) Prior relapses from attempted abstinence;

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- 10) Identification, treatment and resolution of the cause of the high risk behavior of any petitioner classified High Risk Nondependent;
- 11) The problems, pressures and/or external forces alleged to have precipitated the petitioner's abuse of alcohol or other drugs on the occasion of each alcohol/drug-related arrest, and the present status of the same, particularly whether they have been satisfactorily resolved;
- 12) The petitioner's explanation for his/her multiple arrests and/or convictions for offenses involving alcohol/drugs, particularly for allowing the second and subsequent arrests/convictions to occur;
- 13) In out-of-state petitions, the evaluator's rationale for classifying a petitioner with multiple DUI dispositions as a Minimal or Moderate Risk. In these cases it is particularly important that the evaluator's classification be based on complete and accurate information;
- 14) The petitioner's criminal history, particularly drug offenses or offenses that in any way involved alcohol/drugs;
- 15) The petitioner's chemical test results of the petitioner's blood, breath or urine from all previous arrests or all previous alcohol/drug-related offenses (not just traffic offenses) in addition to the chemical test results of the most recent arrest;
- 16) The extent to which, in terms of completeness and thoroughness, a petitioner and his/her service providers have addressed every issue raised by the hearing officers in previous hearings;
- 17) It is particularly important that the evaluator's classification be based on complete, accurate and consistent information, especially all of the petitioner's DUI arrests and BAC test results. The probative value of evaluations that deviate from this standard will be diminished. The degree to which their probative value will be diminished will depend upon the degree to which the evaluation deviates from this standard and the standards imposed by DASA;
- 18) The petitioner's record of performance while driving with an interlock device and his/her record of compliance with the terms and conditions of the breath alcohol ignition interlock device program;

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19) Written or verbal statements from members of the public, including crime victims as defined in the Code of Criminal Procedure [725 ILCS 120/3] or family members of victims of offenses committed by a petitioner, so long as the statement is relevant to the issues at the hearing;

20) The service provider's clinical rationale or justification for changing the classification of a petitioner's alcohol/drug use, or for giving a classification that is different than that given in other evaluation or treatment documents or by other service providers.

e) Documentation of Abstinence

1) Petitioners classified as High Risk Dependent, or any other petitioner with a recommendation of abstinence by a DASA licensed evaluator or treatment provider, must have a minimum of 12 consecutive months of documented abstinence. Documentation of abstinence must be received from at least 3 independent sources. The sources should not be fellow members of a support group unless those members have regular and frequent contact with the petitioner outside the group meetings. The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Letters or witness testimony establishing abstinence should contain, at a minimum, the following:

- A) The person's relationship to petitioner (friend, family member, fellow employee, etc.).
- B) How long the person has known the petitioner.
- C) How often the person sees the petitioner (daily, weekly, monthly, etc.).
- D) How long the person knows the petitioner has abstained.
- E) Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence

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pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.

- 2) Waivers of the rule requiring 12 months of abstinence are discretionary when considering an RDP but shall not be granted unless the petitioner proves at least 6 months continuous abstinence at the time of the hearing.
- f) Documentation of Non-Problematic Use
- 1) Petitioners classified as High Risk Nondependent must demonstrate at least 12 consecutive months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs. This evidence must be submitted from at least 3 independent sources and generally comply with the standards set forth in subsection (e).
 - 2) Waivers are discretionary when considering an RDP, but shall not be granted unless the petitioner demonstrates at least 6 months of non-problematic alcohol use, or abstinence, and abstinence from the use of illegal drugs.
- g) Documentation of Support/Recovery Program
- 1) If the petitioner has been attending a support/recovery program, the petitioner must present at least 3 dated and signed letters or witness testimony from fellow support/recovery program members documenting at a minimum the following:
 - A) How long the person has known the petitioner;
 - B) How long the person knows that the petitioner has attended the program;
 - C) How often the petitioner attends the program.
 - 2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted

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into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.

- h) Internet Support/Recovery Programs. A petitioner's participation in internet Alcoholics Anonymous, Narcotics Anonymous or other support/recovery program "chat rooms" or any other support/recovery program services available over the internet ~~may be is not~~ an acceptable substitute for the regular attendance of meetings in person. The factors to be considered by the hearing officer and the Secretary in evaluating the effectiveness and probative value of this form of support include, but are not limited to, the following: the petitioner's reasons for not attending meetings in person; the petitioner's alcohol/drug use history and history of relapse; the length of the petitioner's abstinence at the time of the hearing; the proximity of A.A. and N.A. meetings to the petitioner's residence and workplace; the petitioner's physical/medical condition, as it affects his/her ability to travel; the availability of public and private transportation to meetings; whether the petitioner has attended meetings in person in the past, and the length of that attendance; whether the petitioner's evaluator and treatment provider are aware and approve of the petitioner's participation in this form of support; the extent of the petitioner's knowledge of, commitment to, and involvement in the program; the extent of the petitioner's knowledge of the disease process of alcoholism/chemical dependence; the extent of the petitioner's acceptance of his/her alcoholism/chemical dependence. However, such participation will be considered as probative of the extent of the petitioner's involvement in a support/recovery program; i.e., as a supplement to the regular attendance of meetings in person. The participation in internet support/recovery program chat rooms is not favored by the Secretary of State. Therefore, substantial documentation and testimony regarding this method of support is required in order for the petitioner to carry his/her burden of proof on this issue, including identification of the specific websites that the petitioner uses and verification of the petitioner's participation by chat room members.
- i) Non-Traditional Support/Recovery Programs
- 1) If the petitioner's support/recovery program does not involve a structured, organized, recognized program such as A.A. or N.A., the petitioner is required to identify what that program is and explain how it works and keeps petitioner abstinent. The petitioner is required to present either witness testimony or written verification of the program from at least three independent sources involved in the program. If the verification is in the form of letters, those letters should be signed and dated. All such

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evidence must contain, at a minimum, the following:

- A) The person's relationship to the petitioner (friend, family member, fellow employee, etc.);
 - B) How long the person has known the petitioner;
 - C) How often the person sees the petitioner (daily, weekly, monthly, etc.);
 - D) How the person is involved in the petitioner's recovery program and what role the person plays in helping the petitioner abstain from alcohol/drugs;
 - E) What changes the person has seen in the petitioner since petitioner's abstinence.
- 2) The hearing officer shall determine the weight to be accorded the documentation, taking into account the credibility of the source and the totality of the evidence adduced at the hearing. Each letter must be dated and signed by its authors. All letters must be submitted in their original form and should be dated no more than 45 days prior to the hearing date. Telephone facsimiles and photocopies of original letters will be admitted into evidence pending the submission of the original within a reasonable number of days as determined by the presiding hearing officer.
- j) Support/Recovery Program Sponsor. If the petitioner has a support/recovery program sponsor, a letter should be obtained (or the testimony submitted) from his/her sponsor documenting the data in subsection (g)(1). The purpose of a letter or the testimony of an A.A. sponsor is to provide the Secretary with substantial detail regarding the petitioner's progress and development in the A.A. program. However, this letter or testimony can also be used to satisfy the requirements of subsection (g). The submission of a letter from a petitioner's sponsor is not mandatory, but is strongly recommended. A petitioner's failure to submit a letter from his/her sponsor is not, by itself, a sufficient basis upon which to deny driving relief.
 - k) RDP for Support/Recovery Program – Information Required. In cases where a petitioner seeks a restricted driving permit to allow him/her to drive to support/recovery program meetings, he/she must provide specific information

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identifying, at a minimum, the following:

- 1) The locations of the meetings he/she wishes to attend;
 - 2) The days of the week when meetings are held at these locations;
 - 3) The hours of the day when these meetings are held.
- l) Early Intervention – Information Required. If the petitioner has undergone early intervention (Moderate Risk classification), he/she must provide a narrative summary that includes, at a minimum, the following:
- 1) The name, address, and telephone number of the licensed service provider;
 - 2) The dates the petitioner began and completed early intervention, as well as the number of days or hours he/she was involved in the intervention process;
 - 3) A summary discussion of the intervention provided and its outcome, specifically, those issues that were addressed or explored and the provider's perception of what the petitioner gained from the experience and his/her ability to avoid future development of alcohol problems;
 - 4) The rationale for any modification in the early intervention requirements specified by DASA;
 - 5) The dated signature of the professional staff person providing the early intervention information.
- m) Treatment – Information Required. If the petitioner has had alcohol or drug related treatment, he/she must provide the following information:
- 1) A narrative summary that includes, at a minimum:
 - A) The name, address, and telephone number of treatment center;
 - B) The date the petitioner entered treatment and the date the petitioner was discharged from treatment; the number of days or hours the petitioner was involved in treatment; the admitting and discharge diagnosis;

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- C) The type of treatment received (e.g., outpatient, intensive outpatient, or inpatient treatment; individual or group therapy);
 - D) A clinical impression or prognosis of either a Moderate or Significant Risk petitioner's ability to maintain a non-problematic pattern, or a High Risk petitioner's ability to maintain a stable recovery where applicable. Specifically, the treatment provider's perception of ~~what~~ that the petitioner gained from the treatment experience and whether the experience was sufficient to substantially minimize the possibility of a recurrence of alcohol/drug related problems;
 - E) Any recommendations for continuing care or follow-up support, and an indication of the petitioner's participation, if applicable;
 - F) The rationale for any modification in the treatment requirements specified by DASA;
 - G) The dated signature of the professional staff person providing the treatment information.
- 2) Copies of the following documents required by DASA:
 - A) Individualized Treatment Plan. (See 77 Ill. Adm. Code 2060.421.)
 - B) Discharge Summary and Continuing Care Plan. (See 77 Ill. Adm. Code 2060.427.)
 - 3) A current status report regarding the petitioner's involvement in continuing care. This report must discuss the petitioner's level of progress in completing follow-up activities outlined in the Continuing Care Plan. If continuing care has been completed, a summary report must be provided that discusses the petitioner's progress throughout the course of completing all follow-up activities detailed in the Continuing Care Plan. If continuing care has been determined to be unnecessary, a report must be provided that discusses the clinical rationale for that decision.
 - 4) If the petitioner is unable to provide the required information, he/she must provide documentary evidence of his/her attempts to obtain the

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information and the reason for its unavailability.

5) The information required in subsection (m)(1) should be provided in the Treatment Verification form composed, published, and distributed to treatment providers by the Department. However, a petitioner's failure to submit a Treatment Verification form is not a sufficient basis, in and of itself, to deny driving relief, so long as the information required in subsection (m)(1) is submitted in some other format or in the other documents required to be submitted.

- n) Evaluation Written for Court. If a petitioner presents an alcohol/drug evaluation that was obtained as a condition precedent to either obtaining a JDP or the disposition of a DUI charge, that evaluation must meet the requirements of this Section in order to be accepted by the Secretary of State.
- o) Out-of-state Petitioners – Evaluation Not Required. Out-of-state petitioners whose last arrest for driving under the influence occurred more than 10 years from the date of the current application for relief may be excused from the requirement of an evaluation if the other evidence required of the petitioner, as set out in this subsection, indicates that the petitioner does not have a current problem with alcohol or other drugs; that, if the petitioner has had an alcohol problem, it has been resolved; that the petitioner is now a low or minimum risk to repeat his/her past abusive behaviors and the operation of a motor vehicle while under the influence of alcohol or other drugs; and that the petitioner can now be considered a safe and responsible driver. The rationale for this subsection is that the length of time since the petitioner's last DUI arrest indicates he/she is no longer a dangerous driver, and that Illinois' interest in a driver who no longer resides in this State is less than in one who resides in Illinois. Therefore, this exception does not apply to petitioners who reside within 30 miles of the Illinois border.
- 1) Petitioner must submit, at a minimum, the following evidence:
- A) An affidavit regarding his/her alcohol/drug use, on a form provided by the Secretary of State;
- B) At least 3 letters of reference that, at a minimum, verify the frequency and amount of the petitioner's alcohol/drug use for at least the last 12 months prior to the hearing. The letters should also discuss the petitioner's character and ability to be a safe and

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responsible driver. The author must state how long he/she has known the petitioner, how often he/she sees, speaks to, or otherwise has contact with the petitioner, the nature of the contact, and the nature of their relationship;

- C) If the petitioner was required to participate in an alcohol/drug evaluation after his/her last arrest for driving under the influence, then the petitioner must submit a copy of that evaluation;
 - D) If the petitioner has received treatment for alcohol/drug abuse, then he/she must submit a copy of the discharge summary of that treatment (written by the agency that provided the treatment);
 - E) Petitioners who have been identified as or believe themselves to be alcoholic/chemically dependent must fulfill the requirements of subsection (b)(3) pertaining to abstinence and the establishment of an ongoing support/recovery program;
 - F) Credible evidence of his/her driving record in the current state of residence. The Secretary of State may also obtain this evidence;
 - G) Any other relevant evidence the petitioner desires to provide.
- 2) Upon receipt of this evidence, it shall be reviewed by the Director of the Department, or a duly appointed hearing officer designated by the Director, for the purpose of determining whether the requirement of an alcohol/drug evaluation should be waived and the out-of-state petition disposed of based upon the evidence listed in subsection (o)(1). The factors recited in subsection (d) shall be utilized and applied in making this determination.

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

Section 1001.441 Procedures for Breath Alcohol Ignition Interlock Device Conditioned RDPs

- a) BAIID Required for RDP; Fee Required
 - 1) The issuance of RDPs to a BAIID petitioner shall be conditioned upon the use of a Breath Alcohol Ignition Interlock Device (BAIID), as required by

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Sections 6-205, 6-206 and/or 11-501 of the IVC. As provided in these Sections, a BAIID petitioner must pay a non-refundable fee of \$20 per month on an annual basis, for a total annual payment of \$240. This total annual payment must be paid in advance and prior to the issuance of any permit. Payment must be submitted in the form of a money order, check, or a credit card charge (with a pre-approved card), made payable to the Secretary of State. ~~This fee must be paid by all petitioners for the issuance of restricted driving permits at any hearing conducted on or after 9 November 2001. The payment of the fee also applies to any petitioner who was issued a BAIID permit prior to 9 November 2001 and whose driving record requires that he/she install an interlock device according to the definition set forth in P.A. 92-418 (see Sections 6-205(e) and (d) and 6-206(e)3 of the IVC), and who petitions for a hearing to renew his/her restricted driving permits on or after 9 November 2001. Anyone driving on a BAIID permit on 9 November 2001 and whose driving record does not require that he/she operate a vehicle with a BAIID according to the definition set forth in P.A. 92-418, must nonetheless drive with the BAIID until the expiration of his/her permits (without payment of the above-referenced fee). Thereafter, such a petitioner is entitled to renew the restricted driving permits without the installation of the interlock device.~~

- 2) A BAIID petitioner who is renewing restricted driving permits and who also is eligible for the full reinstatement of driving privileges less than 12 months from the date of the expiration of the current restricted driving permits at the time he/she renews the permits, shall not be required to make an annual payment. If the petitioner has been scheduled for a formal hearing on a petition for reinstatement at the time of renewal, then petitioner shall pay the above-referenced fee in an amount equal to the number of months between the date of renewal and date of the hearing, plus an additional 3 months (not to exceed 12 months), times \$20. If the petitioner does not have a formal hearing on a petition for reinstatement scheduled at the time of renewal, then the fee shall be paid for 9 months. If, however, the petitioner is denied full reinstatement, then the petitioner must resume payment on an annual basis.
- b) Notification of BAIID Requirements. The Secretary shall notify any BAIID petitioner who requests a hearing of the procedures for obtaining a BAIID and the BAIID requirements. Notification may be accomplished in one of the following ways, though not limited thereto: informal hearing officer; phone contact; written notification, or by electronic mail.

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- c) Type of Hearing Required. All hearings involving a BAIID petitioner seeking driving relief shall be formal hearings. Any extension or modification of an RDP issued under this Section may be done at an informal hearing. Any hearing involving a BAIID petitioner shall be conducted as any other hearing under this Part and all other applicable standards shall apply.
- d) Petitioner Must Meet Requirements of Subpart D. The Secretary shall issue an RDP to a BAIID petitioner if, through the hearing process, the petitioner is determined to meet all of the requirements of this Subpart D and installs and utilizes a device in all motor vehicles operated by the BAIID petitioner and, where applicable, all motor vehicles owned by the BAIID petitioner as required by the RDP issued under this Subpart D. BAIIDs shall not be installed on and BAIID permittees shall not operate motorcycles or motor driven cycles.
- e) Hearing Officer's Responsibilities; Petitioner's Responsibilities. Prior to the taking of evidence at the hearing:
- 1) The hearing officer shall make sure that the BAIID petitioner understands: all of the provisions and requirements of receiving a BAIID permit; that to obtain an RDP the BAIID petitioner must minimally meet all of the requirements of Section 1001.440 of this Subpart D and install and utilize the device; that a BAIID petitioner's agreement to install a BAIID or willingness to comply with the BAIID requirements does not guarantee issuance of an RDP; and that all costs associated with the device are the responsibility of the BAIID petitioner; and
 - 2) The BAIID petitioner shall advise the hearing officer that he/she understands all of the provisions and conditions of the BAIID requirements and whether he/she agrees to comply with the BAIID requirements. If the BAIID petitioner is unwilling to use the device, or comply with this Section, he/she shall be advised that restricted driving permits cannot be granted.
- f) Decision. After the hearing, the hearing officer shall consider the evidence and the relief requested and make a recommendation as in any other hearing under this Part.
- 1) If the hearing officer does not determine that the relief requested should be granted, an order denying relief shall be prepared.

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- 2) If the hearing officer determines that an RDP should be granted, an order granting a RDP shall be prepared with the additional requirement that the RDP is conditioned upon the installation and continued use of the device. All RDPs issued under this Section shall require continued use of the device until the driving privileges of the petitioner are reinstated.
- g) Installation of BAIID. Upon the issuance of an RDP under this Section, the Secretary shall send a list of certified BAIID providers to the BAIID permittee. In addition to the other requirements under this Part, the BAIID Permittee may operate the vehicle for 14 days from the issuance of the RDP without the device installed only for the purpose of taking the vehicle to a BAIID provider or installer for installation of the device. The installer or BAIID provider must notify the Secretary that a device has been installed in the vehicles designated by the BAIID permittee within 7 days from the date of the installation of the device. Proof of installation shall be by such means as determined by the Secretary from the installer or BAIID provider. Failure to comply with these requirements will result in the denial of driving relief and the cancellation of any RDP issued.
- h) Petitioner's Responsibilities – Driving with BAIID. Any BAIID petitioner receiving an RDP under this Section must comply with the following requirements:
 - 1) Operate only vehicles with an installed, operating device authorized by the Secretary whether the vehicle is owned, rented, leased, loaned, or otherwise in the possession of the BAIID permittee as required by the RDP issued under this Section.
 - 2) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer within the first 30 days for an initial monitor report to help the BAIID permittee learn how to correctly use the device, and thereafter not longer than every 60 days for the purposes of calibration and having a monitor report of the device's activity prepared and sent to the Secretary by the BAIID provider or installer.
 - 3) Take the vehicle with the device installed to the BAIID provider or installer or send the appropriate portion of the device to the BAIID provider or installer as instructed for a monitor report within 5 working days after any service or inspection notification.

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- 4) Maintain a journal of events surrounding unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device. If BAIIDs have been installed on multiple vehicles pursuant to Section 1001.443, a separate journal must be kept for each vehicle, recording unsuccessful attempts to start the vehicle, failures to successfully complete a running retest, or any problems with the device, and recording the name of the driver operating the vehicle at the time of the event.
 - 5) May not have an interlock device removed or deinstalled from his or her vehicle without first notifying the Secretary and surrendering to the Secretary or his designee the permittee's restricted driving permit.
- i) Review of Monitor Reports; Sanctions for Failure to Comply. Upon receipt or nonreceipt of the monitor reports, the Secretary shall review them and take the following action. The failure of the BAIID permittee to comply with the requirements of this Subpart D will be made part of his/her record of performance to be considered at future formal hearings.
- 1) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle, or a failure to successfully complete a running retest, during the initial monitor period, send a warning letter to the BAIID permittee indicating that future unsuccessful attempts to start the vehicle or failure to successfully complete a running retest will result in the Secretary sending a letter to the BAIID permittee asking for an explanation of the unsuccessful attempts to start the vehicle or the failure to successfully complete a running retest;
 - 2) For any BAIID permittee whose monitor reports show 10 or more unsuccessful attempts to start the vehicle after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the unsuccessful attempts to start the vehicle. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
 - 3) For any BAIID permittee whose monitor reports show a failure to

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successfully complete a running retest, after the initial monitor report period, send the BAIID permittee a letter asking for an explanation of the failure to successfully complete a running retest. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonable assure the Secretary, the failure to comply will be made part of his/her record of performance;

- 4) For any BAIID permittee whose monitor reports show a BrAC reading of 0.05 or more or a pattern of BrAC readings consistent with the use of alcoholic beverages, regardless of any other provision contained in this Section, there shall arise a rebuttable presumption that the BAIID permittee consumed alcoholic beverages. The presumption may result in the cancellation of the RDP if the BAIID permittee is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent). In every case, the Secretary shall send a letter asking for an explanation of the BrAC reading or the pattern of BrAC readings consistent with the use of alcoholic beverages. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that the BAIID permittee did not consume alcoholic beverages, no further action will be taken. If a response from a BAIID permittee whose alcohol/drug use was classified at High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance and the Secretary shall cancel the RDP and authorize the immediate removal/deinstallation of any BAIID. If a response from a BAIID permittee whose alcohol/drug use was classified at something other than High Risk-Dependent is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will be made part of his/her record of performance;
- 5) For any BAIID permittee who was arrested/stopped by the police for an alcohol/drug related offense, failed a running retest, or failed to take a running retest, if the police officer's report indicates the use of alcoholic beverages and/or drugs, the Secretary shall send the BAIID permittee a letter asking for an explanation of the incident. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably

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assure the Secretary, the failure to comply will be made part of his/her record of performance;

- 6) For any BAIID permittee whose initial monitor or monitor reports show any tampering with or unauthorized circumvention of the device or physical inspection by an installer shows any tampering with or unauthorized circumvention of the device, the Secretary shall send the BAIID permittee a letter asking for an explanation of the tampering or unauthorized circumvention. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, then the Secretary shall immediately cancel the RDP and authorize the immediate removal/deinstallation of the device.
- j) Immediate Cancellation of BAIID Permit. Any one of the following shall also be grounds for immediate cancellation of an RDP issued under this Section:
 - 1) Any law enforcement report showing operation of a vehicle by a BAIID permittee without a device as required by the RDP issued under this Section. The law enforcement officer shall, at the time of the stop, confiscate the RDP and send it, or a copy of it, along with the report, to the Secretary;
 - 2) Notification from a BAIID provider or installer on a removal/deinstallation report form stating that the device installed in a BAIID permittee's vehicle has been removed and/or is no longer being utilized by the permittee, as required by subsection (d), including a removal or deinstallation caused by the BAIID permittee's failure to pay lease or rental fees due to the BAIID provider, unless the permittee has notified the Secretary that he or she is no longer utilizing the device and surrendered the BAIID permit to the Secretary as required in subsection (h). This notification shall be sent to the Secretary no more than 7 days after the removal/deinstallation;
 - 3) Failure to submit a BAIID for monitoring in a timely manner. Unless notified by a BAIID provider pursuant to subsection (j)(2), all monitor reports shall be submitted to the Secretary within 67 days after the previous monitor report. If the Secretary fails to receive a BAIID permittee's monitor reports in the 67 days, then the Secretary will conduct

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an informal inquiry (will attempt to contact the BAIID provider and permittee by telephone or e-mail) for the purpose of determining the cause for this failure. If it is determined or if it appears that the BAIID permittee failed to take in a vehicle with the device for timely monitor reports or failed to send the appropriate portion of the device, utilizing a traceable package delivery service, to the BAIID provider or installer for timely monitor reports, then the Secretary will send a letter to the BAIID permittee stating that if the device is not taken in for a monitor report within 10 days after the date of the letter, then any permits issued to the BAIID permittee will be cancelled;

- 4) Any law enforcement report involving a DUI arrest or other law enforcement report indicating use of alcohol in violation of Subpart D:-
- 5) The Secretary reserves the discretion to cancel a BAIID permittee's driving privileges if monitor reports, which are processed after a hearing is conducted or after the reinstatement of driving privileges, show a violation of the terms and conditions of the BAIID permit.
- k) Hearing to Contest Cancellation of BAIID Permit. Any BAIID permittee whose RDP is cancelled as provided for in this Section may request a hearing to contest the cancellation within 60 days from the effective date of the cancellation. Such a hearing will be scheduled and held on an expedited basis. The hearing will be conducted as any other formal hearing under this Part. Any BAIID permittee whose RDP is cancelled under the provisions of this Section and who is required to abstain from alcohol/drugs (whose alcohol/drug use was classified at High Risk-Dependent) and who admits to consuming alcoholic beverages may not request a hearing to contest the cancellation.
- l) No Hearing for 12 Months After Cancellation. Any BAIID permittee whose RDP is cancelled for any reason as provided for in this Section shall not be granted another hearing for any type of driving relief for one year from the date of the cancellation, except to contest the cancellation as provided in subsection (k). This provision does not apply to BAIID permittees who: voluntarily have surrendered their RDPs; have not committed any offense or act that would be grounds for the cancellation of their RDPs; or are able to demonstrate that he/she was not the perpetrator of the offense or conduct that otherwise would be grounds for the cancellation of his/her RDPs.
- m) Formal Order – Content. Any formal order entered that grants the issuance of an

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RDP as provided for in this Section shall, in addition to all other requirements, clearly indicate the following:

- 1) That the RDP is issued conditioned upon BAIID installation and proper usage of the BAIID by the permittee; and
 - 2) That the BAIID permittee is aware of all conditions and terms of BAIID installation and proper usage of the BAIID, and he or she accepts those conditions and terms as conditions precedent to the issuance of the RDP.
- n) RDPs – Content. Any RDPs issued as provided for in this Section shall, in addition to all other requirements, clearly indicate:
- 1) That the RDP is issued pursuant to the BAIID requirements of this Section, and that a vehicle operated by a BAIID permittee must be equipped with an installed, properly operating device;
 - 2) That the provisions of the RDP also allow the BAIID permittee to drive to and from the BAIID provider or installer for the purposes of installing the device within 14 days after the issuance of the RDP, or obtaining monitor reports, and any necessary servicing.
- o) Use of Monitor Reports. The Secretary shall gather all monitor reports and any other information relative to the permittee's performance and compliance with the BAIID requirements under this Subpart D. Such reports may be used as evidence at any administrative hearing conducted by the Secretary under this Part.
- p) Modification or Waiver of BAIID. The Secretary may make a medical or physical BAIID modification or waiver for RDPs issued under this Section.
- q) Employment Exemption from BAIID Requirements. In determining whether a BAIID permittee is exempt from the BAIID requirements pursuant to the waiver provided for in Sections 6-205 and 6-206 of the IVC, the following shall apply:
- 1) The term "employer" shall not include an entity owned or controlled in whole or in part by the permittee or any member of the permittee's immediate family, unless the entity is a corporation and the permittee and the permittee's immediate family own a total of less than 5% of the outstanding shares of stock in the corporation. Immediate family shall

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include spouse, children, children's spouses, parents, spouse's parents, siblings, siblings' spouses and spouse's siblings;

- 2) The exemption shall not apply where the employer's vehicle is assigned exclusively to the BAIID permittee and used solely for commuting to and from employment.
- r) Decertification of BAIID Providers and BAIID Device. The Secretary must notify the BAIID permittee of the decertification of a BAIID provider or the decertification of a particular type of BAIID. The BAIID permittee must then select a new BAIID provider or type of BAIID from the list of approved BAIID providers maintained by the Secretary. The BAIID permittee must inform the Secretary of that selection within 7 days after the receipt of notification from the Secretary. The BAIID permittee must complete registration with a new BAIID provider and/or installation of a new BAIID within 21 days after the receipt of the notification from the Secretary. Failure to complete these steps within the 21-day period may result in cancellation of the BAIID permittee's RDP. All costs related to any change in BAIID provider or BAIID shall be paid by the BAIID permittee.
- s) Reciprocity with Other States. The Secretary will honor the BAIID requirements imposed by other states on Illinois drivers and drivers licensed in other states, for offenses committed in other states, and will reciprocate other states' recognition of BAIID requirements imposed by Illinois on drivers licensed in Illinois, or licensed in other states for offenses committed in Illinois.

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

Section 1001.443 Breath Alcohol Ignition Interlock Device Multiple Offender – Compliance with Interlock Program

- a) Ownership Defined. For the purposes of this Section, a person "owns" a vehicle when it is registered in his or her name, regardless of whether it is registered solely in his or her name or jointly with another person or persons.
- b) ~~Certification of~~ Installation Required
 - 1) Anyone who is required to install an interlock device on all vehicles which he or she owns, pursuant to §§ Sections 6-205(h) and 11-501(i) of the IVC, and who is granted any driving relief pursuant to Subpart D of this Part, shall ~~have certify to the Secretary, in the manner stated in subsection~~

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~~(e), that he or she has installed~~ an interlock device installed on all vehicles he or she owns within 14 days after the issuance of driving relief. The offender must maintain an interlock device on each vehicle for a period of 365 consecutive days~~12 consecutive months~~.

- 2) For purposes of subsection (b)(1), the period of 365 consecutive days~~12 consecutive months~~ begins on the date ~~the petitioner certifies~~ that an interlock device is has been installed on all vehicles he or she owns and ends 365 days~~12 months~~ later. This shall be known as the "base period". The base period remains the same regardless of whether the petitioner adds or replaces vehicles during the 365 consecutive days~~12 consecutive months~~.

e) ~~Manner of Certification—Affidavit Required~~

- 1) ~~A BAIID multiple offender shall certify compliance with the interlock program by filing an affidavit with the Secretary which states that the offender installed an interlock device on all vehicles he or she owns and which lists, by make, model, and registration plate number, each and every vehicle that the offender owns, the name and address of the installer, the date installed, and any other information deemed necessary by the Secretary. The offender must submit one certification listing all of the vehicles that he or she owns on a form provided by the Secretary. This certification must be submitted within 7 days after the date of the final installation. The failure to submit this certification within the time allowed will result in the immediate cancellation of the driving relief issued.~~
- 2) ~~The offender must submit another, complete affidavit whenever he or she buys another vehicle, sells a vehicle listed on the affidavit, or changes the installer. This new certification must be submitted within 7 days after the date that one of these transactions is finalized. The failure to submit this certification within the time allowed will result in the immediate cancellation of the driving relief issued.~~

- cd) Verification of Compliance. The Secretary shall verify compliance by conducting periodic ~~random~~ checks of the vehicle registration records of information contained in the affidavits filed by BAIID multiple offenders, and by monitoring compliance with the terms and conditions of the interlock requirements as provided in Section 1001.441.

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- 1) If the Secretary finds evidence of non-compliance with the ~~installation affidavit~~ requirements by a BAIID multiple offender, then the Secretary will send the offender a letter asking for an explanation for the alleged violation. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will result in the immediate cancellation of the driving relief issued. The cancellation ~~will not be terminated shall continue~~ until the offender ~~comes into compliance submits the proper affidavit~~. BAIID multiple offenders whose driving privileges are cancelled due to violation of the ~~installation affidavit~~ requirements will be required to ~~come into certify installation of another BAIID and~~ come into certify installation of another BAIID and ~~compliance and maintain compliance with the affidavit requirements of this Section~~ compliance and maintain compliance with the affidavit requirements of this Section for another 365 consecutive days, 12 consecutive months from the date that their compliance is re-certified;
- 2) If the Secretary finds evidence of non-compliance with the installation requirements by a BAIID multiple offender who is also a BAIID permittee as defined in Section 1001.410 and who, therefore, is issued a restricted driving permit, then the Secretary will send the offender a letter asking for an explanation for the alleged violation. If a response is received within 21 days after the date of the Secretary's letter and it reasonably assures the Secretary that no violation occurred or the violation has been rectified, no further action will be taken. If a response is not received within 21 days or does not reasonably assure the Secretary, the failure to comply will result in the immediate cancellation of the driving relief issued. Pursuant to Section 1001.441(g) and (l), the BAIID permittee will not be granted another hearing for one year from the date of the cancellation, except to contest the cancellation.
- 32) If the Secretary finds evidence of non-compliance with the terms and conditions of the interlock requirements by a BAIID multiple offender whose driving privileges have been reinstated, then the offender's driving privileges will be cancelled for a term of 3 months on the first violation, 6 months on the second violation, and 12 months on the third and subsequent violations. At the end of the period of cancellation, the offender will be required to come into and maintain ~~certify installation of another BAIID and~~ compliance ~~with the affidavit requirements of this~~

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~~Section for another 365 consecutive days, 12 consecutive months from the date that his/her compliance is re-certified;~~

~~43) The Secretary reserves the discretion to cancel a BAID multiple offender's driving privileges if monitor reports, processed after a hearing is conducted or after the reinstatement of the BAID multiple offender's driving privileges, show a violation of the terms and conditions of the interlock requirements. The offender may contest a cancellation entered pursuant to this Section by filing a petition for a formal hearing pursuant to §2-118 of the Code.~~

~~d) The offender may contest a cancellation entered pursuant to this Section by filing a petition for a formal hearing pursuant to Section 2-118 of the Code.~~

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

Section 1001.450 New Hearings

- a) Relief Denied. If a petitioner is denied relief after a formal hearing conducted pursuant to Subpart A, either for cause (including the failure to satisfy the requirements to obtain a restricted driving permit within the time allowed) or upon default, another formal hearing will not be ~~held~~granted to that petitioner regarding the same relief requested at the last hearing until at least ~~90~~120 calendar days have elapsed since the date of the hearing. Furthermore, a request for another formal hearing will not be accepted for 30 days from the date of the last hearing. A petitioner who is denied relief after a formal hearing must wait 30 calendar days before presenting himself or herself for an informal hearing on a petition for the same relief requested at the formal hearing.
- b) Decision Pending. The Department will not accept a request for a hearing from a petitioner or a party requesting a hearing to contest an action taken by a department of the Secretary of State while a decision is pending on a hearing regarding the same issue or issues.

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

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES;
PERSONS UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT
HEARINGS; RESTRICTED DRIVING PERMITS

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Section 1001.600 Applicability

The hearings referred to in this Subpart F are conducted pursuant to Section 2-118 of the Illinois Vehicle Code, the authority granted to the Secretary of State in Section 11-501.8(e) of the Code, and this Part. This Subpart applies to any hearing conducted pursuant to Section 11-501.8 of the Illinois Vehicle Code, hereinafter referred to as the Code (625 ILCS 5/11-501.8).

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

Section 1001.670 Petitions for Restricted Driving Permits

- a) Investigative Evaluation Required. Petitioners who apply for a restricted driving permit pursuant to Section 11-501.8(e) of the Code must submit to an investigative alcohol/drug evaluation, as defined in Section 1001.410~~1001.400 of Subpart D~~ of this Part, as part of the Secretary's investigative process, when the evidence shows~~indicates~~ that:
- 1) the petitioner, on any occasion, submitted to at the requested chemical test or preliminary breath test and registered an alcohol concentration between 0.04 and 0.08; or
 - 2) the petitioner may be a user of alcohol or any other drug to a degree which renders him/her incapable of safely driving a motor vehicle (see Section 6-103.4 of the Code).
- b) Uniform Report Required. Petitioners who apply for a restricted driving permit pursuant to of Section 11-501.8(e) of the Code must submit to an alcohol/drug evaluation uniform report, as defined in Section 1001.410~~1001.400 of Subpart D~~ of this Part, as part of the Secretary's investigative process, when the evidence shows~~indicates~~ that:
- 1) the petitioner, on any occasion, submitted to at the requested chemical test or preliminary breath test and registered an alcohol concentration of 0.08 or more; or
 - 2) the petitioner's driving record reflects a DUI disposition, as defined in Section 1001.400 ~~of Subpart D~~ of this Part.
- c) Rehabilitative Activity Required; Waiver. The petitioner is required to complete any recommended and/or required rehabilitative activity that~~which~~ pertains to the

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evaluation's classification of his/her use/abuse of alcohol/drugs or provide a written waiver thereof, prior to the issuance of any restricted driving permit.

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

Section 1001.680 Form and Location of Hearings

- a) Formal Hearing Required to Contest Suspension. The implied consent hearings conducted pursuant to Section 11-501.8 of the Code (to contest the suspension) shall be conducted as formal hearings pursuant to Subpart A of this Part.
- 1) A request for an implied consent hearing conducted pursuant to Section 11-501.8 must be sent to one of the following four (4) locations:
 - A) Office of the Secretary of State, Dept. of Administrative Hearings, 17 North State Street, Suite 1200, Chicago, Illinois 60602, 312/793-3722.
 - B) Office of the Secretary of State, Dept. of Administrative Hearings, 54 North Ottawa Street~~605 Maple Road, 1st Floor~~, Joliet, Illinois 60432, 815/740-7171.
 - C) Office of the Secretary of State, Dept. of Administrative Hearings, Michael J. Howlett Bldg., Rm. 207, Springfield, Illinois 62756, 217/524-0124.
 - D) Office of the Secretary of State, Dept. of Administrative Hearings, 218 South 12th Street, Mount Vernon, Illinois 62864, 618/242-8986.
 - 2) The request must be in writing, preferably on a form supplied by the Secretary. In any event, it must contain, at a minimum, the petitioner's name, address, driver's license number, which of the above four locations would be preferred by the petitioner, and specify which issues the petitioner will raise at the hearing.
 - 3) The hearing shall be held at a location designated by the Department. The factors that will be considered are, but not limited to: the venue of the citation issued; the location preferred by the petitioner; the location of the witnesses, including the police officer who issued the citation which led to

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the request to submit to the chemical test and the police officer who administered the test; the availability of a hearing location.

- b) Petitions for Restricted Driving Permits. The hearings on petitions for restricted driving permits conducted pursuant to Section 11-501.8 of the Code may be conducted as formal hearings, pursuant to Subpart A of this Part, or as informal hearings, pursuant to Subpart C of this Part, according to the preference of the petitioner.
- 1) Petitioners are encouraged, however, to begin the hearing process with an informal hearing.
 - 2) If the petitioner requests a formal hearing to obtain a restricted driving permit, said formal hearing shall be held at one of the four locations set forth in subsection (a)(1) of this Section as designated by the petitioner.
 - 3) Such a hearing may only be held within ~~forty-five (45)~~ days after the date that the Secretary may issue a permit as provided in Section 6-208.2 of the Code.
 - 4) Every petitioner is required to bring a copy of his/her sworn report evidencing the suspension to any informal hearing.
- c) Hearings Conducted Separately. The implied consent hearings will be conducted separately from the hearings for restricted driving permits.

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

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- 1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits
- 2) Code Citation: 92 Ill. Adm. Code 1040
- 3) Section Number: 1040.33 Proposed Action: Amendment
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)], Section 11-1301.3 of the Illinois Vehicle Code [625 ILCS 5/11-1301.3], Section 11-1301.5 of the Illinois Vehicle Code [625 ILCS 5/11-1301.5], Section 11-1301.6 of the Illinois Vehicle Code [625 ILCS 5/11-1301.6] and Section 6-206(a)42 of the Illinois Vehicle Code [625ILCS 5-6-206(a)42].
- 5) A Complete Description of the Subjects and Issues Involved: Due to PA 94-619 the terminology "person-with-disabilities" was changed to "disability". This rulemaking also adds new subsection "c" and changes the current paragraph "c" to "d". In addition PA 94-930, effective 7/26/06, gave the Secretary of State authority to suspend and/or revoke the drivers license and/or driving privileges for committing the violation 11-1301.3(a-1).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Texts of the prepared amendments are posted on Secretary of State's website, www.sos.il.us/departments/index/home as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

Office of the Secretary of State

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Driver Services Department
JoAnn Wilson, Legislative Liaison
c/o Director's Office
2701 South Dirksen Parkway
Springfield, IL 62723

(217) 785-1441

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2006

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1040
CANCELLATION, REVOCATION OR SUSPENSION
OF LICENSES OR PERMITS

Section	
1040.10	Court to Forward Licenses and Reports of Convictions
1040.20	Illinois Offense Table
1040.25	Suspension or Revocation for Driving Without a Valid Driver's License
1040.29	2 or More Traffic Offenses Committed within 24 Months by a Person Under the Age of 21 Years
1040.30	3 or More Traffic Offenses Committed Within 12 Months
1040.31	Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32	Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33	Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Disability Person with Disabilities License Plate or Parking Decal or Device or Fraudulent Disability Person with Disabilities License Plate or Parking Decal or Device
1040.35	<u>Administrative Revocation for</u> Commission of an Offense Requiring Mandatory Revocation Upon Conviction, and Suspension or Revocation Upon a Local Ordinance Conviction
1040.36	Suspension for Violation of Restrictions on Driver's License
1040.37	Suspension for Violation of Restrictions on Instruction Permit
1040.38	Commission of a Traffic Offense in Another State
1040.40	Repeated Convictions or Collisions
1040.41	Suspension of Licenses for Curfew Violations
1040.42	Fleeing and Eluding
1040.43	Illegal Transportation
1040.46	Fatal Accident and Personal Injury Suspensions or Revocations
1040.48	Vehicle Emission Suspensions
1040.50	Suspension of License of Commercial Vehicle Driver
1040.52	Driver Remedial Education Course
1040.55	Suspension for Driver's License Classification Violations
1040.60	Release of Information Regarding a Disposition of Court Supervision
1040.65	Offenses Occurring on Military Bases
1040.66	Invalidation of a Restricted Driving Permit
1040.70	Problem Driver Pointer System

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- 1040.80 Cancellation of Driver's License Upon Issuance of a Handicapped Identification Card
- 1040.100 Rescissions
- 1040.101 Reinstatement Fees
- 1040.102 Bankruptcy for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
- 1040.105 Suspension for 5 or More Tollway Violations and/or Evasions
- 1040.107 Suspension for Violation of 625 ILCS 5/11-907, Approaching a Stationary Emergency Vehicle
- 1040.108 Suspension for Failure to Make Report of Vehicle Accident Violations
- 1040.110 Bribery
- 1040.111 Suspension for Violation of 625 ILCS 5/11-908(a-1) for Failure to Yield upon Entering a Construction or Maintenance Zone When Workers Are Present

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782, effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill.

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Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994; amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at 21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective August 28, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. 13892, effective September 1, 2005; amended at 29 Ill. Reg. 15968, effective October 7, 2005; amended at 30 Ill. Reg. 11299, effective June 12, 2006; amended at 30 Ill. Reg. _____, effective _____.

Section 1040.33 Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered ~~Disability Person with Disabilities~~ License Plate or Parking Decal or Device or Fraudulent ~~Disability Person with Disabilities~~ License Plate or Parking Decal or Device

- a) For purposes of this Section, the following definitions shall apply:
- 1) "Authorized holder" – An individual issued a ~~disability person with disabilities~~ license plate under Section 3-616 of the Illinois Vehicle Code or an individual issued a ~~disability person with disabilities~~ parking decal or device under Section 11-1301.1 of the Illinois Vehicle Code [625 ILCS 5/3-616 and 11-1301.1]
 - 2) "Department" – Driver Services Department within the Office of the Secretary of State
 - 3) "False information" – Any incorrect or inaccurate information concerning the name, date of birth, social security number, driver's license number, physician certification or any other information required on the application for a ~~disability person with disabilities~~ license plate or parking permit or

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device that falsifies the content of the application

- 4) "Fictitious ~~disabilityperson with disabilities~~ license plate or parking decal or device" – Any ~~disabilityperson with disabilities~~ license plate or parking decal or device that has been issued by the Secretary of State or an authorized unit of local government that was issued based upon false information contained on the required application
- 5) "Fraudulent ~~disabilityperson with disabilities~~ license plate or parking decal or device" – Any ~~disabilityperson with disabilities~~ license plate or parking decal or device that purports to be an authorized ~~disabilityperson with disabilities~~ license plate or parking decal or device and that has not been issued by the Secretary of State or an authorized unit of local government
- 6) "~~DisabilityPerson with disabilities~~ license plate or parking decal or device-making implement" – Any implement specially designed or primarily used in the manufacture, assembly or authentication of a ~~disabilityperson with disabilities~~ license plate or parking decal or device issued by the Secretary of State or a unit of local government
- 7) "Revocation" – The termination by formal action of the Secretary of a person's driver's license or privilege to operate a motor vehicle on the public highways. The termination shall not be subject to renewal or restoration except that an application for a new driver's license may be presented and acted upon by the Secretary after the expiration of at least one year after the date of revocation as defined in Section 1-176 of the Illinois Vehicle Code [625 ILCS 5/1-176].
- 8) "Suspension" – The temporary withdrawal by a formal action of the Secretary of a person's driver's license or privilege to operate a motor vehicle on the public highways for a period specifically designated by the Secretary pursuant to Section 1-204 of the Illinois Vehicle Code [625 ILCS 5/1-204].
- 9) "Unlawfully altered ~~disabilityperson with disabilities~~ license plate or parking permit or device" – Any ~~disabilityperson with disabilities~~ license plate or parking permit or device issued by the Secretary of State or an authorized unit of local government that has been physically altered or changed in such manner that false information appears on the license plate

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or parking decal or device

b) The Secretary of State has discretionary authority to suspend or revoke the driving privileges of any person upon receipt of evidence that such person has committed one or more of the following offenses listed in Section 6-206 of the Illinois Vehicle Code [625 ILCS 5/6-206]:

1) If such person has knowingly possessed any fictitious or unlawfully altered ~~disabilityperson-with-disabilities~~ license plate or parking decal or device in violation of Section 11-1301.5(b)(1) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(1)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 authority was Section 6-206(a)(35)) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(34)]:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation; or

2) If such person has knowingly issued or assisted in the issuance of, by the Secretary of State or unit of local government, any fictitious ~~disabilityperson-with-disabilities~~ license plate or parking decal or device in violation of Section 11-1301.5(b)(2) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(2)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) of the Illinois Vehicle Code:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation; or

3) If such person has knowingly altered any ~~disabilityperson-with-disabilities~~ license plate or parking decal or device in violation of Section 11-1301.5(b)(3) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(3)],

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the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) of the Illinois Vehicle Code:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation; or

- 4) If such person manufactures, possesses, transfers, or provides any documentation used in the application process whether real or fictitious, for the purpose of obtaining a fictitious ~~disability person with disabilities~~ license plate or parking decal or device in violation of Section 11-1301.5(b)(4) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(4)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) of the Illinois Vehicle Code:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation; or

- 5) If such person knowingly provides any false information to the Secretary of State or a unit of local government in order to obtain a ~~disability person with disabilities~~ license plate or parking decal or device in violation of Section 11-1301.5(b)(5) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(5)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) of the Illinois Vehicle Code:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation

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ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation; or

- 9) If such person knowingly duplicates, manufactures, sells or transfers any fraudulent or stolen ~~disabilityperson-with-disabilities~~ license plate or parking decal or device in violation of Section 11-1301.6(b)(3) of the Illinois Vehicle Code [625 ILCS 5/11-1301.6(b)(3)], the Department shall take the following action pursuant to Section 6-206(a)(35) (prior to 7/30/98 the authority was Section 6-206(a)(36)) of the Illinois Vehicle Code:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation; or

- 10) If such person has knowingly assisted in the duplication, manufacture, sales or transfer of any fraudulent or stolen ~~disabilityperson-with-disabilities~~ license plate or parking decal or device in violation of Section 11-1301.6(b)(4) of Illinois Vehicle Code [625 ILCS 5/11-1301(b)(4)], the Department shall take the following action pursuant to Section 6-206(a)(35) (prior to 7/30/98 the authority was Section 6-206(a)(36)) of the Illinois Vehicle Code:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation; or

- 11) If such person has advertised or distributes a fraudulent ~~disabilityperson-with-disabilities~~ license plate or parking decal or device in violation of Section 11-1301.6(b)(5) of the Illinois Vehicle Code [625 ILCS 5/11-

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1301.6(b)(5)], the Department shall take the following action pursuant to Section 6-206(a)(35) (prior to 7/30/98 the authority was Section 6-206(a)(36)) of the Illinois Vehicle Code:

ACTION TABLE

1 st Offense	12 months Suspension
1 st Offense (with pending or effective Revocation)	Revocation
2 nd or Subsequent Offense	Revocation

- c) If such person has committed a violation of 11-1301.3(a-1) for the use of a handicap placard or device, who is not the holder or is not transporting the holder or the person who uses the decal or device for privileges granted, the Department shall take the following action pursuant to Section 6-206(a)42 of the Illinois Vehicle Code:

ACTION TABLE

<u>1st Conviction</u>	<u>1 month Suspension</u>
<u>1st Conviction (with pending or effective Revocation)</u>	<u>Revocation</u>
<u>2nd Conviction</u>	<u>6 months Suspension</u>
<u>2nd Conviction (with pending or open Revocation)</u>	<u>Revocation</u>
<u>3rd or Subsequent Conviction</u>	<u>Revocation</u>

- de) The sources of acceptable proof of the offenses described in subsection (b) and (c) above are court documents, Department of Vehicle Services applications, Driver Services facility applications, government entity documents and law enforcement correspondence/reports.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Conditions of Employment
- 2) Code Citation: 80 Ill. Adm. Code 303
- 3) Section Number: 303.175 Adopted 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) Effective Date of Amendment: August 2, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, 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 was Published in the Illinois Register: 29 Ill. Reg. 19000; November 28, 2005
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Non-substantive punctuation and style changes were made as recommended by JCAR.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: Resulting from Public Act 93-893, this rulemaking 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.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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

217/785-1793

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED 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 ADOPTED 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 ADOPTED 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. 329, effective December 30, 2005; amended at 30 Ill. Reg. 13857, effective August 2, 2006.

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] or the Emergency Management Assistance Compact Act [45 ILCS 151] 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 territories~~Illinois~~. The leave may be granted

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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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* in the American National Red Cross Regulations and Procedures [5 ILCS 335/2]. 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. 13857, effective August 2, 2006)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Number: 121.63 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].
- 5) Effective date of amendments: August 1, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendment was Published in Illinois Register: 29 Ill. Reg. 16344; October 28, 2005
- 10) Has JCAR issued a Statement of Objection to this amendment? Yes
 - A) Statement of Objection: March 31, 2006
 - B) Agency Response: July 7, 2006
- 11) Difference between proposal and final version: No substantive changes were made in the text of the proposed amendment.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

Section NumberProposed ActionIllinois Register Citation

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.30 Unearned Income
- 121.31 Exempt Unearned Income

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NOTICE OF ADOPTED AMENDMENT

121.32	Education Benefits (Repealed)
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from Monthly Income
121.64	Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)

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NOTICE OF ADOPTED AMENDMENT

- 121.81 Initiation of Administrative Fraud Hearing (Repealed)
- 121.82 Definition of Fraud (Renumbered)
- 121.83 Notification To Applicant Households (Renumbered)
- 121.84 Disqualification Upon Finding of Fraud (Renumbered)
- 121.85 Court Imposed Disqualification (Renumbered)
- 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
- 121.91 Monthly Reporting (Repealed)
- 121.92 Budgeting
- 121.93 Issuance of Food Stamp Benefits
- 121.94 Replacement of the EBT Card or Food Stamp Benefits
- 121.95 Restoration of Lost Benefits
- 121.96 Uses For Food Coupons
- 121.97 Supplemental Payments
- 121.98 Client Training for the Electronic Benefits Transfer (EBT) System
- 121.105 State Food Program (Repealed)
- 121.107 New State Food Program
- 121.108 Transitional Food Stamp (TFS) Benefits
- 121.120 Redetermination of Eligibility
- 121.125 Redetermination of Earned Income Households
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
- 121.145 Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

- 121.160 Persons Required to Participate
- 121.162 Program Requirements

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121.163	Vocational Training
121.164	Orientation (Repealed)
121.165	Community Work
121.166	Assessment and Employability Plan (Repealed)
121.167	Counseling/Prevention Services
121.170	Job Search Activity
121.172	Basic Education Activity
121.174	Job Readiness Activity
121.176	Work Experience Activity
121.177	Illinois Works Component (Repealed)
121.178	Job Training Component (Repealed)
121.179	JTPA Employability Services Component (Repealed)
121.180	Grant Diversion Component (Repealed)
121.182	Earnfare Activity
121.184	Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186	Good Cause for Failure to Cooperate
121.188	Supportive Services
121.190	Conciliation
121.200	Types of Claims (Recodified)
121.201	Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202	Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203	Collecting Claim Against Households (Recodified)
121.204	Failure to Respond to Initial Demand Letter (Recodified)
121.205	Methods of Repayment of Food Stamp Claims (Recodified)
121.206	Determination of Monthly Allotment Reductions (Recodified)
121.207	Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208	Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section	
121.220	Work Requirement Components (Repealed)
121.221	Meeting the Work Requirement with the Earnfare Component (Repealed)
121.222	Volunteer Community Work Component (Repealed)
121.223	Work Experience Component (Repealed)
121.224	Supportive Service Payments to Meet the Work Requirement (Repealed)
121.225	Meeting the Work Requirement with the Illinois Works Component (Repealed)
121.226	Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

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AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; preemptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; preemptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; preemptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October

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16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; preemptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; preemptory amendment at 17

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Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; peremptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill.

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Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; preemptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; preemptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; preemptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; preemptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; emergency amendment at 30 Ill. Reg. 7804, effective April 6, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 11236, effective June 12, 2006; amended at 30 Ill. Reg. 13863, effective August 1, 2006.

SUBPART D: ELIGIBILITY STANDARDS

Section 121.63 Deductions from Monthly Income

- a) The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.
- b) **Earned Income Deduction.** Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.
- c) **Standard Deduction.** The standard deduction for a household size of one through four persons is \$134. The standard deduction for a household size of five persons is \$157. For households of six or more persons, the standard deduction is \$179.
- d) **Dependent Care Deduction**
 - 1) The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria or to attend training or pursue education which is preparatory for employment (see 89 Ill. Adm. Code 112.70 through 112.84).

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- 2) The amount of the deduction is to be determined by the actual costs for care and is not to exceed \$200 per month for each child under age 2 and \$175 per month for each other dependent household member.
- e) Child Support Deduction. The child support deduction is the amount of legally obligated child support paid by a household member to or for a nonhousehold member.
- f) Shelter Costs Deduction
 - 1) The shelter deduction is the amount of shelter costs that exceeds 50% of the household's total income after the allowable deductions in subsections (b), (c), (d), and (e) of this Section have been made. The shelter deduction shall not exceed \$400.
 - 2) If the household contains a member who is elderly or disabled, as defined at 7 CFR 271.2 (2004) and Section 121.61, there is no limit on the amount of the excess shelter deduction.
 - 3) Shelter costs include only the following:
 - A) continuing charges for the shelter occupied by the household (rent, mortgage and other charges leading to the ownership of the shelter, including interest on such charges);
 - B) property taxes, State and local assessments and insurance on the structure itself; and
 - C) utility costs, as described in subsection (g) of this Section.
 - 4) Shelter costs for a home temporarily unoccupied by the household because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, if:
 - A) the household intends to return to the home;
 - B) the current occupants of the home, if any, are not claiming the shelter costs for food stamp purposes; and

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- C) the home is not leased or rented during the absence of the household.
- 5) Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.
- g) Utility Costs
- 1) Utility costs include:
 - A) the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection;
 - B) basic service fee for one telephone (including tax on the basic fee) of \$27; and
 - C) fees charged by the utility provider for initial installation.
 - 2) Utility deposits are not considered to be utility costs.
 - 3) A standard must be used if the household is billed for utilities. See Section 121.63(g)(7) for households that claim utility expenses for an unoccupied home. Households that are billed for heating or air conditioning, or both, or heating, air conditioning and electricity, must use the air conditioning/heating standard allowance of ~~\$268259~~. Those households that are not billed for air conditioning or heating but are billed for at least two other utilities must use the limited utility standard allowance of ~~\$157455~~. Those households that are not billed for air conditioning or heating but are billed for a single utility, other than telephone, must use the single utility standard allowance of \$32. If only a separately-billed telephone expense is claimed, the basic telephone allowance of \$27 per month will be allowed. Households living in rental housing who are billed on a regular basis by a landlord for costs for utilities must use the appropriate standard.
 - 4) A household that is billed less often than monthly for its costs for utilities must continue to use the appropriate standard between billing months.

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- 5) Households in public housing or privately-owned rental units that receive a bill for over-usage are entitled to use the air conditioning/heating standard allowance. When households (as defined at 7 CFR 273.1(a)(2004)) live together, the air conditioning/heating standard allowance, the limited utility standard allowance, or the single utility standard allowance, whichever is appropriate, shall be allowed for each household that contributes toward the utility costs whether or not each household participates in the program.
- 6) Households whose expense for heat or electricity, or both, is covered by indirect energy assistance payments under the Low Income Home Energy Program (47 Ill. Adm. Code 100) shall be entitled to the air conditioning/heating standard allowance (7 CFR 273.9 and 273.10(d)(6)(2004)). Households who receive, apply for, or anticipate applying for a Low Income Energy Assistance Program (IHEAP) (47 Ill. Adm. Code 100) payment during the 12-month period, beginning with the date of the food stamp application, shall be allowed the air conditioning/heating standard (7 CFR 273.9). The provisions of subsection (f)(3) of this Section are applicable to households whose expenses for heating or electricity, or both, are covered by indirect energy assistance payments.
- 7) A household that has both an occupied home and an unoccupied home is entitled to only one standard. The appropriate utility standard may be used for the home the household chooses.
- h) Excess Medical Deduction. A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 (2004) and Section 121.61. The medical expenses incurred by the qualifying household member which are over \$35 will be deducted, if the expenses will not be reimbursed by insurance or a third party.

(Source: Amended at 30 Ill. Reg. 13863, effective August 1, 2006)

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- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
350.670	Amendment
350.3740	Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rulemaking: August 7, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: February 24, 2006; 30 Ill. Reg. 2472
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: No changes were made in response to comments received during the First Notice or public comment period or in response to JCAR suggestions.
- 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 rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: Section 350.670 (Personnel Policies) was amended to eliminate the requirement that orientation programs include training in the prevention and treatment of decubitus ulcers. New language in the Section will require all new employees to be taught each resident's requirements and needs, and in-service training also requires this. Language requiring nutrition training was moved to a different part of the Section and a requirement that orientation and training be documented was added.

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Section 350.3740 (Personnel) was amended to clarify language concerning the amount of time that the Resident Services Director is required to spend per week per resident in performing duties related to the resident's plan of care. A new subsection is added to require all new employees to receive orientation and in-service training in accordance with Section 350.670(f).

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: rules@idph.state.il.us

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse Licensure Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators (Repealed)

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NOTICE OF ADOPTED AMENDMENTS

350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.315	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
350.510	Administrator

SUBPART C: POLICIES

Section	
350.610	Management Policies
350.620	Resident Care Policies
350.625	Determination of Need Screening and Request for Criminal History Record Information
350.630	Admission, Retention and Discharge Policies
350.635	Identified Offenders
350.636	Discharge Planning for Identified Offenders
350.637	Transfer of an Identified Offender
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
350.681	Health Care Worker Background Check
350.682	Resident Attendants
350.683	Registry of Developmental Disabilities Aides
350.685	Student Interns
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents
350.750	Contacting Local Law Enforcement
350.760	Infection Control

SUBPART D: PERSONNEL

Section	
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NOTICE OF ADOPTED AMENDMENTS

- 350.810 Personnel
- 350.820 Consultation Services
- 350.830 Personnel Policies (Repealed)

SUBPART E: RESIDENT LIVING SERVICES

Section

- 350.1010 Service Programs
- 350.1020 Psychological Services
- 350.1030 Social Services
- 350.1040 Speech Pathology and Audiology Services
- 350.1050 Recreational and Activities Services
- 350.1055 Volunteer Program
- 350.1060 Training and Habilitation Services
- 350.1070 Training and Habilitation Staff
- 350.1080 Restraints
- 350.1082 Nonemergency Use of Physical Restraints
- 350.1084 Emergency Use of Physical Restraints
- 350.1086 Unnecessary, Psychotropic, and Antipsychotic Drugs
- 350.1088 Language Assistance Services

SUBPART F: HEALTH SERVICES

Section

- 350.1210 Health Services
- 350.1220 Physician Services
- 350.1223 Communicable Disease Policies
- 350.1225 Tuberculin Skin Test Procedures
- 350.1230 Nursing Services
- 350.1235 Life-Sustaining Treatments
- 350.1240 Dental Services
- 350.1250 Physical and Occupational Therapy Services
- 350.1260 Vaccinations

SUBPART G: MEDICATIONS

Section

- 350.1410 Medication Policies and Procedures
- 350.1420 Compliance with Licensed Prescriber's Orders
- 350.1430 Administration of Medication
- 350.1440 Labeling and Storage of Medications

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350.1450 Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section

350.1610 Resident Record Requirements
350.1620 Content of Medical Records
350.1630 Confidentiality of Resident's Records
350.1640 Records Pertaining to Residents' Property
350.1650 Retention and Transfer of Resident Records
350.1660 Other Resident Record Requirements
350.1670 Staff Responsibility for Medical Records
350.1680 Retention of Facility Records
350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

350.1810 Director of Food Services
350.1820 Dietary Staff in Addition to Director of Food Services
350.1830 Hygiene of Dietary Staff
350.1840 Diet Orders
350.1850 Meal Planning
350.1860 Therapeutic Diets (Repealed)
350.1870 Scheduling Meals
350.1880 Menus and Food Records
350.1890 Food Preparation and Service
350.1900 Food Handling Sanitation
350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

350.2010 Maintenance
350.2020 Housekeeping
350.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

350.2210 Furnishings

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350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

350.2410 Codes
350.2420 Water Supply
350.2430 Sewage Disposal
350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE
FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2610 Applicability of These Standards
350.2620 Codes and Standards
350.2630 Preparation of Drawings and Specifications
350.2640 Site
350.2650 Administration and Public Areas
350.2660 Nursing Unit
350.2670 Dining, Living, Activities Rooms
350.2680 Therapy and Personal Care
350.2690 Service Departments
350.2700 General Building Requirements
350.2710 Structural
350.2720 Mechanical Systems
350.2730 Plumbing Systems
350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE
FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

350.2910 Applicability
350.2920 Codes and Standards
350.2930 Preparation of Drawings and Specifications
350.2940 Site
350.2950 Administration and Public Areas
350.2960 Nursing Unit
350.2970 Living, Dining, Activities Rooms
350.2980 Treatment and Personal Care

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

350.2990	Service Department
350.3000	General Building Requirements
350.3010	Structural
350.3020	Mechanical Systems
350.3030	Plumbing Systems
350.3040	Electrical Requirements

SUBPART O: RESIDENT'S RIGHTS

Section	
350.3210	General
350.3220	Medical and Personal Care Program
350.3230	Restraints (Repealed)
350.3240	Abuse and Neglect
350.3250	Communication and Visitation
350.3260	Resident's Funds
350.3270	Residents' Advisory Council
350.3280	Contract With Facility
350.3290	Private Right of Action
350.3300	Transfer or Discharge
350.3310	Complaint Procedures
350.3320	Confidentiality
350.3330	Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR
THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section	
350.3710	Applicability of Other Provisions of this Part
350.3720	Administration
350.3730	Admission and Discharge Policies
350.3740	Personnel
350.3750	Consultation Services and Nursing Services
350.3760	Medication Policies
350.3770	Food Services
350.3780	Codes and Standards
350.3790	Administration and Public Areas
350.3800	Bedrooms
350.3810	Nurses Station
350.3820	Bath and Toilet Rooms
350.3830	Utility Rooms

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350.3840	Living, Dining, Activity Rooms
350.3850	Therapy and Personal Care
350.3860	Kitchen
350.3870	Laundry Room
350.3880	General Building Requirements
350.3890	Corridors
350.3900	Special Care Room
350.3910	Exit Facilities and Subdivision of Floor Areas
350.3920	Stairways, Vertical Openings and Doorways
350.3930	Hazardous Areas and Combustible Storage
350.3940	Mechanical Systems
350.3950	Heating, Cooling, and Ventilating Systems
350.3960	Plumbing Systems
350.3970	Electrical Systems
350.3980	Fire Alarm and Detection System
350.3990	Emergency Electrical System
350.4000	Fire Protection
350.4010	Construction Types
350.4020	Equivalencies
350.4030	New Construction Requirements

SUBPART Q: DAY CARE PROGRAMS

Section

350.4210	Day Care in Long-Term Care Facilities
350.APPENDIX A	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
350.APPENDIX B	Federal Requirements Regarding Residents' Rights (Repealed)
350.APPENDIX C	Seismic Zone Map
350.APPENDIX D	Forms For Day Care in Long-Term Care Facilities
350.APPENDIX E	Guidelines for the Use of Various Drugs
350.TABLE A	Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE B	Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE C	Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
350.TABLE D	Food Service Sanitation Rules, 77 Illinois Admin. Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of 16 Beds or Less

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- 350.TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
- 350.TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150

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days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4879, effective April 1, 2001; amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. 4878, effective April 1, 2002; amended at 26 Ill. Reg. 10611, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2238, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5924, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14237, effective August 15, 2003, for a maximum of 150 days; emergency expired January 12, 2004; amended at 27 Ill. Reg. 15924, effective September 25, 2003; amended at 27 Ill. Reg. 18160, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003; amended at 28 Ill. Reg. 7653, effective May 24, 2004; amended at 28 Ill. Reg. 11217, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11971, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15247, effective September 23, 2005, for the remainder of the maximum 150 days; amended at 29 Ill. Reg. 12954, effective August 2, 2005; amended at 30 Ill. Reg. 1460, effective January 23, 2006; amended at 30 Ill. Reg. 5338, effective March 2, 2006; amended at 30 Ill. Reg. 13876, effective August 7, 2006.

SUBPART C: POLICIES

Section 350.670 Personnel Policies

- a) Each facility shall develop and maintain written personnel policies that are followed in the operation of the facility. These policies shall include, at a minimum, each of the requirements of this Section.
- b) Employee Records
 - 1) Employment application forms shall be completed for each employee and kept on file in the facility. Completed forms shall be available to Department personnel for review.
 - 2) Individual personnel files for each employee shall contain date of birth; home address; educational background; experience, including types and places of employment; date of employment and position employed to fill in this facility; and (if no longer employed in this facility) last date

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employed and reasons for leaving.

- 3) Individual personnel files for each employee shall also contain health records, including the initial health evaluation and the results of the tuberculin skin test required under Section 350.675, and any other pertinent health records.
 - 4) Individual personnel records for each employee shall also contain records of evaluation of performance.
- c) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is active. A copy of the license shall be placed in the individual's personnel file.
- d) The facility shall check the status of all applicants with the Nurse Aide Registry prior to hiring.
- e) All personnel shall have either training or experience, or both, in the job assigned to them.
- f) Orientation and In-Service Training
- 1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; the importance of nutrition in general healthcare; and understanding and communicating with the type of residents being cared for in the facility. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures for resident care services before being assigned to provide direct care to residents. The employee's training and competency shall be documented. ~~This orientation program shall include information on the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.~~
 - 2) All employees, except student interns, shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include the facility's policies, skill training and ongoing education to enable all personnel to perform their duties

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effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include information on the prevention and treatment of decubitus ulcers. In-service training concerning dietary services shall include information on the effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept.

3) All facility employees who deal directly with residents shall be trained on the individual requirements and behavioral issues of residents who may come under their care, to ensure the safety and dignity of each client. The employees' training and competency shall be documented.

- g) Employees shall only be assigned duties that are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies.
- h) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent.
- i) Every facility shall have a current, dated weekly employee time schedule posted where employees may refer to it. This schedule shall contain the employee's name, job title, shift assignment, hours of work and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

(Source: Amended at 30 Ill. Reg. 13876, effective August 7, 2006)

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section 350.3740 Personnel

- a) The Resident Services Director shall be responsible for ensuring that all recommendations in the individual plan of care are carried out as stated in the plan. ~~The~~In no case shall the Resident Services Director shall spend at least ~~less~~ ~~than~~ two hours per week per resident in the performance of these duties. ~~(B)~~
- b) All new employees shall receive orientation and in-service training in accordance with Section 350.670(f) of this Part.

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(Source: Amended at 30 Ill. Reg. 13876, effective August 7, 2006)

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- 1) Heading of the Part: Income Tax
 - 2) Code Citation: 86 Ill. Adm. Code 100
 - 3) Section Number: 100.2580 Adopted Action:
Amendment
 - 4) Statutory Authority: 35 ILCS 5/203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
 - 5) Effective Date of Amendment: August 1, 2006
 - 6) Does this rulemaking contain an automatic repeal date? No
 - 7) Does this amendment contain incorporations by reference? No
 - 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
 - 9) Notices of Proposal Published in Illinois Register: 30 Ill. Reg. 6303; April 14, 2006
 - 10) Has JCAR issued a Statement of Objection to this amendment? No
 - 11) Differences between proposal and final version: Non-substantive grammatical changes, style or punctuation agreed upon 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 rulemaking currently in effect? No
 - 14) Are there any amendments pending on this Part? Yes
- | <u>Section Numbers</u> | <u>Proposed Action</u> | <u>IL Register Citation</u> |
|------------------------|------------------------|------------------------------|
| 100.2430 | New Section | 30 Ill. Reg. 11514; 07/07/06 |
- 15) Summary and Purpose of Amendment: This regulation sets forth the annual thresholds, through 2006, for Medical Savings Account plans, and describes the tax-favored treatment given such plans.
 - 16) Information and questions regarding this adopted amendment shall be directed to:

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Jackson Donley
Senior Counsel – Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-7055

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section

- 100.2000 Introduction
100.2050 Net Income (IITA Section 202)

SUBPART B: CREDITS

Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

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- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES
OCCURRING ON OR AFTER DECEMBER 31, 1986

Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section

- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

Section

- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3015 Business Income Election (IITA Section 1501)
- 100.3020 Resident (IITA Section 301)

SUBPART J: COMPENSATION

Section

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- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)
- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART M: ACCOUNTING

Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART N: TIME AND PLACE FOR FILING RETURNS

Section

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100.5000	Time for Filing Returns: Individuals (IITA Section 505)
100.5010	Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020	Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030	Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
100.5040	Innocent Spouses
100.5050	Frivolous Returns
100.5060	Reportable Transactions

SUBPART O: COMPOSITE RETURNS

Section	
100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income
100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits for Resident Individuals
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"

SUBPART P: COMBINED RETURNS

Section	
100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

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Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7040	Employer Registration (IITA Section 701)
100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

Section

100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

SUBPART S: INFORMATION STATEMENT

Section

100.7200	Reports for Employee (IITA Section 703)
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SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section

100.7300	Returns of Income Tax Withheld from Wages (IITA Section 704)
100.7310	Quarterly Returns Filed on Annual Basis (IITA Section 704)
100.7320	Time for Filing Returns (IITA Section 704)
100.7330	Payment of Tax Deducted and Withheld (IITA Section 704)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)

SUBPART U: COLLECTION AUTHORITY

Section

100.9000	General Income Tax Procedures (IITA Section 901)
100.9010	Collection Authority (IITA Section 901)

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100.9020 Child Support Collection (IITA Section 901)

SUBPART V: NOTICE AND DEMAND

Section

100.9100 Notice and Demand (IITA Section 902)

SUBPART W: ASSESSMENT

Section

100.9200 Assessment (IITA Section 903)

100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section

100.9300 Deficiencies and Overpayments (IITA Section 904)

100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)

100.9320 Limitations on Notices of Deficiency (IITA Section 905)

100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Y: CREDITS AND REFUNDS

Section

100.9400 Credits and Refunds (IITA Section 909)

100.9410 Limitations on Claims for Refund (IITA Section 911)

100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART Z: INVESTIGATIONS AND HEARINGS

Section

100.9500 Access to Books and Records (IITA Section 913)

100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)

100.9510 Taxpayer Representation and Practice Requirements

100.9520 Conduct of Investigations and Hearings (IITA Section 914)

100.9530 Books and Records

SUBPART AA: JUDICIAL REVIEW

Section

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100.9600 Administrative Review Law (IITA Section 1201)

SUBPART BB: DEFINITIONS

Section

100.9700 Unitary Business Group Defined (IITA Section 1501)
100.9710 Financial Organizations (IITA Section 1501)
100.9720 Nexus
100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

SUBPART CC: LETTER RULING PROCEDURES

Section

100.9800 Letter Ruling Procedures

SUBPART DD: MISCELLANEOUS

Section

100.9900 Tax Shelter Voluntary Compliance Program

100.APPENDIX A Business Income Of Persons Other Than Residents

100.TABLE A Example of Unitary Business Apportionment

100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986;

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amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11,

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2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended at 30 Ill. Reg. 13890, effective August 1, 2006.

SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))

- a) For the purposes of this Section, "Act" means the Medical Care Savings Account Act [820 ILCS 152], [repealed January 1, 2000, or the Medical Care Savings Account Act of 2000 \[820 ILCS 153\], which re-enacted the provisions of the repealed Act.](#)
- b) *"Medical care savings account" or "account" means an account established in this State pursuant to a medical care savings account program to pay the eligible medical expenses of an employee and his or her dependents. (Section 5 of the Act) An employer, except as otherwise provided by statute, contract, or a collective bargaining agreement, may offer a medical care savings account program to the employer's employees.*
- c) A medical care savings account program must include the following:
 - 1) *The purchase by an employer of a qualified higher deductible health plan for the benefit of an employee and his or her dependents. (Section 5 of the Act)*
 - 2) *The contribution on behalf of an employee into a medical care savings account by his or her employer of all or part of the premium differential realized by the employer based on the purchase of a qualified higher deductible health plan for the benefit of the employee. An employer that did not previously provide a health coverage policy, certificate, or contract for his or her employees may contribute all or part of the deductible of the plan purchased pursuant to subsection ~~(c)(1)(b)(1)~~, ~~above~~. For 1994, a contribution under this Section may not exceed \$6,000*

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for 2 taxpayers filing a joint return, if each taxpayer has a medical care savings account but neither is covered by the other's health coverage, or \$3,000 in all other cases. These maximum amounts shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor. (Section 5 of the Act)

- A) The Department will announce adjustments in the maximum amounts, as well as in the minimum higher deductible, by annual publication of a Notice of Public Information in the Illinois Register.
- B) The Consumer Price Index (CPI) annual average for all urban consumers was 144.5 for calendar year 1993 and 148.2 for calendar year 1994. Therefore, the thresholds established under the Act were adjusted upward by 2% for 1995. Hence, for 1995, the minimum higher deductible is \$1026, the maximum higher deductible is \$3078, the maximum contribution for 2 taxpayers filing a joint return is \$6156 and the maximum contribution for all others is \$3078.
- C) For the years 1994 through ~~2006~~1999, the thresholds are as follows:

Year	Minimum Higher Deductible	Maximum Higher Deductible	Maximum Contribution For Two	Maximum Contribution All Others
1994	\$1,000	\$3,000	\$6,000	\$3,000
1995	\$1,026	\$3,078	\$6,156	\$3,078
1996	\$1,055	\$3,164	\$6,238	\$3,164
1997	\$1,086	\$3,256	\$6,512	\$3,256
1998	\$1,111	\$3,331	\$6,662	\$3,331
1999	\$1,129	\$3,384	\$6,768	\$3,384
2000	\$1,154	\$3,458	\$6,917	\$3,458
2001	\$1,193	\$3,576	\$7,152	\$3,576
2002	\$1,226	\$3,676	\$7,352	\$3,676
2003	\$1,246	\$3,735	\$7,470	\$3,735
2004	\$1,275	\$3,821	\$7,642	\$3,821
2005	\$1,309	\$3,924	\$7,848	\$3,924
2006	\$1,354	\$4,057	\$8,114	\$4,057

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- 3) *An account administrator to administer the medical care savings account from which payment of claims is made. Not more than 30 days after an account administrator begins to administer an account, the administrator shall notify in writing each employee on whose behalf the administrator administers an account of the date of the last business day of the administrator's business year. ([Section 5 of the Act](#))*
- d) Section 5 of the Act contains a number of definitions:
- 1) *"Account administrator" means any of the following:*
- A) *A national or state chartered bank, a federal or ~~State~~state chartered savings and loan association, a federal or ~~State~~state chartered savings bank, or a federal or ~~State~~state chartered credit union.*
- B) *A trust company authorized to act as a fiduciary.*
- C) *An insurance company authorized to do business in this State under the Illinois Insurance Code or a health maintenance organization authorized to do business in this State under the Health Maintenance Organization Act.*
- D) *A dealer, salesperson, or investment adviser registered under the Illinois Securities Law of 1953.*
- E) *An administrator as defined in Section 511.101 of the Illinois Insurance Code who is licensed under Article XXXI¹/₄ of that Code.*
- F) *A certified public accountant registered under the Illinois Public Accounting Act.*
- G) *An attorney licensed to practice in this State.*
- H) *An employer, if the employer has a self-insured health plan under the federal Employee Retirement Income Security Act of 1974 (ERISA).*
- I) *An employer that participates in the medical care savings account*

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program.

- 2) *"Deductible" means the total deductible for an employee and all the dependents of that employee for a calendar year.*
- 3) *"Dependent" means the spouse of the employee or a child of the employee if the child is any of the following:*
 - A) *under 19 years of age, or under 23 years of age and enrolled as a full-time student at an accredited college or university,*
 - B) *legally entitled to the provision of proper or necessary subsistence, education, medical care, or other care necessary for his or her health, guidance, or well-being and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, or*
 - C) *mentally or physically incapacitated to the extent that he or she is not self-sufficient.*
- 4) *"Domicile" means a place where an individual has his or her true, fixed, and permanent home and principal establishment, to which, whenever absent, he or she intends to return. Domicile continues until another permanent home or principal establishment is established.*
- 5) *"Eligible medical expense" means an expense paid by the taxpayer for medical care described in Section 213(d) of the Internal Revenue Code.*
- 6) *"Employee" means the individual for whose benefit or for the benefit of whose dependents a medical care savings account is established. Employee includes a self-employed individual.*
- 7) *"Higher deductible" means a deductible of not less than \$1,000 and not more than \$3,000 for 1994. This minimum and maximum shall be adjusted annually by the Department of Revenue to reflect increases in the consumer price index for the United States as defined and officially reported by the United States Department of Labor.*
- 8) *"Qualified higher deductible health plan" means a health coverage policy, certificate, or contract that provides for payments for covered benefits that*

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exceed the higher deductible and that is purchased by an employer for the benefit of an employee for whom the employer makes deposits into a medical care savings account.

- e) *Before making any contribution to an account, an employer that offers a medical care savings account program shall inform all its employees in writing of the federal tax status of contributions made. (Section 10(b) of the Act) The contributions made pursuant to the Medical Care Savings Account Act will be taxable federally unless and to the extent the medical care savings account qualifies as a tax-favored medical savings account under section 220 of the Internal Revenue Code (26 USC 220)~~the terms of federal P.L. 104-193.~~*
- f) Use of Account Moneys
- 1) *The account administrator shall utilize the moneys held in a medical care savings account solely for the purpose of paying the medical expenses of the employee or his or her dependents or to purchase a health coverage policy, certificate, or contract if the employee does not otherwise have health insurance coverage. Moneys held in a medical care savings account may not be used to cover medical expenses of the employee or his or her dependents that are otherwise covered, including but not limited to medical expenses covered pursuant to an automobile insurance policy, worker's compensation insurance policy or self-insured plan, or another health coverage policy, certificate, or contract. (Section 15(a) of the Act)*
 - 2) *The employee may submit documentation of medical expenses paid by the employee in the tax year to the account administrator, and the account administrator shall reimburse the employee from the employee's account for eligible medical expenses. (Section 15(b) of the Act)*
 - 3) *If an employer makes contributions to a medical care savings account program on a periodic installment basis, the employer may advance to an employee, interest free, an amount necessary to cover medical expenses incurred that exceed the amount in the employee's medical care savings account when the expense is incurred if the employee agrees to repay the advance from future installments or when he or she ceases to be an employee of the employer. (Section 15(c) of the Act)*
 - 4) *Upon the death of the employee, the account administrator shall distribute the principal and accumulated interest of the medical care savings*

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account to the estate of the employee. (Section 20(d) of the Act)

g) Illinois Income Tax Consequences

- 1) Except as provided in subsection (f)(2)-~~above~~, principal contributed to and interest earned on a medical care savings account and money reimbursed to an employee for eligible medical expenses are exempt from taxation under the Illinois Income Tax Act and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee for the taxable year.
- 2) *Notwithstanding* subsection (f)(3), *and subject to* subsection (f)(4), *an employee may withdraw money from his or her medical care savings account for any purpose other than a purpose described in* subsection (f)(1)-~~above~~ *only on the last business day of the account administrator's business year. Money withdrawn pursuant to this subsection (g)(2) shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawals.* (Section 20(a) of the Act)
- 3) *If the employee withdraws money for any purpose other than a purpose described in* subsection (f)(1)-~~above~~ *at any other time, all of the following apply:*
 - A) *The amount of the withdrawal shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee in the taxable year of the withdrawal.*
 - B) *The administrator shall withhold and on behalf of the employee shall pay a penalty to the Department equal to 10% of the amount of the withdrawal.* (Section 20(a)(2) of the Act) *The administrator must remit the penalty to the Department along with a copy of Form IL-601 "Medical Care Savings Account Penalty Payment."*
 - C) Interest earned on the account during the taxable year in which a withdrawal under this subsection is made shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee.
- 4) *The amount of a disbursement of any assets of a medical care savings*

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account pursuant to a filing for protection under Title 11 of the United States Code, 11 ~~USC~~U.S.C. 101 to 1330, by an employee or person for whose benefit the account was established is not considered a withdrawal for purposes of this Section. The amount of a disbursement is not subject to taxation under the Illinois Income Tax Act, and subsection (g)(3)~~above~~ does not apply. (Section 20(c) of the Act)

- 5) In the event that all of the following occur:
- A) *an employee is no longer employed by an employer that participates in a medical care savings account program,*
 - B) *the employee, not more than 60 days after his or her final day of employment, transfers the account to a new account administrator or requests in writing to the former employer's account administrator that the account remain with that administrator, and*
 - C) *that account administrator agrees to retain the account, then the money in the medical care savings account may be utilized for the benefit of the employee or his or her dependents subject to this Act, remains exempt from taxation, and shall be a modification decreasing federal adjusted gross income in arriving at Illinois taxable income of the employee or his or her dependents for the taxable year. Not more than 30 days after the expiration of the 60 days, if an account administrator has not accepted the former employee's account, the employer shall mail a check to the former employee, at the employee's last known address, for an amount equal to the amount in the account on that day, and that amount is subject to taxation pursuant to subsection (g)(3)(A)~~above~~, and shall be a modification increasing federal adjusted gross income in arriving at Illinois taxable income of the employee but is not subject to the penalty under subsection (g)(3)(B). If an employee becomes employed with a different employer that participates in a medical care savings account program, the employee may transfer his or her medical care savings account to that new employer's account administrator. (Section 20(e) of the Act)*
- h) The ~~Medical Care Savings Account~~ Act and this Section shall expire on 1/1/~~2010~~2000.

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(Source: Amended at 30 Ill. Reg. 13890, effective August 1, 2006)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

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

<u>Section Numbers:</u>	<u>Emergency Action:</u>
140.990	New Section
140.991	New Section
140.992	New Section
140.993	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date: August 2, 2006
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: The rulemaking is not expected to expire before the end of the 150-day period.
- 7) Date Filed with the Index Department: August 2, 2006
- 8) A copy of the emergency amendments, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments concerning the Primary Care Cost Management Program (PCCM) are being filed pursuant to the enactment of the State's budget implementation plan for fiscal year 2007. Public Act 94-838 grants emergency rulemaking authority for programs associated with a State Plan amendment; the PCCM program meets that criterion.
- 10) Complete Description of the Subjects and Issues Involved: These new Sections establish what provider types can be a primary care provider (PCP) in the PCCM Program, what obligations a PCP would have, and which recipients are eligible to participate in the program. In addition, the amendments set forth the monthly management fees that the Department would pay to PCPs.
- 11) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.569	Amendment	30 Ill. Reg. 1231; 01/27/06
140.534	Amendment	30 Ill. Reg. 6230; 04/14/06

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140.560	Amendment	30 Ill. Reg. 6230; 04/14/06
140.490	Amendment	30 Ill. Reg. 12066; 07/14/06
140.492	Amendment	30 Ill. Reg. 12066; 07/14/06

- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.
- 13) Information and questions regarding this amendment shall be directed to:

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

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring

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140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Terminated, Suspended or Barred Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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Section

140.400	Payment to Practitioners
140.402	Copayments for Noninstitutional Medical Services
140.405	SeniorCare Pharmaceutical Benefit (Repealed)
140.410	Physicians' Services
140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
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140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
140.421	Limitations on Dental Services
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists
140.425	Podiatry Services
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140.427	Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
140.428	Chiropractic Services
140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Clinical Laboratory Services
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140.432	Limitations on Independent Clinical Laboratory Services
140.433	Payment for Clinical Laboratory Services
140.434	Record Requirements for Independent Clinical Laboratories
140.435	Advanced Practice Nurse Services
140.436	Limitations on Advanced Practice Nurse Services
140.438	Imaging Centers
140.440	Pharmacy Services
140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
140.443	Filling of Prescriptions
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140.447	Reimbursement
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- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
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- 140.458 Prior Approval for Therapy Services
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- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
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- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
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- 140.467 Independent Clinics
- 140.469 Hospice
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- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
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- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
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- 140.482 Family Planning Services
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a

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maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at

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12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended

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at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October

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1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236,

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effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg.

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NOTICE OF EMERGENCY AMENDMENTS

10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days.

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM**Section 140.990 Primary Care Case Management Program**
EMERGENCY

The Primary Care Case Management Program (PCCM) is a managed care model in which each enrollee has a medical home with a Primary Care Provider (PCP). Enrollees may pick their own doctor or clinic as their PCP if that provider is enrolled with HFS as a PCP. A medical home ensures that a single PCP knows about health care their enrollees receive and helps ensure enrollees get immunizations and other preventive health care, prevents duplication of services, ensures enrollees receive the most appropriate level of care, provides specialty referrals where appropriate, and improves the quality of care that an enrollee receives.

(Source: Added by emergency rulemaking at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days)

Section 140.991 Primary Care Provider Participation Requirements
EMERGENCY

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- a) Providers eligible to be Primary Care Providers (PCPs) are physicians, Federally Qualified Health Centers (FQHCs), Rural Health Clinics (RHCs), school-based/linked clinics, certified local health departments, hospital clinics per Section 140.461(f), and Encounter Rate Clinics (ERCs) per Section 140.461(b).
- b) PCPs shall meet the qualifications (see Section 140.12) that are applicable for all medical providers under the Illinois Medical Assistance Program.
- c) PCPs shall:
 - 1) Establish and maintain hospital admitting and/or delivery privileges or arrangements for admission to a nearby hospital;
 - 2) Complete, sign, and comply with terms of the Department's Primary Care Provider Agreement;
 - 3) Provide:
 - A) Periodic health screening (EPSDT), including age appropriate immunizations, and primary pediatric care as needed for children served in their practice, consistent with guidelines published by the American Academy of Pediatrics or American Academy of Family Physicians;
 - B) Obstetrical care and delivery services as appropriate for pregnant women served through their practice, consistent with guidelines published by the American College of Obstetricians and Gynecologists or the American Academy of Family Physicians;
 - C) Provide risk assessments for pregnant women and/or children;
 - D) Provide medical care coordination, including arranging for diagnostic consultation and specialty care and communicating with the case management entity;
 - E) Maintain 24-hour telephone coverage for assessment and consultation.
- d) In areas where there may be a limited number of PCPs, HFS may allow advanced practice nurses to enroll as PCPs.

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(Source: Added by emergency rulemaking at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days)

Section 140.992 Populations Eligible to Participate in the Primary Care Case Management Program
EMERGENCY

- a) Individuals enrolled in programs administered by the Department under Article V of the Public Aid Code, the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, or the Veterans' Health Insurance Program Act and not excluded by subsection (b) or (c) of this Section are eligible to participate in the Primary Care Case Management (PCCM) program.
- b) Excluded populations are:
- 1) Individuals covered by Medicare;
 - 2) Children under age 21 receiving Supplemental Security Income (SSI);
 - 3) Department of Children and Family Services (DCFS) wards and individuals participating in the Subsidized Guardianship or Adoption Assistance programs;
 - 4) Individuals under age 21 covered under the Aid to the Aged, Blind and Disabled (AABD) program;
 - 5) Residents of nursing facilities;
 - 6) American Indian/Alaska natives;
 - 7) Spend-down individuals;
 - 8) Home- and Community-Based (HCBS) waiver enrollees;
 - 9) Individuals in community integrated living arrangements (CILAs);
 - 10) Individuals in presumptive eligibility programs;
 - 11) Refugees;

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12) Individuals enrolled in the following programs with limited benefits:

- A) Illinois Healthy Women;
- B) All Kids Rebate and FamilyCare Rebate;
- C) Illinois Cares Rx;
- D) Transitional Assistance, age 19 or older;
- E) Emergency Medical Only;
- F) Hospice; and
- G) Sexual Assault, Renal, and Hemophilia programs.

c) Populations already managed:

- 1) Individuals with high level Third Party Liability (TPL) private insurance; and
- 2) Individuals in the Program for All-Inclusive Care for the Elderly (PACE) participants.

(Source: Added by emergency rulemaking at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days)

Section 140.993 Care Management Fees
EMERGENCY

- a) The Department shall pay Primary Care Providers (PCPs) enrolled in the Primary Care Case Management (PCCM) program the monthly care management fees set forth in subsection (b) of this Section for each individual assigned to the PCP by the Department as of the beginning of the month.
- b) Monthly care management fees are:
 - 1) \$2.00 for children under age 21;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 2) \$3.00 for non-disabled non-elderly adults; and
- 3) \$4.00 for disabled or elderly adults.
- c) August 2006 is the first month for which Federally Qualified Health Centers (FQHCs) and Encounter Rate Clinics (ERCs) enrolled as PCPs are eligible to receive care management fees.
- d) September 2006 is the first month for which Rural Health Centers (RHCs) enrolled as PCPs are eligible to receive care management fees.
- e) January 2007 is the first month for which all other PCPs in Cook and the collar counties are eligible to receive care management fees.
- f) February 2007 is the first month for which all other enrolled PCPs in the northwest region of the State will be eligible to receive care management fees.
- g) April 2007 is the first month for which all other enrolled PCPs in the central and southern regions of the State are eligible to receive care management fees.

(Source: Added by emergency rulemaking at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

No second notices were received by the Joint Committee on Administrative Rules during the period of August 1, 2006 through August 7, 2006. 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

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENT

- 1) Heading of the Part: Permits and General Provisions Questions regarding this matter may be referred
- 2) Code Citation: 35 Ill. Adm. Code Part 201
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
201.501	New Section
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: July 7, 2006; 30 Ill. Reg. 11506
- 5) Reason for the Withdrawal: The Board caused publication of this first notice in response to the request of the Illinois Environmental Protection Agency (IEPA) for expedited consideration of IEPA's June 20, 2006 regulatory proposal. On August 4, 2006, the Board granted IEPA's July 18, 2006 motion to withdraw this rulemaking proposal. IEPA explained that it had discussed the proposed rulemaking with the United States Environmental Protection Agency (USEPA). IEPA concluded that, at this time, the interests of its Prevention of Significant Deterioration (PSD) program would be best served by a withdrawal of the rulemaking proposal.

Questions regarding this matter may be referred to John Knittle at 217/278-3111.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

LISTINGS OF ADJUSTED STANDARDS AND COMBINED SEWER OVERFLOW EXCEPTIONS
GRANTED BY THE BOARD DURING FISCAL YEAR 2006

Section 28.1(d)(3) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(3) (2006)) requires the Board to annually publish in the *Illinois Register* and *Environmental Register* a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combine sewer overflow exception determinations made by the Board during the fiscal year 2006 (July 1, 2005, through June 30, 2006).

**Final Actions Taken by the Pollution Control Board in Adjusted Standards Proceedings
During Fiscal Year 2006 (July 1, 2005 through June 30, 2006)**Docket/Docket TitleFinal Determination

In the Matter of: Petition of SCA Tissue North America, L.L.C. for an Adjusted Standard from 35 Ill. Adm. Code 218.301 and 218.302(c) (AS 05-04), August 4, 2005

The Board granted the request for an adjusted standard from the Board's volatile organic material (VOM) air emission standards made by this Alsip, Cook County recycler of magazines into tissue and toweling products. The adjusted standard allows the facility to continue to implement process and operational changes to reduce its VOM emissions in place of requiring add-on controls to the facility.

In the Matter Of: Petition of Ford Motor Company for an Adjusted Standard from 35 Ill. Adm. Code 218.586 (AS 05-05), September 1, 2005

The Board granted the request of the Ford Motor Company (Ford) for an adjusted standard from the Board's organic material emission standards. The adjusted standard exempts Ford's Cook County facility from the Illinois Stage II recovery regulations, recognizing that the facility meets federal vapor recovery requirements through its use of onboard refueling vapor recovery (ORVR) systems.

In the Matter of: Petition of the Village of Bensenville for an Adjusted Standard from 35 Ill. Adm. Code 620.410 Regarding Chlorine (AS 05-02), October 20, 2005

The Board granted the Village of Bensenville, in DuPage County, an adjusted standard from the Board's groundwater quality standards for chlorine, subject to certain conditions. The site involved is the Village's former landfill, now used as a public golf course. The

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

In the Matter of: Petition of Waste Management of Illinois, Inc. for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122 for Solid Treatment Residual for CID Recycling and Disposal Facility Biological Liquid Treatment Center (AS 05-07) December 15, 2005

adjusted standard changes the water quality standard from 200 milligrams per liter (mg/L) total chloride to 728.963 mg/L dissolved chloride.

The Board denied the petition of Waste Management of Illinois, Inc (WMII) for a Resource Conservation and Recovery Act (RCRA) hazardous waste delisting. The waste involved is lime conditioned filter cake from the treatment of hazardous and non-hazardous leachates and wastewaters at the facility in Calumet City, Cook County. The Board found that WMII's petition did not meet the statutory level of justification for the adjusted standard.

In the Matter of: Petition of BP Products North America, Inc. for an Adjusted Standard Pursuant to 35 Ill. Adm. Code 721.122 (AS 06-02) March 2, 2006

BP Products North America sought an adjusted standard delisting as RCRA waste the leachate generated from its landfill at its Madison County refinery. The Board dismissed the petition because BP failed to timely publish the newspaper notice required by Section 28.1(d)(1) of the Act. (BP refiled the petition on July 27, 2006, and it is still pending as AS 07-01.)

In the Matter of: Petition of Lafarge Midwest, Inc. for Boiler Determination Pursuant to 35 Ill. Adm. Code 720.132 and 720.133 (AS 06-01) April 20, 2006

The Board granted this request by LaFarge Midwest Inc. for a determination that a slag dryer at its Cook County facility is a "boiler" for purposes of burning off-specification used oil. The Board, in its first boiler determination, found that Lafarge had met the six criteria under the Board's RCRA rules.

In the Matter of: Petition of Lafarge Midwest, Inc. for Boiler Determination Pursuant to 35 Ill. Adm. Code 720.132 and 720.133 (AS 06-03) June 1, 2006

The Board granted this request by LaFarge Midwest Inc. for a determination that two raw mill dryers at its Massac County facility are "boilers" for purposes of burning off-specification used oil. The Board found that Lafarge had met the six criteria under the Board's RCRA rules.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

**Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow
Exception Proceedings During Fiscal Year 2006 (July 1, 2005 through June 30, 2006)**

The Board took no action in combined sewer overflow exception proceedings during fiscal year (FY) 2006, as none were filed with the Board or pending during FY 2006.

Address **written comments or request copies**, noting the appropriate docket number, to:

Name: Dorothy Gunn, Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601
Telephone: 312-814-3620

Address **questions** concerning this notice, noting the appropriate docket number, to:

Name: Erin Conley
Address: Pollution Control Board
1021 North Grand Avenue East
Springfield, Illinois 62794-9274
Telephone: 217-782-2471
email: conleye@ipcb.state.il.us

PROCLAMATIONS

**2006-251
NURSE APPRECIATION DAY**

- WHEREAS, the more than 2.9 million nurses in the United States comprise our nation's largest health care profession; and
- WHEREAS, there are over 148,000 registered nurses in the state of Illinois; and
- WHEREAS, the depth and extensiveness of the registered nursing profession meets the diverse, and emerging health care needs of the American population in a wide range of settings; and
- WHEREAS, professional nursing has been demonstrated to be an indispensable component in the safety and quality care of hospitalized patients; and
- WHEREAS, currently, there is a nursing shortage in the State of Illinois, as well as across the United States, and therefore it is important that we work to encourage people to take up this noble line of work; and
- WHEREAS, the future will bring a great demand for registered nursing services due to a large, aging American population, the continuing expansion of life-sustaining technology, and the explosive growth of home health care services; and
- WHEREAS, the cost-effective, safe and quality health care services provided by registered nurses will no doubt become an even more important component to the U.S. health care system in the years to come:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 11, 2006 as **NURSE APPRECIATION DAY** in Illinois, and encourage all citizens to recognize and honor nurses in their communities for the hard work and invaluable services they provide for citizens.

Issued by the Governor on August 1, 2006.

Filed by the Secretary of State August 1, 2006.

**2006-252
MDA FIREFIGHTER APPRECIATION MONTH**

- WHEREAS, firefighters are our unsung heroes - each day risking their lives to save the lives of others; and

PROCLAMATIONS

WHEREAS, when these heroes are not battling life-threatening situations, they are unselfishly contributing to their communities in other ways, including raising money for local charities and volunteering with agencies such as the Muscular Dystrophy Association (MDA); and

WHEREAS, the Illinois Firefighters, who have pledged their lives to saving the lives of others, have also pledged their efforts to help find cures for devastating diseases by supporting MDA's fights against neuromuscular diseases; and

WHEREAS, the State of Illinois is proud to recognize Illinois Firefighters as they conduct fundraising projects in our state for the MDA:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 2006 as **MDA FIREFIGHTER APPRECIATION MONTH** in Illinois, and encourage all citizens to acknowledge the ongoing contributions of these brave men and women.

Issued by the Governor on August 1, 2006.

Filed by the Secretary of State August 1, 2006.

2006-253**FARMERS MARKET WEEK**

WHEREAS, farmers markets are important outlets in Illinois and the entire United States for agricultural producers, providing them with increased marketing opportunities; and

WHEREAS, direct marketing of farm products through farmers markets continues to be an important sales outlet for agricultural producers nationwide with approximately 19,000 farmers selling their produce only at farmers markets; and

WHEREAS, more than 180 farmers markets in Illinois and 3,800 farmers markets across the country offer consumers farm-fresh, affordable, convenient, and healthy products such as fruits, vegetables, cheeses, herbs, fish, flowers, baked goods, meat, and much more; and

WHEREAS, farmers markets serve as an integral link between urban, suburban, and rural communities; and

WHEREAS, the popularity of farmers markets continues to rise as more and more consumers discover the joys of shopping for unique ingredients sold

PROCLAMATIONS

directly from the farm as well as the pleasure of buying familiar products in their freshest possible state; and

WHEREAS, the farmers of Illinois as well as the entire United States provide for the consumer's needs while at the same time continue to be excellent stewards of the land; and

WHEREAS, according to the 2003 Illinois Specialty Crop Survey there are more than 117,000 acres in Illinois devoted to the production of fresh and processed specialty crops, which result in \$136,664,000 in specialty crop sales for Illinois farmers; and

WHEREAS, farmers markets support economic development in villages, towns, and cities throughout the State:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 6 - 12, 2006 as **FARMERS MARKET WEEK** in Illinois, and encourage all citizens to visit their local farmers markets and support the State's specialty crop growers by "Buying Fresh & Buying Local."

Issued by the Governor on August 4, 2006.

Filed by the Secretary of State August 4, 2006.

2006-254**AGING NETWORK RECOGNITION MONTH (AGE OPTIONS)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares

PROCLAMATIONS

Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the AgeOptions for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-255**AGING NETWORK RECOGNITION MONTH (AREA AGENCY ON AGING FOR LINCOLNLAND, INC.)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

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WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Area Agency on Aging for Lincolnland, Inc. for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-256**AGING NETWORK RECOGNITION MONTH (AREA AGENCY ON AGING FOR SOUTHWESTERN ILLINOIS)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

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WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Area Agency on Aging for Southwestern Illinois for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-257**AGING NETWORK RECOGNITION MONTH (CENTRAL ILLINOIS AREA AGENCY ON AGING)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

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THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Central Illinois Area Agency on Aging for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-258**AGING NETWORK RECOGNITION MONTH (CHICAGO DEPARTMENT ON AGING)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Chicago Department on Aging for a job well done.

PROCLAMATIONS

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-259**AGING NETWORK RECOGNITION MONTH (EAST CENTRAL ILLINOIS AREA AGENCY ON AGING, INC.)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the East Central Illinois Area Agency on Aging, Inc. for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

PROCLAMATIONS

2006-260**AGING NETWORK RECOGNITION MONTH (EGYPTIAN AREA AGENCY ON AGING, INC.)**

- WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and
- WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and
- WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and
- WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and
- WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and
- WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Egyptian Area Agency on Aging, Inc. for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-261**AGING NETWORK RECOGNITION MONTH (MIDLAND AREA AGENCY ON AGING)**

PROCLAMATIONS

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Midland Area Agency on Aging for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-262**AGING NETWORK RECOGNITION MONTH (NORTHEASTERN ILLINOIS AREA
AGENCY ON AGING)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

PROCLAMATIONS

- WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and
- WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and
- WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and
- WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and
- WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Northwestern Illinois Area Agency on Aging for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-263**AGING NETWORK RECOGNITION MONTH (NORTHWESTERN ILLINOIS AREA AGENCY ON AGING)**

- WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and
- WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

PROCLAMATIONS

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Northwestern Illinois Area Agency on Aging for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-264**AGING NETWORK RECOGNITION MONTH (SOUTHEASTERN ILLINOIS AREA AGENCY ON AGING, INC.)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

PROCLAMATIONS

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Southeastern Illinois Area Agency on Aging, Inc. for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-265**AGING NETWORK RECOGNITION MONTH (WEST CENTRAL ILLINOIS AREA AGENCY ON AGING)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares

PROCLAMATIONS

Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the West Central Illinois Area Agency on Aging for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

2006-266**AGING NETWORK RECOGNITION MONTH (WESTERN ILLINOIS AREA AGENCY ON AGING)**

WHEREAS, brand name drugs have become substantially less affordable for the elderly. At the same time, they are directly linked to increased longevity and are essential to good medical care; and

WHEREAS, about two million Medicare beneficiaries live in Illinois, and almost 250,000 citizens have benefited from state programs to help with the cost of prescription drugs; and

WHEREAS, it is the mission of the Illinois Department on Aging and its network of service providers to increase public awareness of federal and state programs and benefits that will improve their quality of life; and

WHEREAS, the aging network, including both professional providers and dedicated volunteers, took on the task of conveying the message to Illinoisans about the new federal Medicare Part D drug benefit program, and Illinois Cares Rx, the new state program that covers the gaps left by the federal program for people on limited incomes; and

PROCLAMATIONS

WHEREAS, paid and unpaid messengers committed themselves to informing the public about the new prescription drug benefits by working tirelessly for extended hours throughout the course of several months; and

WHEREAS, these dedicated people put the public's interest ahead of personal gratification by sacrificing their time in order to meet the goal of reaching more than 1.6 million people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim August 2006 as **AGING NETWORK RECOGNITION MONTH** in Illinois, and encourage all citizens to recognize these dedicated people and to thank the Western Illinois Area Agency on Aging for a job well done.

Issued by the Governor on August 7, 2006.

Filed by the Secretary of State August 7, 2006.

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